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Certification for Determination of Probable Cause

That Allan O'Neill 337 is a *Detective* with the *Kirkland Police Department* and is familiar with the investigation conducted in *Kirkland Police Department 21-16772*. There is probable cause to believe that *Desmond, Tyler John, 8/5/1984* committed the crime(s) of:

- *Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct in the First Degree*, in *Kirkland*; and
- *Child Molestation In The First Degree - Domestic Violence (DV)*, in *Kirkland*

County of King, in the State of Washington.

This belief is predicated on the following facts and circumstances:

On 05/08/21 at 1018 hours, *Kirkland Officers* were dispatched to 12729 NE 113th PI for a welfare check. *Lisa Marie Toon*, DOB 03/06/1980's ex-husband called the police after Toon texted him that she needed him to call 911. Toon's current husband, *Tyler John Desmond*, DOB 08/05/1984, was inside the house and Toon had an active no contact order against him. The no contact order was placed in effect on 02/04/21 (*Kirkland No Contact Order #45284, Kirkland Case #21-4129*) and served to Desmond.

Officers Gallup and Stommel responded to the residence and located Desmond inside. He was placed under arrest for the order violation and booked into the *Kirkland Jail*. Desmond was in possession of a cellular phone that was booked into evidence at the *Kirkland Police Department*, pending a search warrant and given evidence number 2116611EV638 -001.

Officer Huebner contacted Toon and she stated that Desmond had been staying in the house almost all the time since the no contact order was issued. Toon said she was afraid that Desmond might leave with her kids, so she invited him to stay in the home. Toon said she knows Desmond cross dresses, but she found a bag of his that contained "little girls' clothes", headbands, pacifiers and a child's facemask. Toon said she did not recognize any of the clothes as belonging to her children. Toon stated that she noticed some changes to Desmond and in the last couple days he was being sexually aroused when their youngest daughter smacked him and touched him on his leg. Toon said she could tell he is aroused by his facial expression when the kids smack him.

Toon stated that her 7-year-old son MMD told her that he did not get any sleep because "Daddy" keeps him up all night touching him. Toon said that MMD told her that Desmond touches him on his "bum" and "winky." After Toon heard this from MMD, she texted her ex-husband to call the police.

Toon also stated that a few years ago, she found her daughter's underwear in Desmond's bag and she told Desmond she wanted to see his phone. As Toon was going through Desmond's phone, she came across an image of what appeared to be a 10-year-old female standing between two men and holding a penis in each hand. Desmond told Toon that he downloaded those images by accident and later deleted everything off his phone and sold the phone. Toon said that yesterday MMD's teacher had messaged Toon asking if there would be any reason why MMD was so anxious at school. This was odd to Toon that the teacher would reach out to her. She said MMD's teacher has been working with him for the last two years and knew MMD pretty well to know that he was acting different.

On 05/09/2021 at 1314 hours, Toon called the *Kirkland Police Department* to report additional information about the case. *Officer Huebner* contacted Toon. Toon stated that her two-year-old daughter KDD had a white discharge coming from her vagina and was constantly itching her vagina. Toon was concerned because she too was having itchiness from her vagina and believed that she may have received a sexually transmitted disease (STD) from Desmond. Toon said that she had consensual sexual intercourse with Desmond about three days ago, and believed that he had given her an STD.

When Toon realized that KDD was also having the same itchiness and white discharge from her vagina, she became concerned that Desmond had done something to KDD. While Toon was asking KDD some questions about it, KDD said that Desmond had taken her to a hotel and put his "winky" on her "tuppence." Toon said that they use the word "winky" for penis and "tuppence" for vagina. KDD also stated that Desmond had been touching her vagina. Toon checked their bank account and saw a transaction for \$140.74 to the Courtyard by Marriott in Kirkland, 12822 NE 124th St. Toon took



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KDD to Children's Hospital for an examination.

On 05/09/2021, at about 1945 hours, Ashley Lizarraga, a social worker with the Seattle Children's hospital, called the Kirkland Police Department to report that Toon had brought KDD to the hospital to have her examined for the sexual assault. Officer Joslin was dispatched to the call and spoke to Lizarraga over the phone.

