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November 24, 2008

RECEIVED

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The Honorable Tim A. Duket
Circuit Court Judge, Branch 2
Marinette County Courthouse
1926 Hall Avenue
Marinette, WI 54143

DEPARTMENT OF JUSTICE

Rc: **SCOTT JOHN JOHNSON**
DOB: 7-19-1970
CASE #: 08-CF-124

Dear Judge Duket:

Pursuant to your court order, I have conducted a mental health evaluation of defendant Scott John Johnson relative to his mental responsibility for his alleged conduct on or about 07/30/08 for which he has been charged with one count of Second Degree Sexual Assault and for his alleged conduct on or about 07/31/08 for which he has been charged with three counts of First Degree Intentional Homicide, Use of a Dangerous Weapon and six counts of Attempted First Degree Intentional Homicide, Use of a Dangerous Weapon. The current evaluation procedures, findings, analysis and conclusions are set forth below.

PROCEDURES:

1. A clinical interview of approximately four hours and 45 minutes with Mr. Johnson conducted by the undersigned on 10/23/08 in the Marinette County Jail (MCJ).
2. A second clinical interview of approximately 2 ½ hours with Mr. Johnson conducted by the undersigned on 10/24/08 also in the MCJ.
3. Review of the relevant criminal complaint and extensive discovery material.
4. A collateral telephone contacts with the defendant's mother, Ms. Judy Johnson, on 08/14/08.

Notice: At the outset of each interview, Mr. Johnson was informed of the evaluation purpose. I described the issue of criminal non-responsibility, a bifurcated trial process and what may happen to him depending upon the court's adjudication of his plea. He was informed that the evaluation was pursuant to court order and that its findings would not be confidential. Rather, I told him that subsequent to the evaluation, I would author a written report and forward that document to the court. Mr. Johnson affirmed his understanding of this information. Moreover, he made various remarks which confirmed

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for this examiner that he, in fact, did grasp with reasonable accuracy the purpose of the evaluation and limits of confidentiality attendant to it.

FINDINGS:

Family/Early Life History: Mr. Johnson a 38-year-old divorced Caucasian man was born in Iron Mountain and reared in Michigan's upper peninsula in the vicinity of Kingsford. His parents, Judy Johnson and John Filback never married. He has one half brother by his mother. Mr. Johnson said that in addition, he has a known half brother and half sister by his father. He said that is generally aware that he has one or more additional siblings by his father, one of whom may have been a female victim in a murder some years ago. Mr. Johnson said that his family history may include unspecified mental health problems with respect to a paternal grandmother. Mr. Johnson has no knowledge of instances of substance dependence within either his immediate or extended family.

Regarding his early life, Mr. Johnson said that he was reared in his mother's care. His father left the family during Mr. Johnson's early childhood. Mr. Johnson's mother married when he (i.e. the defendant) was 4 or 5 years old. This relationship lasted five or six years before ending in divorce. Mr. Johnson said that his mother's husband, his stepfather died in 1997 evidently in part due to complications of alcohol abuse.

Mr. Johnson eventually initiated contact with his biological father when he (i.e. the defendant) was 17. At that time, he flew to Casper, Wyoming and stayed for a couple weeks with his then remarried father. He said that in retrospect, he believes he sought out his father to obtain "some kind of closure." Following the visit, Mr. Johnson wrote his father, though his father did not respond. Mr. Johnson's biological father died in about 2004 after years of struggling with complications of an accident. Mr. Johnson noted that while his half sister and brother were mentioned in the obituary, he (i.e. the defendant) was not, a matter about which he was resentful.

Mr. Johnson described his growing up years as largely unremarkable and in some respects, favorable. He said that he frequently played with peers outdoors. He said that by the age of 9, he received his first weapon, a single shot 20 gauge as a gift from his mother. Later, he received from her a 30/30 rifle. He described these gifts as not inconsistent or unusual among his peer group or within the rural culture of upper Michigan. He said that he used guns to hunt small game and later deer. At the age of 18 or 19, he received a 357 magnum, a pistol bought by his mother because the defendant was not yet able to do so. He said that with this weapon he engaged target practice with paper or makeshift targets. Again, his exposure to and use of guns and weaponry during this time period were not unusual or remarkable from his perspective or that of his peer group.

Educational History: Mr. Johnson advanced through school assigned typically to competitive programming. He is a 1989 graduate of Kingsford High. Mr. Johnson later accrued approximately 90 credit hours in college in the context of his military experiences and afterward. According to available school records, Mr. Johnson graduated from Kingsford High School on June 4, 1989. He ranked 63 in a class of 164 and completed school with a 2.639 grade point average. School records do not suggest a

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learning disability or cognitive limitation. Indeed, according to a report from the Federal Bureau of Investigation, a student summary for Mr. Johnson indicates an I.Q. of 119 in 1982.

Military History: Mr. Johnson enlisted on a delayed entry program in the United States Army as he his senior year approached. He has a formal enlistment date of 06/14/1989. He served approximately 4 ½ years in the Army ending his service in late 1993 or early 1994 with an honorable discharge. He referred broadly to his military experience as negative. At one point he commented, with respect to the military, "people with power, power corrupts..." He said that he experienced occasions of when he was the subject of the abuse of authority. The defendant's duty assignment was that of a patient administration clerk, a position he characterized as that of a "paper pusher in a hospital." He said that though he had other aspirations, the fact that he is color blind significantly limited his placement options.

Following his discharge, Mr. Johnson enlisted in the National Guard in which he served until June or July of 1998. He was assigned briefly to a guard unit at Lake Charles, Louisiana, and later transferred to Shreveport. He obtained a new duty assignment as a field medic. He was eventually afforded the opportunity to enroll in Officer Candidate School (OCS). He said that he was hopeful that he would acquire the knowledge and skill to successfully complete this program. Midway through it, however, his paternal grandmother died at a time when Mr. Johnson was on a two-week drill for the guard. He referred to his grandmother as his "second mom." He said that he left with to attend his grandmother's funeral with appropriate authorization though he was presumed about his absence. On his return, Mr. Johnson attempted to make up the days he had missed. He said the following month he was drilled rigorously. He expressed his perspective that those in authority in the officer candidate school "didn't like me."

As an example of events perceived by Mr. Johnson in OCS as unfair or harassment, he noted that he was not provided with adequate instruction to obtain the skills required to successfully complete requirements. He said, "I was there to learn. They weren't teaching..." He described broadly his experiences as "torture." He was eventually offered the opportunity to resign. He said that in doing so he did not disclose his negative experiences. He said, "I did not want to appear whiney..." Following his departure from the program, he returned to his regular guard unit and completed his term of duty, discharging from the guard in the summer of 1998.

Marital/Relationship History: Mr. Johnson married in February of 1991, a relationship legally intact until his divorce in October of November 2001. He has two children, a son (age 15) born in 1992 and a daughter (age 11) born in May of 1997. Mr. Johnson recalled meeting his future wife at a Baptist church in Fort Polk in 1991. He said that from the start, he and his wife were "more like friends than passionate." He believes he was attracted to her family which included a father that was in the military. He said in hindsight, his marital relationship was "below average." He said that despite this fact, he embraced anticipated fatherhood and family life.

Mr. Johnson described himself as a hands-on father who was affectionate with his children and involved in their care. He said that he was present for the cesarean section delivery of each of his children. He

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recalled that at his son's birth for one of the first times in his life, he was aware that he "would die for him...I would do anything for him."

Mr. Johnson said that his marriage, though adequate, began to decline in 1996 and in the context of his experiences in the Officer Candidate School. He recalled a couple of occasions when he failed to attend weddings in his wife's family including once in 1996 and again a couple years later. He recalled specifically in 1999 that his wife and children traveled to Ohio for a family wedding. Though he anticipated them to be gone a few days, they stayed on for a couple of weeks or more. He said that at some point he understood that they were "not coming back."

