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6 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**

**IN AND FOR THE COUNTY OF KITSAP**

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**STATE OF WASHINGTON,**

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**Plaintiff,**

9

1. **v.**
2. **xxx:xxx,**

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**Defendant.**

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)

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)

) **No.**

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) **MOTION AND DECLARATION**

) **TO COMPEL RECORDS OF KITSAP**

) **SEXUAL ASSAULT CENTER**

)

1. **COMES NOW** XXXXX:XX, by and through counsel, AMY I. MUTH, and moves this
2. court for an order COMPELLING Kitsap Sexual Assault Center to produce any and all records
3. pertaining to the above-cause number in relation to alleged victims R- **NIii** R- and
4. S.R., DOB 3/16/1998, pursuant to RCW 70.125.065, and this court's ruling of April 22, 2005. 18

This motion is based upon the records and files herein and the attached declaration of counsel.

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DATED this day of ,, 2005.

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21 RONALD D. NESS AND ASSOCIATES

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24 AMY I. MUTH, WSBA #31862

Attorney for Defendant

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1. **DECLARATION OF COUNSEL**
2. STATEOFWASHINGTON )

ss.

1. County of Kitsap )

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5 I, AMY I. MUTH, do declare under penalty of perjury of the laws of the State of

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Washington do declare that the following is true to the best of my knowledge:

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1. I am the attorney for Defendant X:X:XXX:XX in the above entitled matter;

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1. X:XXX:XXX is presently charged with Child Molestation, First Degree, and Assault-DY,

9 Second Degree;

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S.R., DOB

R

, is the complaining witness of the child molestation count, and is the complaining witness of the assault count;

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Ms. **RIIIIIII** has previously waived any claims to privilege, and had counsel appointed for that purpose;

RCW 70.124.065 authorizes judicial review of records maintained by a rape crisis center as part of defense discovery upon motion and declaration showing why review of these records is necessary;

I assert that as to S.R., these records are necessary to determine what, if any, impeachment or exculpatory evidence is contained within these records, and that this potential evidence is particularly necessary in a case such as this, where S.R.'s reliability as a reporter of abuse is in question;

I assert that as to Ms. R\_, I am entitled to these records based upon her previous waiver of privilege, and further, given Ms. R-' waiver, these records should be disclosed to me, as judicial review is unnecessary;

8. On April 22, 2005, this court determined that a sufficient showing had been made to

21 submit S.R.'s records maintained by the Kitsap Sexual Assault Center to this statutory

procedure;

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I respectfully request this court direct the Kitsap Sexual Assault Center to:

1. Make S.R.'s records available for review, and;
2. Turn over all records pertaining to R- R-; and;

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10. I respectfully request this court include as part of the records request any e-mails sent by

2 the Center in relation to this case, particularly e-mails sent to Child Protective Services.

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**DATED** this day of ,2005.

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5 RONALD D. NESS & ASSOCIATES

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AMY I. MUTH, WSBA #31862

8 Attorney for Defendant

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