Officer Joslin responded to the Marriott Hotel and confirmed that Desmond had checked into the Marriott Hotel on 05/04/2021 at about 1313 hours in Room 241. Desmond checked out of the hotel on 05/05/2021 at about 1239 hours. Officer Joslin learned that Marriott housekeeper, Luis Cubellas had already cleaned the room to include removing the linens from the beds. Officer Joslin contacted Cubellas and he said the room was relatively clean and that the occupant (s) only used one bed and the sink. Cubellas informed Officer Joslin that he had taken the trash out and recalled the trash can contained beer bottles and some tissue. He said that no items were left in the room. Officer Joslin then took photos of room 241, post cleaning.

Detective Kaufman and I contacted Toon at her residence. Toon confirmed that 05/04/21, was the day that Desmond took KDD to the park. She said Desmond told her he was taking KDD to the park and then later taking KDD and MMD golfing. She said Desmond left with KDD around 1100 hours and picked up MMD at 1355 hours. As I was talking to Toon, MMD walked into the kitchen naked. Toon told MMD to get some clothes on and MMD returned to his room. Toon told me that she has a hard time getting MMD to wear clothes and also that he has started to frequently masturbate.

I went to the Kirkland Courtyard by Marriot and contacted the Operations Manager, William Rossman. Rossman provided me with security footage for 05/04/21. I reviewed the footage and saw Desmond and KDD checking into the hotel. The footage was in black and white, but KDD was wearing a dress and appeared to be wearing adult shoes. Rossman provided me with a list of all of the key card activations for Desmond's room (241). The card reader was off by 15 minutes and it was determined that Desmond entered his room twice at 1323 hours and 2015 hours. The footage showed Desmond and KDD leaving the hotel at about 1338 hours. In other words, Desmond checked into the hotel with KDD and they went to the room for approximately 15 minutes. Toon stated that she got home at 1600 hours, and Desmond was there with the children. She told me that Desmond left to go bowling with MMD, but the bowling alley did not have any available lanes, so they returned home. She stated that MMD was not feeling well and Desmond left to get some medicine and was gone for a long time.

Toon's neighbor has a surveillance camera that covers the front of Toon's residence. I reviewed the footage for 05/04/21 and saw Desmond leave with KDD at 1113 hours in a red car. KDD was wearing a red dress. At 1232 hours, they both returned home. At 1241 hours, Desmond exits the house and does something to the camera at the residence. At 1251 hours, Desmond leaves with KDD and returns home with both children at 1526 hours. At 1732 hours, Desmond leaves with MMD and they return home at 1843 hours. At 1957 hours, Desmond leaves without any kids and then returns home at 2052 hours. He is not seen leaving the rest of the night.

On 05/10/21, I received a secured email from Serralta Haley who was part of the Safe Child and Adolescent Network (SCAN) team at Children's Hospital. Haley provided me with the SANE Evaluation report for KDD. The report and SANE examination were completed by Julia Mitzel. In the report, Mitzel indicated that KDD had a white/clear discharge around her labia minora, vulvar redness and redness around her anus. Mitzel indicated that KDD was able to tolerate STI swabs, but not the remainder of the evidence swabs. Mitzel felt the STI swabs were more urgent. Mitzel also collected KDD's underwear that KDD had been wearing before and after her bath. Her report indicated that oral and perianal anal swabs were collected. Mitzel did not collect any perineal/vulvar or vaginal/cervix swabs.

I contacted Shana Macleod who is a child forensic interviewer with the King County Prosecutor's Office and briefed her on the case. Macleod agreed to conduct an interview with KDD and she provided me with her available interview times. I contacted Toon and she agreed to KDD being interviewed and we scheduled an interview time of 05/11/21 at 1100 hours. She also agreed for MMD to be interviewed, but she said at this time he was refusing.