Mr. Johnson said that he had hoped for a marriage free of violence and conflict and in contrast to his own childhood. He acknowledged that as a youth he witnessed domestic disputes and at times violence. He said that despite his hope for his marriage in fact there were occasions when conflicts exploded into verbal and/or physical disputes.

Mr. Johnson recalled one conflict with his wife in particular in which he grabbed a weapon. He said that he believes he was "more scared than she (i.e. his former wife) was." He said, "I could of killed her...she was scared, I was scared." He said that his wife did not then report the incident, though in 1998, he contacted authorities when he struck her in the midst of a conflict.

In recalling his early family life, Mr. Johnson described his stepfather as a drinker who "got mean" when he consumed alcohol. He recalled occasion when in the context of a dispute, his mother and brother would leave the home, though he (i.e. the defendant) would remain and observe or listen to his stepfather talk or rant. He said that on a couple occasions these disputes brought police to the home. On one occasion, his stepfather in the midst of a domestic dispute threw a knife which nicked the defendant's shoulder and stuck in a wall. On another occasion, in a rage, his stepfather flipped over a table. One episode of violence involved a stab wound inflicted to his stepfather who sought medical treatment, though did not disclose how his injury was incurred. Mr. Johnson said that such experiences shaped his desire to raise his children in a non-violent environment.

Mr. Johnson said that he was served divorce papers in Louisiana and just after withdrawing from the fifth year in an apprenticeship as a plumber. He said that between 1999 and 2001, he maintained child support payments of an estimated \$500 a month. According to discovery material, Mr. Johnson evidently authored a letter to his former wife in 2002 in which he said that he had not contacted his children the previous two months because he was "working out of the country." He said that he needed to do so because if he did not, his social security number would be tracked. He encouraged his former wife to be cautious about individual who would have contact with their children, Sean and Amanda. He expressed the perspective that he would hurt and that he would "suffer for the rest of my life, missing all the little stuff in our kids' lives. You think I am the one to blame for it all and I'm sure you sleep well at night. Tell the kids I love them if you believe it, otherwise don't." He asked her to think about the possibility of him visiting with his children in the future.

Ms. Johnson contacted authorities in October of 2001 after receiving a phone call from her estranged husband in which she said he threatened to kill her. According to a police report from Akron, Ohio

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dated 10/07/01, Ms. Johnson reported that her estranged husband contacted her and asked if she had told her parents what he was going to do. When she inquired, Mr. Johnson reportedly said, "I am going to fucking kill you. Not right now, but soon, very soon. Not only am I going to kill you, I'm going to torture you and I'm going to kill your parents for supporting your fucking ass." According to legal records pertaining to Mr. Johnson's divorce, his marriage was legally ended in 2001 when his wife was deemed residential parent and legal custodian of their children. Visitation was deemed "as both parties can agree" though if an agreement could not be reached, Mr. Johnson was awarded "supervised visitation" that could be arranged through the court. Mr. Johnson was ordered to pay monthly child support of \$586.

Ms. Johnson again contacted authorities in June of 2002 with a complaint of telephone harassment from her ex-husband. According to related police reports out of Akron, Ohio, Ms. Johnson reported that her ex-husband had been leaving harassing messages on her answering machine. On 06/21/02, she stated that her former husband had called to inquire about visitation and when this could not be agreed upon, he became angered and made threats at one point calling Ms. Johnson several times a "bitch" and at another stating, "I'm coming to get you...I'm on the way."

Mr. Johnson recalled that he first fell in love during high school. He described the nature and quality of this experience for him as amounting to "unconditional love." He said that during this time period, he was frequently roused to jealousy and became aware that he was "capable of doing serious harm to people" whom he perceived as a threat in his relationship to his girlfriend. He said, in retrospect, he was responsible for distancing himself in the relationship in that he eventually "cheated" on his girlfriend during his senior year. He said, concerning this relationship, "I could never give myself or fall in love again."

Another significant relationship developed when he met a woman with whom he became involved after leaving upper Michigan to enlist in the military. For several months, he and the woman corresponded. At one point, she stayed with him and his family for a week in Iron Mountain.

He disclaimed a pattern of marital infidelity, though recalled that in the mid-1990s, he "cheated" on his wife during a return trip to Michigan. Following his separation, he engaged in a series of short-lived relationships and encounters with women, some prostitutes, on an estimated 30 occasions. He commented confidently that he had no difficulty finding a female companion whatsoever.

Given the sexual nature of one of the underlying allegations, Mr. Johnson was questioned regarding his sexual history. He disclaimed any patterns of interest, arousal or involvement in deviant sexual activities such as sadomasochism or forced sexual activity. He is heterosexual and disclaimed any experimentation or experiences of homosexuality. He said that he has never been the victim of sexual or physical abuse.

Mr. Johnson said that outside of the circumstances surrounding the pending sexual assault charge, he has never used force or committed a sexual assault whatsoever. He disclaimed any history of addiction or excessive use of pornography.

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Ms. Theresa Johnson was interviewed by special agent, Bradley Kust, and Lourdes Fernandez, on 08/21/08. Mr. Johnson's ex-wife came to describe him in retrospect as an individual with controlling tendencies and a "neat freak." She said that during the first four years of their marriage, he was not physically abusive, though he was verbally abusive. She said that there were times when he was aggressive and forceful during sexual intimacy and told her that she had to go along with it as part of her "wifely duty." She said that despite incidents of physical and verbal abuse, her husband "was always very decent to her in public and around other people." She also described an incident in which he pointed a rifle at her and, she said, told her, "I could kill you and no one would give a crap." She described her ex-husband as a loner with few friends. She described him as a careful planner who was not known to her to have any major mental health problems.

Employment History: Mr. Johnson described a rather extensive employment history in addition to his military experiences. Simultaneous to his stint in the National Guard, he held other forms of employment. Between approximately May of 1994 and January of 1995, he worked as a convenience store. He recalled that the incident which contributed to his departure from this job included a confrontation by a customer to which Mr. Johnson responded by using pepper spray or mace. Evidently, law enforcement authorities were contacted and he was charged with a "simple assault."

He later worked for five or six months at an adolescent shelter, a residential facility. He said that his responsibilities included providing supervision and, at times, distributing medications. He was evidently terminated from this employment due to a conflict with supervisors. Mr. Johnson recalled that the conflict arose when he opted to take adolescents out of the facility to a neighboring lake for 4th of July festivities despite a directive not to do so.

Mr. Johnson worked for a little over a year for a shuttle service at a casino. He said that he also left this employment in the context of a conflict. Specifically, he recalled that when asked to continue working despite the fact that his infant wife and daughter were involved in a car accident, he "blew up" at the individual who said in effect, "Are you going to stay?" Mr. Johnson refused to apologize and "quit" this position at about some point in 1997.

Between July of 1997 and September of 2001, Mr. Johnson was active in a plumber's apprenticeship program. The apprenticeship involved two days a week when he attended school, though primarily on-the-job training. His employment involved out-of-town travel to locals such as Mississippi, Texas and Alabama.

Mr. Johnson's pre-military work experiences include a stint at a gas station during adolescence in rural Wisconsin. Also during adolescence, he was employed at an area restaurant, a position he left after an individual spit in his coffee. He worked for a time at a large grocery store, though left this position due to dissatisfaction with his rate of pay.

Medical History: Mr. Johnson's medical history is remarkable for a significant injury to his left ankle at the age of 15 after it was "crushed" by a vehicle. He subsequently required multiple surgeries and the placement of "plates and screws." He has also had right knee surgery. For a brief time in the military, he was prescribed a medication, possibly Valium, due to muscle spasms in his back.

