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OFFICE OF THE GOVERNOR

February 2, 2007

Governor Christine Gregoire
C/O Richard Mitchell
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire,

We, the undersigned health professionals, strongly support the clemency recommendation reducing Mr. Barry Massey's life sentence to 25 years. As experts in the field, we appreciate that the neurological, psychological, and developmental deficiencies will be considered in determining the outcome of this clemency decision.

Over the past ten years, advances in neuroscientific research have revealed that young people's brains are not fully developed to allow for adult level reasoning and weighing of consequences. During adolescence, behavior is controlled by the region of the brain associated with impulse and aggression (the amygdala). Executive functions, including decision-making, consideration of alternatives, planning, setting long-range goals, and organization of sequential behavior, are associated with the prefrontal cortex, which *does not fully mature until well beyond age eighteen.*

In this particular case, evaluations concluded that Mr. Massey, at age 13, only had the mental age of 9.9 years. Psychological evaluations also revealed that he had developmental deficiencies in regards to his intellectual and emotional functions. Dr. Steven Drizin, a national expert in analyzing witness testimony, noted Mr. Massey's limited psychological capacity and determined a strong likelihood of false confession—a sign that Mr. Massey lacked the ability to make decisions and understand the long-term consequences of choices.

Recently, Margaret Smith of the Clemency and Pardons Review Board noted that the new scientific findings regarding adolescent brain development ought to be "in and of itself enough to warrant the Governor taking a serious look at commuting Mr. Massey's sentence in this case."

In similar cases across the country, the justice community has applied these scientific findings, including the 2005 Supreme Court decision to abolish the death penalty for youth under the age of eighteen at the time of the offense. In the majority opinion, Justice Kennedy stated that juveniles under eighteen have an "underdeveloped sense of responsibility...result[ing] in impetuous and ill-considered actions and decisions," "are more susceptible to negative influences and peer pressure," and that "[their] character is not as well formed as that of an adult." He concluded by saying:

Their [juveniles under eighteen] own vulnerability and comparative lack of control over their immediate surroundings means juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment...

The State of Washington drew comparable conclusions about the extent of culpability and deserved retribution when it enacted EHB 1187 into law, eliminating mandatory sentences for youthful offenders tried as adults. Mr. Massey was never given this consideration.

As health professionals, we emphatically maintain that children should be afforded their basic human rights as outlined in international law, particularly that "[n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age."ⁱⁱ

We believe that Barry Massey has served appropriate time and has demonstrated positive development from a wayward child into a caring, responsible and good natured adult. Therefore, we strongly recommend that Mr. Barry Massey's clemency request for a reduced sentence to 25 years be approved. For more information, please contact Dr. Trupin (206-685-2085) or any of the below signatories.

Signed,

Eric Trupin, Ph.D.
Professor & Vice Chair
University of Washington School of Medicine
Department of Psychiatry & Behavioral Sciences
Director, Division of Public Behavioral Health & Justice Policy

Patricia Oakes MD, JD
Acting Instructor
University of Washington Medical Center
Department of Neurology

Charles Huffine, MD
Assistant Medical Director for Child and Adolescent Programs
King County Mental Health Chemical Abuse and Dependency Services Division

Edgar K. Marcuse MD, MPH
Professor, Pediatrics
University of Washington
Associate Medical Director
Children's Hospital & Regional Medical Center

John F. McLaughlin, MD
Professor, Pediatrics
University of Washington
Division of Genetics and Developmental Medicine
Director, Clinical Training Unit
Center on Human Development and Disability

Dimitri A. Christakis, MD, MPH
Associate Professor, Pediatrics
University of Washington
Director, Child Health Institute, Department of Pediatrics
Children's Hospital & Regional Medical Center

Ana Mari Cauce, Ph.D.
Earl R. Carlson Professor of Psychology
University of Washington
Department of Psychology

Theodore P. Beauchaine, Ph.D.
Robert Bolles & Yasuko Endo Associate Professor
University of Washington
Department of Psychology

Peter H. Kahn, Jr., Ph.D.
Associate Professor
University of Washington
Department of Psychology

Liliana Lengua, Ph.D.
Associate Professor
University of Washington
Department of Psychology

Christopher Cowles, Psy.D.
Clinical Psychologist
Seattle Children's Hospital

**All affiliations are for identification purposes only.*