On 5/10/2021 at 2342 hours, Toon called the Kirkland Police Department to report that she had found child pornography in her husband's items. Officer Carson responded to Toon's residence, 12729 NE 113th Pl, Kirkland, WA. On scene, Officer Carson reported that Toon answered the front door and was crying and extremely emotional while she spoke to him. He entered the residence and Toon pointed out a small red dress on the couch. Toon stated that her two-year-old daughter KDD was wearing that dress on the day she was sexually assaulted by Desmond.



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King County

Certification for Determination of Probable Cause

Toon informed Officer Carson about the no contact order and that she had reported the sexual assault on her children. Prior to the sex assault, Toon stated that Desmond had taken two SD cards out of the surveillance cameras located in the front and back of the home. This disabled the cameras ability to record full video, and only clips could be recorded.

Toon stated that about 1600 hours, she was playing outside with KDD and KDD got a splinter. Toon went into the family's upstairs bathroom to find a pair of tweezers. In the far-right cabinet beneath the sink, Toon found Desmond's grey toiletry bag. Toon stated that the bag typically had tweezers inside. Toon opened the toiletry bag and found two SD cards.

Toon believed the SD cards belonged to the cameras and promptly placed both SD cards into the cameras. Toon grew suspicious of the SD cards and she and her daughter Caitlin Smith, DOB 04/13/01 reviewed them. Toon stated that they found 50-100 files of child pornography on both the SD cards. She had a hard time estimating the total number of files but said some files were from 2011. Toon stated that she saw dozens of photographs of nude young girls between the ages of 6-14, a video of a young pre-pubescent child (estimated to be 6 years old) moving her vagina towards the camera. Toon stated that she did not go through all the files and said Caitlin had reviewed more than she did.

Officer Carson went to the upstairs bathroom and located the grey toiletry bag inside the far-right cabinet of the vanity where Toon found the SD cards. He stated that there was also a room on the eastside of the 2nd floor that had wording on it, something to the effect of "Daddy's Room." Toon said that was Desmond's bedroom, where he had multiple computers and laptops. Toon stated that since the start of the investigation she had not been inside the room.

Officer Carson took possession of the SD cards, the red dress and booked them into evidence at the Kirkland Police Department.

Do to the above facts, I wrote a search warrant application to search the following:

1. Subject Person: Tyler John Desmond (DOB) 08/05/1984;
2. Subject Premises: 12729 NE 113th PL, Kirkland WA 98033. A two story residence; and 3. Cellular Phone, currently stored as Evidence Item Number EV638-001, at the secured evidence unit of the Kirkland Police Department.

On 05/11/21, at about 0926 hours, I received information that Toon had called and needed a ride and a car seat to take KDD to the Child Forensic Interview. While sorting out the transportation issue, Toon thought Desmond was in her house and had locked himself in his bedroom. I immediately called Toon and she was very upset and believed Desmond was in her house. She said she heard the children talking to someone and now Desmond's room was locked. I informed Toon to hang up and call 911 and stay on the line, until the police arrived. I then notified patrol and responded to Toon's residence. On scene, patrol officers setup a perimeter and then cleared the house. Desmond was not there. At about 1032 hours, dispatch advised that Desmond was at the Kirkland Police Department requesting his phone that was taken from a prior incident.

I contacted Toon, KDD and MMD in the back yard. They were all visibly upset. I told Toon that we should probably change the CFI with KDD for another time. Toon stated that she did not want to reschedule and wanted to get it done today. Toon and KDD took an Uber to Shana Macleod's office. Shana conducted the CFI with KDD, but with KDD's age it was difficult. KDD was very active and would scream, then laugh and climb around on the furniture in the room. In attempt to try and get KDD's attention Shana provided her with markers and paper to draw. Unfortunately, this did not work, and KDD became more focused on drawing then talking to her. Shana then ended the interview.

On 05/11/21 at 1422 hours, the search warrant application was electronically approved by King County Superior Court Judge Catherine Shaffer and assigned number SW 21-0-61364-0.