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Mr. Johnson described a rather consistent pattern of conscientious attention to physical conditioning. He said that during the three years or so leading up to his arrest, it was not uncommon for him to run 8 to 10 miles a day, at times carrying a three pound dumbbell in each hand. Intermittently, he would also ride a bicycle weather permitting as many as 30 miles a day. He was also a swimmer.

Psychiatric History: Mr. Johnson said that he has never been identified with a mental illness nor has he received formal psychiatric treatment of any kind. He underwent mental health evaluations at one point in Shreveport during an application/interview process to become a sworn officer. He said that he was unaware of any negative results from those evaluations. However, he was declined employment due to his inability to complete a urine test at the designated time. He described this event as both disappointing and with a perception that he had been unfairly or unjustly turned away from employment.

Substance Abuse History: Mr. Johnson experimented with alcohol as an adolescent during which he periodically might consume up to a 6-pack of beer. He said that following high school, he drank alcohol episodically. With regard to his patterns of alcohol consumption, he said "I'm a binge drinker." As an adolescent, he also used marijuana approximately a dozen times. He again used marijuana 10 or 12 times after he "went off the grid" in 2001.

Legal History: Mr. Johnson said that he has never been subject to arrest prior to the underlying charges. He recalled that in January of 1995, he was cited in Shreveport, Louisiana for simple assault after he used pepper spray or mace on a customer in connection with a confrontation. The resolution of that matter involved a brief period of supervision. As a youth, Mr. Johnson had brushes with police though never formal charges or allegations. He came to describe himself as "fearless" and commented that on one occasion in about 1998, he consumed a fifth of Jack Daniels and while acutely intoxicated drove from Shreveport to Memphis.

Mr. Johnson said that he eventually accrued charges of failure to pay child support out of Ohio, matters for which he had pending warrants. According to discovery material, Mr. Johnson has an outstanding warrant from 2003 regarding issuing worthless checks, a matter the defendant acknowledged as well.

Current Clinical Presentation: Mr. Johnson was evaluated in a large open conference room of the MCJ. He is a Caucasian man who is of approximately average height and proportionate build. He was dressed in standard institution issued attire. He presently wears short sandy brown hair. His grooming and hygiene appeared adequate. His expressed thoughts were consistently coherent, goal directed and relevant. He did not display any overt signs of acute psychiatric or emotional distress.

Mr. Johnson's manner of presentation was matter-of-fact and at times blunt. He wore a day or two worth of chin whiskers, though was otherwise clean shaven. He described his mood as "relaxed and kind of excited" given that at the point in the interview when he was asked this question, he was "in the rhythm" of talking to the examiner and more comfortable as compared to at the outset of the interview. When asked to rate his mood on a 10-point scale with 10 being the happiest he has ever felt, he said that his mood would fall rank between an 8 and a 9. He compared this mood to his functioning prior to the alleged offenses when he was "depressed" and added, "now I vented, I feel just fine."

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Mr. Johnson said that he believed he is a compassionate individual with a capacity for moral emotions such as empathy. He said, however, that while he is "sorry for taking...lives" he believes at this time that in connection with the alleged offenses, it was his "turn to take..." He is self-described atheist for about the past ten years. He said that his history includes times when he has frequented churches and relied upon or sought out religious instruction. He said that now "common sense" dictates that the Bible does not make sense. He described religion as "a scapegoat."

Mr. Johnson acknowledged that at one point in his past he commented about the potential for suicide, though he does not believe he would be able to follow through on committing suicide. He said that initially following arrest he was placed on suicide precautions. Those were discontinued after a couple of weeks. He disclaimed any current thoughts or plans of self-injurious or suicidal behavior.

When asked about any history of thoughts or occasions of interpersonal violence, Mr. Johnson said "everyone has thoughts." He said that as a youth when he witnessed a fight between his mother and stepfather, he once pulled a rifle out and pointed it at his stepfather. At that time, Mr. Johnson was 11 or 12 years old. He did not attest to current thoughts or plans of harming others.

Mr. Johnson disclaimed any history of periods of excessive energy or decreased need for sleep. He said that during the three years or so leading up to his arrest, however, his sleep patterns were poor. At times, he would wake up at night in a sweat. His sleep difficulties contributed to occasions of daytime napping. He said that he is unable to recall the last time he obtained a full night's sleep. He said that his appetite is undisturbed. He was aware of who he is, where he was and his surroundings.

When asked about occasions of impulsive behaviors, Mr. Johnson recalled that in the mid-1990s, he began to frequent a casino where he would play roulette. He said that at no point did he accrue significant debt, though his gambling was associated with "ups and downs" within his means financially. He said that he eventually recognized his gambling as a problem and curtailed his behavior accordingly.

Mental State at Time of Alleged Offenses:

Clinical Interview: Regarding his functioning leading up to the alleged offenses, Mr. Johnson recalled years of declining marital satisfaction and strain prior to being served divorce papers while residing in Louisiana. He said that he quit in the 5th year within a plumber's apprenticeship just prior to being served those papers. Between approximately 1999 and 2001 while separated, he continued to make child support payments. He said that he was anticipating an increase in those payments as his income rose, a fact which both displeased him and which in some fundamental fashion seemed unjustified or unfair. He said that he was concerned that with increased child support, his wife might be vulnerable to developing a relationship with a man as compared to relying on her parents for support. He said this possibility concerned him in that his children would then be living with a man he did not know.

In describing the increasing tension in his marriage which preceded his separation and divorce, Mr. Johnson recalled escalating verbal conflicts. He said that for a time he was hopeful that once he

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obtained his plumber's license, his marital problems would decline. He cited as examples of conflict occasions when he would return from a lengthy period of work and his wife would be "nagging" him about various matters. He said that at times she "made me feel inadequate..." He now believes that 95% of fights between them were instigated by her. He said that the slow death of his marriage ended in 1998.

Mr. Johnson said that his wife's computer related activity also concerned him. He said that while he did not have confirmation that she was unfaithful, there were occasions when persons unknown to him would call the home. He disclaimed a history of a pattern of physical violence in the relationship, though noted a couple of occasions when verbal conflicts became physical. He said that on one occasion he backhanded his wife to the head during a dispute to quiet her. He said that on another occasion, his wife summoned police to the home due to a conflict and that police directed him to calm down. He said that he would become angered at the fact that his children were witnesses to some episodes of violence and angry outbursts and in that context, he became depressed.

Mr. Johnson said that in the context of mounting financial problems, he filed bankruptcy in December of 1999. He said that he now believes his ex-wife used incidents within their marriage to "blackmail" him.

At some point in 2001, Mr. Johnson obtained a passport while residing in Shreveport. He said that he had gradually developed a general plan to leave the country or withdraw and become anonymous. He purchased some items at a gun and knife show with bad checks and began to acquire the items he believed he would need to "go off the grid" and avoid responsibility for debt and child support as well as disconnect himself.

Mr. Johnson returned to Kingsford in December of 2001. There, he met Ms. Janice Thomas with whom he came to reside until some point in 2002. He said that while she was supportive of him, they did not share a sexual relationship, a source of conflict between them. At one point, she traveled with him to Shreveport and assisted him in retrieving personal items and returning to Kingsford. When their relationship brief lived ended, Mr. Johnson returned to his mother's home where he has since resided.

Mr. Johnson said that from December of 2001 forward, he made various efforts to "keep off the grid" which he described as maintaining utter privacy and to the extent possible in a small community, anonymity. Though he initially frequented a gym in Kingsford, he eventually discontinued this practice because others would inquire about him. In about 2003 or 2004, he was no longer accessing a computer at the library. He spent increasing amounts of time exercising alone. He recalled that gradually he even came to eat meals alone in the home despite the fact that his mother and brother would dine in an adjacent room. He recalled resenting inquiries from others and maintaining his distance deliberately. He said that when others would inquire as to his background or lifestyle, he "would have to lie to people...there were warrants out for my arrest..." He said that within the home, he maintained responsibility for upkeep. He said that he was acutely aware that he could no longer have the life he had hoped for, namely a marriage and family, a significant loss and ongoing source of sadness for him during these years. Mr. Johnson noted that he believed he was manipulated by his ex-wife when he last saw the children in 2001, a fact which compounded his resent, anger and depression. At some point in

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about 2004, Mr. Johnson moved some of his possessions including a weapon into the woods, in part to keep these items out of the home.