At about 1500 hours, the warrant was executed at Desmond's residence 12729 NE 113th PL, Kirkland WA 98033. I contacted Toon at the front door and informed her about the search warrant. She stated that she would take her children to a friend's house to allow us to search the residence. Toon then left with KDD and MMD. CPS worker Tyler Fultz arrived at the residence and went with Toon and the kids to the friend's house. The following items were seized from Desmond's room that had a sign labeled "Dads Room:"



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King County

Certification for Determination of Probable Cause

- Surface Tablet with case (Evidence Item 337-002)
- Surface with keyboard (Evidence Item 337-003)
- Lenovo Laptop (Evidence Item 337-004)
- Dell Laptop (Evidence Item 337-005)
- Surface & charger (Evidence Item 337-006)

Desmond's backpack that contained a DUI breathalyzer, his wallet and a bag full of pills was taken for safekeeping. Desmond's had requested these items. The pills were not in a prescription bottle, so they were entered into the property room for destruction.

2 SD cards (Evidence Item 337-007) were located on the half wall between the kitchen and living room of the residence and seized as evidence.

Toon advised me that they had viewed the SD cards using her chrome Laptop. The item was taken for comparison.

After we completed the search of the residence, I contacted Caitlin. Caitlin stated that Toon found the SD cards and at first, they were happy to get them back, because Desmond takes them out of the cameras. They put them back into the cameras and then Toon stated that they should look at them in case there was evidence on them. Caitlin put them in her Chromebook computer and viewed the contents of the SD cards. At first, she saw a bunch of files that had the names of girls. She remembered two of the names as Hannah and Svetlana but stated there were a lot more. Caitlin said that she clicked on the files and there was an option to look at videos or images of the girls. She said each of the files contained the same girl in different videos and images. Catlin believed the youngest age of a girl that she saw to be nine. I asked her if she could describe one of the photos. She stated one was a man videotaping a little girl in a hotel and he was rubbing her. Catlin believed that there were a couple hundred files and thousands of images and videos. She then called the police and told the police. Catlin indicated that a lot of the photos looked like staged photos and some of them looked like they were from snapchat. Dates on some of the files dated back to 2015. She did not recognize any of the girls in the files.

I asked Caitlin if she ever heard KDD talking about things. She told me that just yesterday KDD walked up to her and her friend in the backyard and out of the blue she said, "Daddy took me to a hotel." Caitlin said they did not want to ask her anything and KDD pulled her pants down and said, "He put white stuff on it."

I asked Caitlin if she was home the day Desmond went to the hotel. She said she came home around 1500 hours and the door was locked, because he took the batteries out. She came into the house and he was in the living room with the kids. I asked her if she knew when he left. Caitlin stated that he was trying to leave, but Toon convinced him to stay. She said Desmond said he got a hotel, but they did not believe him because he lies a lot. Caitlin also remembered that he had taken MMD bowling and Desmond did not want to go and wanted to take KDD. Caitlin stated that on the same day they went to the hospital, they were sitting on the couch and KDD started putting her private area in Toon's face. She said KDD stated that she wanted new clothes like daddy got her. They then found out Desmond bought a new outfit for KDD.

CPS Tyler Fultz informed me that he had talked to MMD privately while he was at the neighbor's house. He stated that during that interview, MMD disclosed that his dad had touched his private parts. MMD told him that his dad slapped and smacked his private parts. MMD could not remember when the last time it happened. Fultz stated that he asked MMD if he felt safe with his dad and MMD stated no.

On 05/12/21, I took the 2 SD Cards, Evidence Item Number 2116611EV644-001, all of the above listed seized items from the residence and the Cellular Phone Evidence Item Number EV638-001 to the Seattle Police Department ICAC Unit to be forensically examined. Computer Forensic Detective Shane Burditt took possession of the items and I presented him with a copy of search warrant SW 21-0-61364-0. I later realized I inadvertently did not list the 2 SD Cards, Evidence Item Number 2116611EV644-001 in the search warrant. The SD cards were described in the application for search warrant but were not specifically listed as an item to be searched. I contacted Detective Burditt and told him to stop the search of the SD cards pending an addendum to the warrant. He informed me that he would end the search and delete any forensics that had already been conducted. I then wrote an addendum to the warrant to



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King County

Certification for Determination of Probable Cause

search the 2 SD Cards, Evidence Item Number 2116611EV644-001. The warrant was electronically approved by King County Superior Court Judge Regina Cahan. I sent a copy of the addendum to Detective Burditt.

On 05/13/21, I spoke to Toon and told her that I would like to setup a forensic interview for MMD and she agreed. I contacted Shana Macleod and made an appointment for 05/20/21 at 1130 hours. I was not available to attend so Detective Kaufman went in my place.

On 5/20/21, Shana conducted a Child Forensic Interview with MMD which was recorded. Detective Kaufman observed the interview from a different room. I viewed the interview and MMD disclosed that his dad had "smacked" and touched his private parts while they were at the Marriott hotel. He stated that he was wearing his clothes and his dad touched him with his hand. Shana told MMD that she wanted to understand what happened in the hotel and asked him to tell her about that. MMD stated, "He smacked my private parts and all that stuff". MMD would not expand on what he meant by smacking and said he wanted to go home. During the interview MMD, also stated that his dad takes pills that make him very mean.

On 05/24/21, I contacted Detective Burditt at the Seattle Police Department. Detective Burditt provided me with a flash drive that contained the forensic report and contents found on the two 2 SD Cards, Evidence Item Number 2116611EV644-001 and cellular phone.

I reviewed the report. The two SD cards that Toon located in Desmond's toiletry bag were submitted in one evidence package listing an evidence number of EV644-001. Detective Burditt examined both SD cards and listed them as KPD Evidence Items 644-001A and 644-001-B.

In item 644-001A, Detective Burditt observed hundreds of folders and subfolders that most, if not all the folders contained image and movie files. Detective Burditt stated that there are thousands of files within the device that depict the sexual exploitation of a minor.

In item 644-001-B, Detective Burditt observed hundreds of folders and subfolders that most of the folders contained image and movie files. Detective Burditt stated that there are at least hundreds of files within the device that depict the sexual exploitation of a minor. In addition to those files he located a folder for Tor Browser and associated files, a browser that connects to the "dark web."

Detective Burditt also stated that he located pieces of data on both devices (KPD Evidence Items 644-001A and 644-001-B) that are associated with Evidence Item 337-002.

Evidence Item 337-002 is a Surface Tablet that was located and seized from Desmond's bedroom. Another Surface Tablet (Evidence Item 337-006) was also located and seized from Desmond's bedroom, but it was encrypted, and Detective Burditt was unable to unlock and examine the device.

I opened the flashdrive using the Griffeye program. There were several thousand video and image files. The majority of the content contained images and videos of children engaged in sexually explicit conduct. I reviewed some of the content and will describe two as follows:

Filename: 0356D2B46A770A649607EF8AF432: The file is a 2 minute and 44 second mp4 video that depicts a young nude girl lying on her back. The child's legs are spread and raised which exposes her vagina. An adult male inserts his penis into the child's anus and sodomizes her. At one point the child puts her hands down to remove his penis and the male pushes her hands away and continues to sodomize her. Based upon my training and experience, I estimate the girl to be about 3-5 years old from her lack of development and no visible pubic hair.

Filename: A69D41EC8FB4941F62F0155649BE.jpg: The file image depicts a young nude boy lying on his back on a bed and his penis is erect. There are two other boys lying beside him. Both of the boys next to him have their shirts off and their pants are pulled down enough to expose their erect penises. The younger nude boy in the middle is holding the other two boys' penises. Based upon my training and experience, I estimate the boy in the middle to be about 5-7 years old from his lack of development and no visible pubic hair. The other two boys I estimate to be about 10-14 years



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Certification for Determination of Probable Cause

old.

On 05/28/21, at about 1600 hours, CPS worker Tyler Fultz contacted MMD at his residence and spoke to him privately. Fultz stated that he previously had talked to MMD and MMD disclosed that his dad had touched him. Fultz asked MMD to tell him about that and MMD stated that the first time it happened was at LaQuinta. MMD stated that the second time it was at Embassy suites. He stated that the third time was at the Modera apartment in Redmond with KDD. MMD stated that the fourth time was at the Marriott with Kendall.