Regarding his functioning during the year prior to the offenses, Mr. Johnson said that he maintained a routine of exercising, watching television, taking walks and frequenting the local library. He said that his appetite did not vary. His sleep, however, was frequently interrupted and on average amounted to about four hours a night in addition to daytime napping. He said that he had gradually become isolated even from his mother and brother with whom he lived. He recalled that his hikes and bike riding would take him to the location of the offenses, an area he had frequented as a child and since his return to Kingsford a few years earlier. He said that he came to know the names of a couple individuals, though Mr. Johnson would at times provide a false name ("i.e. David") consistent with his effort to stay off the grid and remain anonymous. He described one of his most significant motives for doing so included the fact of pending warrants and evading the detection of authorities.

Mr. Johnson was reticent to discuss the alleged sexual assault of a non-relative adult female with whom he had become acquainted. He did offer that on 07/30/08, he asked the alleged victim of the sexual assault to join him for a walk in an effort to get her alone and "make a pass." He said that the woman, however, turned down his advances and that in response he felt keen rejection and disappointment. He said in hindsight he believes his emotional response was compounded because of his mounting failures during the years preceding the offenses. He also noted that he had not engaged in sexual activity with a woman since 2002. He said that the fact that he did not find the woman particularly attractive and that she rejected him nonetheless also contributed to his sense of rejection.

Mr. Johnson declined to discuss his behaviors specifically with respect to the alleged offense. He said that following the alleged sexual assault on Wednesday, the victim asked if Mr. Johnson "was going to kill her." Mr. Johnson said that he responded in the negative. He said that at that time, he was feeling "really depressed." He said that he told the victim he was going to kill himself if she contacted authorities. He said that he was shocked that he had "stooped that low...to do something like that." He described the alleged sexual assault as singular in his history and that he had never previously sexually assaulted a woman.

Mr. Johnson said that as he and the victim were walking across the bridge, she asked whether or not he was going to throw her off of it. He said that he was incredulous both at the question and at his behaviors. He said that he told the victim that he hoped she would not contact authorities and that he was in her debt. He told her to contemplate a punishment for him because he had betrayed her trust and his regret was significant. He said that he was willing to let the victim beat him because he knew she had felt helpless in the assault. He said that he knew he deserved punishment. He said that en route home, he was "90%" certain that the victim would contact authorities. At one point they encountered a patrol car which allowed them to cross in front of it. He said that the victim had the opportunity to go to authorities, though chose not to do so.

Mr. Johnson said that the victim asked him for an apology. Though he said he could do so, he believed actions would mean more than words. He said that he arrived home at about 9:00 p.m., parked his bike and went for a walk. He said that his thoughts were racing and he returned to the home at about 10. He

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said that he continued to watch for authorities, though also speculated that if the offense was unreported and would "blow over" he would turn himself into authorities for outstanding warrants. He said that he hit "rock bottom." He later again returned to the home, though ducked and hid to avoid an oncoming car. He ran to an area gravel pit where he believed he had a good vantage point for spotting a patrol car. He spotted one and assumed that authorities were looking for him. He said that he wanted to cross a highway to go to the woods, though he heard a voice. He believed a K-9 unit may have been out looking for him.

Mr. Johnson made his way to the river. He said that he was panicking, though trying to remain calm. He eventually jumped in the river and walked along exiting 500 to 600 yards later. He continued making his way until he had returned to the vicinity of the alleged sexual assault. He said that he located items he had left in the woods a few years previously. Those items included a change of clothing (i.e. camouflage pants and a shirt) and a sleeping bag. He changed and warmed himself in a blanket and sleeping bag. Though he tried to sleep, he was unable to do so. In the morning, he awoke and unpacked a rifle for which he had approximately 150 to 200 rounds of ammunition. He also had a deer knife with a gutting hook. He said that he prepared various items and then ventured to the other side of the track in Wisconsin. He said that he was watching the scene of the alleged assault to see whether or not law enforcement officials were coming. He said that he was aware he was unlikely to be seen. He said that he began contemplating killing anyone who came to investigate. He said that he was "going to put down anyone who came." He acknowledged that in the military he had been an expert shooter several times. He said that he continued to watch the time and by 2:30 p.m. began to again think that perhaps he had a chance of beating any sanctions from the alleged sexual assault.

Mr. Johnson said that about 2:00 a.m. he left all of his things and returned home where he and his mother talked for about an hour. He said that he referenced generally an incident, though did not describe the nature of it. He said that he was intending once again to turn himself in if the events of the preceding day did not come to light. He said that as he was talking with his mother, a law enforcement vehicle drove by. He left and traveled to his campsite where he packed up his belongings.

Mr. Johnson said that he was feeling more optimistic and returned to his home at about 3:00 p.m. His mother told him that authorities had been there approximately an hour earlier, though they had not told her why. They provided her with a card which she gave to the defendant. Mr. Johnson said that he told his mother not to worry, "I'll take care of it." He received from her some money which he used to purchase food at a Subway. He said that he became angered and again thought, "I just can't catch a break." He said that he left the sandwich shop contemplating his future which might include years of incarceration as result of a sexual assault, as well as sanctions for presumed warrants pending out of Ohio and Louisiana. He said that he resented the fact that he might be labeled a sexual predator and he "didn't see any options." He said that he saw a pay phone and contemplated briefly contacting authorities, though within a short time he thought, "Fuck it."

Mr. Johnson said that he traveled again to the train bridge. At the start of the trail, a man greeted him. He said that he was gradually "gaining more focus" and a sense of urgency. He said that a man was walking behind him and he (i.e. the defendant) made efforts to separate himself. Mr. Johnson walked across the bridge, returned to his gear which he had to unpack. He said that he returned to the

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Wisconsin side in order to obtain a "line of sight" for shooting individuals on the Michigan side. He said that he was aiming to spot individuals "to kill" and that he laid down contemplating shooting the victim, though he did not immediately or impulsively do so. He said that he was intending to wait and that he would shoot at the most ideal time when likely to strike the intended victim. He said that he was aware some youths were walking in his direction. He said that he jumped up and began to shoot. He said, "I let out a volley" toward four individuals on the Michigan side. He said that he believed individuals on the Michigan side thought the sounds of gunshots were fireworks and that in response, Mr. Johnson thought, "What a bunch of motherfuckers, they don't even know what is happening." He said that he was reloading his weapon when he heard someone scream, possibly Daniel Gordon. Mr. Johnson said that he felt empty and numb and that his "... purpose was to kill. Jesus could have been walking with Moses that day and I would have killed them."

Mr. Johnson said that he was intending to wait and shoot those who came to the rescue. He said that his vision was slightly distorted possibly due to gun oil that had been on his hands which he used to wipe his eyes. He said that after the shooting, he felt "quiet...peaceful." He said that he slowly walked away and in doing so saw a female victim lying down. He said that he said to her, "You can stop playing dead now." He then saw her gunshot wound and concluded she was dead. He walked on for ten minute or so and at one point heard gunfire that he believed were that of authorities. He said that he again picked a spot in the woods to lay down and did not move from it for about 12 hours. When asked about his thoughts at that time, he said "nothing." He said that he was "totally at peacc." He said that in the morning he awoke and determined he would turn himself in. He planned to do so in a way that he would be plainly visible as he did not want "to be turned into swiss cheese" by authorities. He said that he saw an officer with binoculars and momentarily panicked. He said that had the officer come toward him, he was "going to put him down." At one point, he set off an alarm which had been placed. Prior to surrendering, he brock down his weapon and took off his jacket. He said that he came upon authorities and followed their commands entirely. He said that at the time of arrest, authorities had five or six weapons pointing at him and that he (i.e. the defendant) was unbothered.

Mr. Johnson disclaimed any history of experiencing auditory or visual hallucinations at the time of the offense or otherwise. He also disclaimed any usage of intoxicants during the hours leading up to or surrounding the offenses. He was not then taking medications of any kind.

Mr. Johnson acknowledged generally that he became increasingly and markedly depressed during the years leading up to the offenses. His depression was both reflected and exacerbated by his isolation and lack of any intimate relationships. He said that he now believes he was "terrified of success" in that each time he had hoped for success or attained a goal, it was "taken away." When asked to identify points of perceived injustice or disappointment in his life circumstances, Mr. Johnson recalled being injured during the first week of football practice as an adolescent. He said that he believed had he not been injured he may have competed and eventually obtained a football scholarship. He said that he became depressed when he was required to be on crutches for his first six months of high school. He described disappointment in meeting with his father at the age of 17 and the fact that his father did not subsequently respond to Mr. Johnson's efforts to contact him. He recalled that when in the military, he was placed in an administrative position due to color blindness, though he had other aspirations. He recalled the incident when he applied for employment in the sheriff's department, though he was not

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hired because he was unable to "pee in a cup." He described aborted educational efforts and his perception that in Officer Training School he was being set up "for failure." He recalled the accident involving his wife and infant daughter in July of 1997. He described his effort in a plumber's apprenticeship program and withdrawal from the same. He said that his dream of a perfect family was taken from him in the divorce. He said that his first and only significant romantic relationship also ended badly. He said that while he viewed such circumstances as contributing to his growing anger and depression in recent years, he does not believe there is an organized conspiracy against him. His expressed thoughts in fact did not yield evidence of a formal delusional belief system or psychosis.

Mr. Johnson was questioned with respect to religion or spiritual beliefs. He said that as a youth, he would periodically attend a Methodist church with his grandparents. At the age of 12 or 13, he and some friends encountered a pastor or evangelist in the community. He talked and prayed with them that they might be born again. He said that thereafter, he was a sporadic church attendee throughout high school at a local Baptist church. He said that he now believes this religious framework or belief system spawns "constant guilt." He again attended church on moving south. He believes religion was "devised by man." His comment did not suggest any psychotic beliefs, but rather his perspective on religion accrued as a result of his life experiences.

When asked about the items he relocated to the woods in 2004, Mr. Johnson recalled that these items included a sleeping bag, blanket, first aid kit, laundry bag and change of clothes, a hat and a couple of guns in addition to a knife. He said that he kept a pistol in the home as an option if someone came to the house to arrest him. He disclaimed any history of developed systematic plans to kill others, though he recognized that he may have done so in the fact of confrontation or when at risk of arrest. Mr. Johnson disclaimed any remorse for the alleged offenses whatsoever. He said that while he understands the loss of the families of the victims may have experienced, he is not remorseful. He said that he is not remorseful in part because those who died "are the same type of people who chose to live by these laws..." He was critical of American culture which he views as materialistic and people, in general, as insincere. He categorized the various victims into this group.

Mr. Johnson expressed his belief that he is not mentally ill. He did recognize factors contributing to the mental state which produced the alleged offense including those of escalating depression, detachment and anger. He commented at one point, "You don't have to be crazy to do what I did, just angry."

Available Discovery Material: On 07/30/08, authorities responded to the Dickinson County Memorial Hospital to a report of a sexual assault of a female in Marinette County. In the victim's statement, she reported that she had been walking on a train bridge with the suspect Scott Johnson whom she met up with in her yard when he stopped while riding his bicycle, his sole means of transportation. Mr. Johnson had asked the victim if she wished to go for a bike ride, and she agreed. They rode separate bicycles to the train bridge which crosses from east Kingsford in Dickinson County, Michigan to Marinette County, Wisconsin. She recalled that she had been to this location in June of 2008, also with Mr. Johnson. After crossing the train bridge, they walked for about ten minutes. Mr. Johnson told the victim he wished to show her a large rock. At one point, he placed his hands lightly on her sides above her hips. He slid his hands up and under her tank top and tried to remove it and her bra while touching her breasts. The victim told him to stop. Mr. Johnson, however, was able to remove the clothing and

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said to the victim, "I thought this was what you wanted." Mr. Johnson forced the victim to the ground and removed her shorts and underwear, taking a knife and a cellular phone from her shorts. He said words to the effect, "I'll hold on to these." The victim reported that Mr. Johnson did not use the knife to threaten her. He did, however, position himself between her legs. The victim reported that she continued resisting throughout the assault eventually grabbing a tree branch with which she struck Mr. Johnson to the head. At some point, Mr. Johnson reportedly said, "I'll make a deal with you, either I lick it or stick." The victim said that if these were her only choices, "Lick it." She asked the defendant to promise not to do otherwise. Mr. Johnson reportedly performed an act of oral to vaginal intercourse for about five seconds asking the victim "How did that feel?" He removed his shorts and underwear exposing his penis. He reportedly told the victim to not "worry about getting pregnant" and to "just relax." The assault lasted five to ten minutes by the victim's estimate.

After the assault, the victim dressed. The defendant located his glasses. The victim said that she asked Mr. Johnson whether he was going to kill her and he said no. Mr. Johnson affirmed that the victim had done the "right thing" by striking him with a stick. He told her that he had planned the attack about 30 minutes prior to it and that he had not had sexual intercourse in five to six years. He expressed surprise in his behavior and his belief that he should be punished. He asked the victim whether or not she would be contacting authorities. He reportedly commented, "I'll kill myself before going to jail" and told the victim that she could strike him with a baseball bat as punishment if she wished to do so. The victim returned home and reported the assault to her parents who then contacted authorities.

Police then went to the home of Mr. Johnson, the suspect in the offense, and spoke with his mother. She said that she had not seen him since supper on the previous day, Wednesday.

The defendant's current account of his functioning leading up to and at the time of the alleged offenses was in many respects similar to that he provided to police. In his statement on 08/01/08, Mr. Johnson described years of mounting stress including his declining marital relationship and the pressure of maintaining employment, responsibilities in the military and pursuing college.

Mr. Johnson indicated to police that a few years prior to the alleged offense, he had placed a backpack and various items including a combination axe tool in the woods for the purpose of one day leaving the area and for "survival." He said that his intention regarding the alleged offenses began to solidify at approximately 3:00 p.m. on the previous day. He said that he came to the moments of the alleged offenses primed with emotions such as anger or hate developed over several years. He commented, "It just...over the past several years, I'm just filled with anger, hate, justice—I just, you know, I have no hope."

Mr. Johnson expressed specific resentment in being separated from his children and the fact that during his last visit with them, he had been forced to "cram a whole years worth of family time in a couple of two weeks." He described having taken on the financial responsibilities of debt when his marriage ended and his willingness to pay child support. He described his perspective that his future appeared hopeless in that context given his anticipation of years of child support required regardless of his status of employment and separation from his children.

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Regarding his relationship to the alleged victim of the sexual assault, Mr. Johnson estimated that he had met or seen the victim at a store the previous January. He said that he gradually "gained her trust" and that at some point he fantasized. He acknowledged, as he did our interview, that his last relationship dated to 2002. He said, regarding the alleged sexual assault, that he and the victim went to the scene of the offense and that his own behaviors to some extent shocked him. He said that the victim "fought back" and that despite his behavior, he did not obtain an erection. He said that during the assault, he was trying to stimulate the victim sexually. He said that after the assault, the victim dressed and they exchanged words. He asked the victim to possibly think of a punishment for him and told her she had "a right...to call the police" though he was hoped she would not.