Fultz asked MMD what happened the first time and MMD stated that they went to the store and then to the hotel room and then his dad started doing weird stuff. MMD described the weird stuff and that his dad touched his private parts, his winkle and his butt. Fultz stated that he asked why they were at the hotel and MMD stated that his mom wasn't there, and his dad wanted to give him special treatment but then his mom came back. Fultz asked how long they were at the hotel and MMD stated it was a really short time.

Fultz asked MMD if his dad's hand touched him over or under his clothes. MMD stated under. Fultz asked MMD what the hand was doing. MMD stated smacking and touching. Fultz asked how it felt and MMD stated that it hurt, and he wanted his dad to be nice. Fultz asked how his dad was acting. He stated that his dad was acting really mad and eating pills.

Fultz asked MMD about the second time and MMD stated that it was the same thing as the first time. He stated that all the times were the same. Fultz asked MMD where he was in the room and MMD stated that he was lying on the bed, playing on his iPad and his dad dragged him to the other bed. He stated that he was on his back when his dad smacks his privates.

Fultz asked MMD about the 3rd time and MMD stated that it was the same as all the other times. Fultz asked how many times he has been to the apartment and MMD stated that he has been there lots of times. Fultz asked MMD what he does there and MMD stated that they just came back home. Fultz asked MMD who is with him at the apartment and MMD stated just dad and me. Fultz asked MMD what he saw his dad do to his sister at the apartment and MMD stated that Desmond smacked her privates the same way he does to him. Fultz asked MMD what the smacking looks like and MMD showed an open hand swinging toward his crotch with implied force. Fultz asked MMD about the 4th time and MMD stated that it was the same. He stated that his dad dragged him off the couch where he was on his iPad to the bed.

Fultz stated that MMD started to complain about his mouth being sore and was no longer able to hold a conversation. Toon told Fultz that she had to reschedule a dentist appointment because of a conflict with the forensic interview. MMD was supposed to have an appointment next week, but Toon called for an emergency appointment. Fultz had to end the interview.

On 05/31/21, I received an email from Toon advising me that she was just looking over her Joint back account with Desmond and came across some hotel payments. She stated that MMD had mentioned to her that the first time Desmond sexually assaulted him was when they stayed at "La Quinta Hotel" and claimed the second time was at "Embassy suites" and the third time at "Motel 6."

Toon attached the bank statement which showed Desmond charged a room at the Kirkland La Quinta, Bellevue Embassy Suites and the Kirkland Motel 6. I confirmed with the Kirkland La Quinta that Desmond stated in their motel February 5-7, 2021 and Motel 6 on February 8-11, 2021. Neither motels had video surveillance footage. The employee at the Bellevue Embassy Suites was not able search their prior registry. They did not have any surveillance cameras.

On 06/03/21, I received a call from WSP Forensic Scientist Jennifer Reid about KDD's SANE kit. Reid stated that she did not find any male DNA in the SANE Kit. She stated that the kit only included oral and anal swabs. However, Reid indicated that she did not find any DNA on the anal swabs and it appeared they had not been collected. She tested the underwear that the KDD was wearing the day of the exam. The underwear had low levels of male DNA from two male sources and negative results for semen. Reid stated that her report would be completed in a couple of weeks with further details.



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Certification for Determination of Probable Cause

On 06/09/21, about 1416 hours, Desmond came to the Kirkland Police Department lobby requesting a civil standby to get his vehicle. I contacted Desmond and informed him that he would need some type of court order to obtain the vehicle. I then asked him if he wanted to talk to me about the things that were happening at his house. He told me that he only came here to talk about his car. I told him that I could not do anything about the car and again asked him if he wanted to talk about the things going on at his house. He stated that he should have an attorney present for that. At that point, I informed Desmond that he was under arrest for possession of child sex abuse material and child molestation. He tensed up his body and said, "no, no, no." Sgt. Quiggle then assisted me with restraining Desmond while I placed handcuffs on his wrists.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct. Signed and dated by me this 10 day of June, 2021, at Kirkland, Washington.

This printout is from the King County Electronic Log of Detective Investigations (eLODI) system, where the above officer signed and transmitted this referral as permitted by GR 30 and LGR 30.