Mr. Johnson recalled that he anticipated the possibility that the victim might contact authorities and for that reason did not immediately return home. Rather, he observed the residence from a distance and at one point saw a patrol car nearby at about 11:00 p.m. He said that he left the area after maneuvering himself to not be seen by the patrol officer and spent the night in the woods. He returned to the home at about 10:00 the next morning and asked his mother if authorities had been to the home, and they had not. He said that he told her authorities might be looking for him because of "an incident." He said that he talked briefly, he ate and again left the residence.

Mr. Johnson said that when he returned to the home at about 3:00, she acknowledged that police had been there earlier. He said that his "house of cards" began "crumbling down." He left home and ate at a nearby Subway. At about 4:00 p.m., he was contemplating his future and that he would be going to jail as a result of the offense. He said that he contemplated being listed "as a sexual predator" and the implications of warrants for "bad checks." He said, "...so I'm thinking, do I go out with a bang, you know? Do I just go out and...you know, I think that's part of the reason . . . the only power I have in this life is to take...it's not fair, but life's not fair..."

Mr. Johnson said that he returned to the area in the woods where his gear was stored. He, in fact, had been to the area the previous night which he spent in the woods. He said that after he left Subway, his mind was racing. While walking, he saw a couple of individuals and exchanged brief greetings. He said that at one point, he saw a guy on a bike and thought momentarily that once again his goal or plan was being "blocked." He recalled that there were youths swimming, and estimated eight. He said that he crossed the bridge and retrieved his gear which was somewhat hidden from view, gear which had been placed a year or two earlier. He gathered his ammunition, weapon and other items together as they were not all located immediately next to one another. He said that he dressed in camouflage attire that he had stored and found what he believed would be the "best place" to "turkey shoot." He said that he was "sweating profusely." He saw four youths swimming and knew that they would usually swim across the river and walk back to the area from which they come. However, on this date, they walked toward him. He heard their voices and determined they were getting closer. He was laying on his side looking at them. He said that he eventually "jumped up" and started shooting. He detected from voices that two were females and two males. He said that he believed some of the individuals thought that the gunfire was fireworks. He saw a couple of the victims fall. He opted to not chase the persons, but rather reloaded his weapon. He believed that the weapon may have jammed as he attempted to clear it. He said that he was "focused" on the others nearby. He recalled hearing victims scream. After he reloaded, he again shot a round of ammunition. He subsequently heard sirens.

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Mr. Johnson acknowledged that he had been surprised that individuals crossed on the bridge and that for a moment, he had considered not going through with his plan. However, when they came upon him and surprised him, he shot. Mr. Johnson said that he had not previously practiced or ran through the events in question, and that he had not prepared for the violent assaults. He said that if the victim had not contacted authorities about the sexual assault, he in fact, had been anticipating turning himself in for the outstanding warrant.

Mr. Johnson said that after he heard sirens, he had thoughts of remaining in place and letting the victims serve as bait. He said that he was "looking for maximum...members. How can I get the most out of this?" He estimated that he had as many as 150 to 200 rounds of ammo with his gear.

Mr. Johnson ultimately did not remain in position, though he contemplated waiting for others to arrive "and just peck 'em off as they come in." Instead, he walked from the area. At one point, he laid down in the woods for about three hours. He said that as morning came, he believed he was "a sitting duck" and easily viewed, so again he began moving. At one point, he saw an individual evidently an officer with binoculars and believed momentarily that he (i.e. the defendant) was in his view. He said that he waited for authorities to come and that if they would have done so, he would have "killed 'em. Those rounds would have ate through that vest, no problem. . . . I was gonna, I was gonna probably gonna kill 'em." Mr. Johnson deduced, however, after a passage of time that he had in fact not been seen. He said that he believed he eventually tripped an alarm.

Mr. Johnson recalled that he had no intention of shooting children and knew that it was unlikely they would be in the area. He said, "I know the type of people that were down there, basically teenagers or sometimes there's older people down there too." He said that when leaving the scene of the shooting, he saw a female lying down and told her "You can stop playing dead now." After a moment, he concluded that he had in fact "killed one."

Mr. Johnson said that he eventually began contemplating how he could have officers take his life and that he would prefer that to suicide as he does not believe in suicide. Mr. Johnson said that he had never previously taken a life, though on one occasion during a domestic dispute pulled a rifle and threatened his ex-wife in the midst of "explosive anger." He said that when he realized what he was doing at that time, he was terrified.

Mr. Johnson recalled that he had purchased the various weapons years earlier when he had anticipated "running away" in Louisiana. He said that during the offenses, he had not donned the bullet proof vest as he was aware that officers used rifles and that a vest would have been cumbersome and ineffective. He discussed reasons for his own selection of weapons.

Mr. Johnson declined to provide specific details or an account of the alleged sexual assault.

When asked about his decision to turn himself into authorities, Mr. Johnson recalled that he was thirsty and did not want to both be incarcerated and in a wheelchair if authorities maimed him, though did not

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kill him. He said, "If I want to be put down, I want to be put down. I've got no problems. I'm not afraid to die, it's just if I'm going to put down, then put me down."

Mr. Johnson acknowledged that he had previously been religious and for a time was interested in Bible code which some individuals believe would predict the future. While he acknowledged that he remained curious about this matter, he was skeptical of it at the same time. His comments did not suggest that his interests in this matter were the product of a delusional belief system, but rather a curiosity given his religious heritage.

Toward the close of the interview, Mr. Johnson asked detectives how long it might be before the events in question "get out" and a trial would follow. He expressed his awareness or belief that he would likely be incarcerated as a result of the events in question. At one point he asked whether or not it was likely that the death penalty would be reinstated in Wisconsin.

Multiple 9-1-1 calls were made via cell phone on 07/31/08 reporting that shots had been fired at or near the East Kingsford train bridge. Callers reported that individuals had been shot; screaming and gunshots were heard. Callers included Christopher Martinson and Daniel Gordon who reported that peers had been shot. In the hours which followed, calls were received by authorities regarding possible suspects as the events in question came to light.

In response to a report that shots had been fired in the area of the East Kingsford train bridge, law enforcement officers from multiple jurisdictions responded to the vicinity. Officers located two males, Christopher Martinson and Kevin Johnson crying and distraught. Gunshot victims were located and emergency medical personnel retrieved the bodies of two victims, Ms. Tiffany Pohlson and Anthony Spigarelli, were recovered near the railway bridge on the Wisconsin side of the Menomonee River. The body of Bryan Mort was recovered from the Michigan side.

According to autopsy reports from the Marinette County Coroner's office, both Anthony Spigarelli and Tiffany Pohlson died of a gunshot wound to the head. The third victim, Bryan Mort, was pronounced dead at the Dickinson Memorial Hospital with the cause of death determined by an autopsy to be a gunshot wound causing massive damage to his left lung and rapid blood loss.

According to police reports from the Dickinson County, authorities recovered from the bedroom of Scott Johnson in his mother's home a Blue Desert Eagle 41/44 magnum pistol automatic loaded with one magazine holding eight rounds. Two other loaded magazines were also recovered with the weapon.

Attempted murder victim, Daniel Gordon, was interviewed on 8/8/08 at about 3:15 p.m. He recalled arriving at the train bridge at about 2:30 p.m. anticipating having a couple of beers and relaxing with friends. He described the train bridge as his favorite place to gather with friends and swim and use of rope swing. On the day of the offenses, Mr. Gordon and his friends gathered and were eventually joined in the area by another group of individuals. Mr. Gordon watched four people swim across the river and climb the trail next to the bridge into the woods. About two minutes later, Mr. Gordon heard shots. One of his peers jumped up and said "someone is shooting at us" though initially others laughed and thought that the statement was a joke. Mr. Gordon heard subsequently several shots rapidly fired and saw dirt

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and rocks fly. He sought cover, though saw Bryan Mort collapse and blood coming from his head. He attempted to assist him and placed a towel under his head. While he was doing so, he heard more shots and laid over Mr. Mort as shots hit around him. Mr. Gordon said that he did not see the person shooting.

Mr. Gordon was familiar with Mr. Johnson as he had seen him numerous times over the previous four years, though he did not know his name. He stated in particular that he had seen Mr. Johnson at the bridge an estimated ten times and on six or seven occasions, the defendant had joined him or his friends for a beer. Mr. Gordon recalled that Mr. Johnson had been seen using the rope swing, swimming across the bridge to Wisconsin and back often a routine he completed three times.

Mr. Johnson's mother, Ms. Judy Johnson, was also questioned at her residence in Kingsford on 08/08/08. She recalled that she last saw her son on the morning of 07/31/08 at about 10:00 a.m. and that he was "acting strange." Mr. Johnson had asked her if authorities had been at the residence and told her that "he hurt somebody." Ms. Johnson recalled that her son left the home in early afternoon after showering. Later, a deputy from Marinette County came to the home looking for her son and left his business card.

Ms. Johnson described her son as intelligent and an individual with little tolerance "for stupid people." She recalled the information he had given to her when he returned to the local area in 2001 about his legal problems and divorce. She stated that her son became gradually more isolated and did not socialize with others.

Collateral police records document some of the behaviors Mr. Johnson described including his stop at a Subway sandwich shop and other details about his functioning leading up to the alleged offenses.

Police also spoke with Ms. Janice Low who contacted authorities on 08/10/08 to report her previous relationship with the defendant which had ended in June or July of 2002. She acknowledged that she had accompanied him to Florida, New Orleans and then Shreveport, Louisiana, where they retrieved some of his property that he had not initially moved with him on his return to Michigan.

Officers interviewed attempted murder victim, Christopher Martinson, on 08/08/08. He described gathering on the day of the alleged offenses with peers at the train bridge. He recalled watching various peers swim across the Menomonee River and after they disappeared into the woods that he heard shots fired. He shortly became aware that he and peers were being shot at. He described watching Daniel Gordon shield victim Bryan Mort from additional bullets being fired.

On 08/14/08, attempted murder victim Kevin Johnson was interviewed. He too described gathering at the train bridge with peers and the shock of hearing gunshots. He stated that when he became aware that shots were being fired, he jumped into a hole and "kept hidden."

Victim Jonathan McClure was interviewed on 07/31/08. He recalled watching several of his peers swim to the Wisconsin side of the Menomonee River. He said that in response to gunshots being fired, one of his peers asked, "Is that firecrackers?" He responded that it was gunfire.

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Law enforcement officials set up a perimeter and began searching for victims as well as the perpetrator of the assaults. They located an area in which they found a sleeping bag, gun case, gun cleaning supplies, first aid supplies, duffle bag and garbage bags. Officers spotted the defendant at about 8:46 a.m. on 08/01/08. Mr. Johnson was wearing camouflage pants, a dark colored shirt and boot. A rifle was located about 20 feet away from him and partially broken down. A knife and a black nylon holster, camouflage hat and magazine to the rifle were lying next to it. Mr. Johnson identified himself and provided his date of birth. He was checked for weapons, though had none.

Mr. Johnson was placed in a squad car and at about 9:00 a.m. commented, "I went to all four corners, you had everything covered pretty tight." As officers were pulling up to the command post that had been established, Mr. Johnson commented, "Looks like you have an army here."

Mr. Johnson was questioned in the back end of the command post and after he was advised of his Miranda Rights which he waived. During this initial interview, he recalled that after speaking with his mother on Thursday, 07/31/08 and learning that an officer had stopped at his home, he began thinking about whether to turn himself in or do the "shoot 'em all thing." He expressed his concerns about being labeled as a sex offender or being sanctioned for writing bad checks from Louisiana. The interview was continued at the Marinette County Sheriff's Department.

During the investigation, officers questioned various witnesses of the incident, some of which provided a description of the shooter as a man wearing green camouflage clothing and an assault rifle. The search for the shooter involved extensive law enforcement officials, a SWAT team and K-9 assistance that searched the area and maintaining a perimeter.

In his initial audiotape interview, Mr. Johnson acknowledged his awareness that he had shot people on both the Michigan and Wisconsin sides, and estimated that he had hit four to six people. When asked about the number of person he had shot on the Wisconsin side, the defendant replied "They were on one side, four swam across to the Wisconsin side, climbed up and made way towards me, kind of caught me by surprise...I was going wait for the swimmers to gather on the Michigan side, instead they came in my direction. The first face I saw, they walked right up into me before they noticed me. I laid off a volley. I don't know if some were playing dead or faking it, but I didn't chase. I said if it was meant to be, it was meant to be, I wasn't going to chase. It was kind of weird, on the other side they thought it was fireworks...good for me, they were nice and calm, backs toward me, so I let off a volley."

He indicated that he had intended for a time to lay in wait for ambulances or emergency personnel to respond and shoot at them as well. When asked whether or not he had any relationship with the alleged victims or whether any were intended, he said that the shootings were "just totally at random." He said, "I just picked people at random, cause who's there, who's there, that's the way it happened, a roll of the dice." He disclaimed any association between his behaviors in the offenses and religious beliefs.

Information regarding Mr. Johnson's post arrest functioning also derives in part from letters he evidently authored to his mother, Ms. Judy Johnson. In his various letters, his remarks were goal directed, coherent and purposeful and did not suggest thought disorganization, delusional beliefs or other potential indices of psychosis. His letters document his requests for reading material, alertness to his

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legal predicament and to rules within the facility. In one letter, he urged his mother to not let hate mail bother her and commented her "It's how people deal with something that they don't fully understand. Even if people are given the why seems that whatever is said will never be enough." He said that he apologized for his mother and brother being "caught in my wake."

In a letter dated 09/30/08 and reportedly authored by the defendant, he asserted that he would not "play the coo-coo card" with potential mental health evaluators he said, "It would be insulting to me and mostly to the victim's families. Right now I feel free. No more lies. No more bullshit. The way the economy is going, I am really not that bad off."

Clinical Information: Mr. Johnson was seen by clinical staff in the Marinette County Jail on 08/01/08 for a risk assessment. Per review of an evaluation completed by Kristina Preston and dated 08/01/08, Mr. Johnson acknowledged that he had had thoughts of harming others on the previous day. In the context of the assessment, Mr. Johnson acknowledged having witnessed violence by his stepfather. He said that he had been avoiding others due to "criminal concerns" evidently a reference to outstanding warrants that had precipitated his efforts to withdraw and remain anonymous. He acknowledged that there was little he could do to "lessen the pain for victims' families." He said that the victims had been unknown to him and that he grasped the nature of his actions and that he had killed individuals and accepted responsibility for causing their deaths. He was deemed "mentally stable and appropriate to remain in segregation." He was seen on 08/02/08 for a follow-up contact after concerns were expressed by authorities that Mr. Johnson had not yet appreciated the full impact of his circumstances. He stated in response to the clinical contact that he was "not going to crack" and did not grasp why people believed he should be "mopey." He was placed on observation as of 08/01/08 evidently due to concerns regarding his potential for self-harm. He remained in segregation and observation through 08/04/08 and over this time period was observed exercising, watching television, sleeping and eating. He again affirmed responsibility for his actions and at some point inquired as to the alleged offenses of other inmates as compared to his own.

Ms. Preston of the Marinette County Human Services office was questioned by authorities on 09/02/08 about her contact with the defendant in the Marinette County Jail on August 1st. She expressed her perspective that Mr. Johnson was aware of his actions and their consequences. She said that in her contact with him, he had no difficulty understanding her questions.

Collateral Interviews: Ms. Judy Johnson in a brief collateral telephone contact on 11/14/08 said that her son to her knowledge had no history of mental health treatment. She was reticent to provide any detailed account of his functioning prior to the alleged offenses other than to say that for the six months or so previous, he was "depressed and withdrawn." She said that she noted "a big change" in him over the years which followed his return to the upper peninsula after his divorce and that his functioning was marked by "sadness, depression and loss and hopelessness."

ANALYSIS AND CONCLUSIONS:

Opinion Regarding Mental Disease or Defect: Available evidence will sustain diagnoses of *Depressive Disorder Not Otherwise Specified* and *Personality Disorder Not Otherwise Specified*

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applying to Mr. Johnson at the time of the alleged offenses. These opinions are offered to a reasonable degree of professional certainty.

The definition of a mental disease in the Wisconsin Jury Instructions is quite broad in that it is an abnormal condition of the mind substantially affecting mental or emotional processes. It is this examiner's opinion to a reasonable degree of professional certainty the diagnosed condition, *Depressive Disorder Not Otherwise Specified*, may qualify as a mental disease as defined by that authority.

The diagnosed condition of *Personality Disorder Not Otherwise Specified* is in acknowledgment of Mr. Johnson's history of an enduring, rigid and maladaptive pattern of perceiving and understanding himself, others and events which has contributed to instability in areas such as interpersonal relationships and employment.

Opinion Regarding Criminal Non-Responsibility: Despite evidence of a diagnosed mental disease, *Depressive Disorder Not Otherwise Specified*, it is this examiner's opinion to a reasonable degree of professional certainty that there is insufficient support to sustain a conclusion that specifically and as a result of symptoms of this condition the defendant was rendered at the time of the alleged offenses to lack substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

During the years leading up to the offenses, the available information indicates the defendant became increasingly angered, hopeless and depressed in the context of mounting life stressors. Those stressors included his divorce, custody issues and separation from his children, financial debt, legal problems and pattern of perceived personal failures and affronts. His decision to go "off the grid" and deliberately maintain a pattern of interpersonal isolation, detachment and anonymity both exacerbated and reflected his symptoms of depression.

While acknowledging the defendant's depressive symptoms, however, it is this examiner's opinion to a reasonable degree of professional certainty that the diagnosed condition does not amount to an exculpatory mental disease. I am unable to support his plea. In support of this opinion I would offer the following:

Regarding the alleged sexual assault of 07/30/08:

- 1) The nature of the alleged offense provides intrinsic motivation, namely sexual gratification, and does not require invoking symptoms of a mental disease to explain.
- 2) The defendant reports that the assault was in some essential fashion planned, albeit initially, as an effort to "make a pass" at the victim in hopes of a favorable response. This description of his conduct suggests purposeful, goal directed behavior, within his control and motivated by sexual desire. The defendant's course of functioning subsequent to the offense further reflects his capacity at that time to marshal his resources toward self-preservation and in a controlled, purposeful manner.

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- 3) There is no evidence whatsoever that the defendant was laboring under psychotic symptoms which might have impaired his behavioral controls or cognitive functioning at the time of the alleged offense or otherwise.
- 4) Prior, at the time of, and subsequent to the alleged offense the defendant communicated verbally with the victim. His remarks, as memorialized in discovery material, do not suggest thought disturbance but efforts to communicate rationally with the victim.
- 5) Immediately subsequent to the offense, the defendant expressed his regret and acknowledged an appreciation of the wrongfulness of his conduct. In fact, he asked the victim for punishment, requested she not contact authorities and ultimately agreed to give her a verbal apology. He was expressly concerned that she would contact authorities and ruminated on this possibility for hours afterwards. He describes himself as incredulous at his behavior because of his awareness at that time that the victim had been vulnerable and hurt. Such information reflects the defendant's capacity at that time to appreciate the legal and moral wrongfulness of the sexual assault.
- 6) The broader context of the alleged offenses includes the defendant's efforts for years to remain anonymous and evade detection from authorities for pending warrants. Such information suggests his general capacity to appreciate wrongfulness of his behavior during this time period leading up to and subsequent to the alleged offense. I would note his concern that if the defendant contacted authorities he may ultimately face prosecution for this and other charges.
- 7) I would note the defendant's post arrest functioning. He has not required treatment for acute mental illness or distress. He has been maintained within the jail setting and, with the exception of initial placement on suicide precautions, not received mental health services or monitoring. His statements to others and correspondence do not suggest a psychotic thought process.

Regarding the allegations of 07/31/08, I would emphasize the following factors, some of which are also relevant in the analysis of the defendant's mental responsibility in the 07/30/08:

- 1) As indicated previously, the broader context of the homicides and attempted homicides involved the defendant's efforts over several years to evade detection by authorities for presumed pending warrants. He was vigilant and alert to the potential for sanction because of past unlawful behavior. This capacity to appreciate wrongfulness, I would not presume, was unavailable to him at the time of the offenses.
- 2) I would note the absence of information to suggest that the defendant's mental state at the time of the alleged offenses was influenced by delusions, hallucinations or other psychotic symptoms. To the contrary, the defendant reports that over the hours following the alleged sexual assault he repeatedly deliberated over whether to turn himself in to authorities if the sexual assault did not come to light. When it did, his thoughts began to focus and sharpen on an alternative – shooting as many victims as he could. His organized and goal directed behaviors followed. He retrieved ammunition and weapons he had stored previously in the woods and purposefully engaged in targeting and shooting victims.

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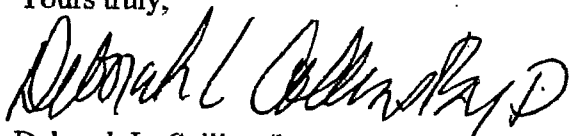
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- 3) The defendant's subjective account of his functioning at the time in question includes that he was angered and hostile after years of perceived injustice. Though this anger fueled his conduct, anger in and of itself does not qualify as a mental disease. Further, there is not indication that Mr. Johnson was unable to act otherwise.
- 4) In considering his ability to conform his conduct, I would note the defendant's deliberation over whether to act and how during the hours leading up to the offense. During the offenses, he refrained from some behaviors (c.g., shooting at a presumed officer in the woods) and chose others.
- 5) Ultimately, the defendant chose when and how to surrender himself to authorities. He did so in a manner reflecting an effort at self-preservation and his appreciation that his behaviors would be sanctioned by authorities. His efforts to both evade authorities prior to and during the offenses and then to turn himself in, at face value, reflect capacity to appreciate the nature and consequences of his conduct.
- 6) I would note the absence of any indication of psychotic symptoms predating the offenses or subsequent to arrest. In effect, the defendant has not received psychiatric services outside of clinical monitoring post arrest for his potential for suicide.
- 7) I have considered the defendant's assertion that he is not remorseful for his conduct, though he felt relief after the offenses. In some cases, a lack of remorse may reflect a lack of appreciation of the nature of their conduct or wrongfulness. I do not believe this is the case for Mr. Johnson, however. Rather, his stated lack of remorse appears to reflect his ongoing anger at perceived injustice and his personal belief system. In effect, he believed he was entitled to take life at the time of the offenses because, he said, so much had been taken from him. While his behaviors were violent and hostile, this belief system from which they flowed does not amount to a psychotic thought process or formal delusional belief system.
- 8) The defendant's aggressive and violent conduct required him to marshal his behaviors and, at times, delay them.
- 9) The defendant's statements to police immediately following arrest do not suggest his reality contact was impaired but rather reflected his alertness to his circumstances. I would note his post arrest functioning in the jail and communication with an evaluating clinician during which he was reportedly rational and coherent.

Accordingly and for such reasons, I am unable to support the defendant's plea.

Thank you for this referral. Please do not hesitate to contact me if I can be of further assistance in this matter.

Yours truly,



Deborah L. Collins, Psy.D., ABPP
Diplomate, American Board of Forensic Psychology

DLC/kz