



Brett L. Tolman
United States Attorney
185 South State St.
Suite 300
Salt Lake City, UT 84111

U.S. vs. Brian David Mitchell

June 16, 2009

Dear Mr. Tolman,

Pursuant to your request, I have conducted a peer-reviewed forensic psychiatric examination of the above defendant. He is a 55 year old native of Utah charged with kidnapping, kidnapping of a minor, and unlawful transportation of a minor. Brian Mitchell is accused of seizing Elizabeth Smart, then fourteen, and taking her into the mountain wilderness with his wife Wanda Mitchell and then, to Southern California. In the time span preceding Brian Mitchell's capture, he is alleged to have engaged in forced sex with Elizabeth.

Subsequent to his arrest, three examiners filed reports on his competency. On August 30, 2004, with reports having been filed by all expert witnesses, defense and prosecution agreed that Mr. Mitchell was competent to engage in plea negotiations. When plea negotiations failed, the defense modified its position on competency. After competency proceedings in early 2005 in which expert witness mental health professionals testified, Mr. Mitchell was declared incompetent to stand trial in Utah state court on July 22, 2005 by Judge Judith Atherton.

On October 10, 2008, the case was transferred to the U.S. District Court of Utah. The United States' Attorney's Office subsequently referred this matter to The Forensic Panel for an independent assessment of the following questions:

- 1) *Does Mr. Mitchell have the capacity and ability to understand the charges against him? Does the defendant have a rational as well as a factual understanding of the proceedings against him? What evidence speaks to these issues?*
- 2) *Does Mr. Mitchell have sufficient present ability to consult to his attorney, with a reasonable degree of rational understanding? What evidence speaks to this issue?*

- 3) *Does Mr. Mitchell have the capacity and ability to assist in his defense? What evidence speaks to this issue?*
- 4) *Does Mr. Mitchell meet criteria for a psychiatric diagnosis? What is that diagnosis(es) or constructs?*
- 5) *How do the above diagnoses speak to Mr. Mitchell's decision-making in these proceedings, and in his relatedness to others?*
- 6) *What is the relationship of religious zeal of a fundamentalist adherent to Mormon doctrines to diagnostic questions?*
- 7) *Does Mr. Mitchell have a mental condition in which he does not have a sufficient contact with reality? What evidence speaks to this issue?*
- 8) *Does Mr. Mitchell have the ability to perceive accurately, interpreting and responding appropriately to the world around him? What evidence speaks to this issue?*
- 9) *Does Mr. Mitchell's have capacity to knowingly, intelligently, and voluntarily waive the insanity defense? What evidence speaks to this issue?*

SOURCES OF INFORMATION

1. Report of Stephen Golding, Ph.D, September 24, 2003
2. Report of Noel Gardner, M.D., September 19, 2003
3. Report of Jennifer Skeem, Ph.D., September 16, 2004
4. Decision of Hon. Judith Atherton, July 22, 2005
5. Report of Gerald Berge, Ph.D., November 14, 2005
6. Report of Gerald Berge, Ph.D., December 4, 2006
7. Report of Jennifer Skeem, Ph.D., February 1, 2005
8. Transcript of competency hearing, February 16-17, March 11, May 24, & July 7, 2005
9. Police investigation reports from arrest
10. Transcript of interview of Elizabeth Smart, by Det. Cathy Schoney and SA Travis Thiede, March 12, 2003
11. Videotape of interview of Brian Mitchell, March 12, 2003
12. Interview of Wanda Mitchell, March 12, 2003
13. Interview of Elizabeth Smart, March 12, 2003
14. Papers of Brian Mitchell
15. Journey Through the Land, Wanda Mitchell
16. Birth of Zion, Wanda Mitchell
17. In Plain Sight, Tom Smart and Lee Benson
18. Under the Banner of Heaven, Jon Krakauer
19. Rough Stone Rolling, Richard Bushman
20. Brian David Mitchell and ██████████ Mitchell – Divorce and Custody proceedings
21. Brian David Mitchell and ██████████ Mitchell – Divorce and Custody proceedings

Re: **Brian Mitchell**

The Forensic Panel – Michael Welner, M.D.

June 16, 2009

Page 3 of 206

22. Evaluation of Linda McNeil, MA, June 1985
23. Children's Service Society file of Brian Mitchell
24. Letter from Kayleen Mitchell, Ph.D., sister of Brian Mitchell, to Lillian Flowers, Children's Service Center, October 28, 1983
25. Notes of Irene Mitchell, Brian Mitchell's mother, August 1973 – October 1983
26. Child abuse and neglect reports
27. Employment records of Brian Mitchell
28. Medical records of Brian Mitchell
29. Juvenile records
30. Notes from Office of Recovery Services
31. Arrest records of Brian Mitchell
32. Records from Salt Lake City Jail, March 2003 – January 2004
33. Evaluation and treatment notes of Tanya Thomas, Ph.D., July-September 1970
34. School records
35. Marriage documents
36. Records of Irene Mitchell vs. Brian & Wanda Mitchell, May 2002
37. Utah State Hospital records, August 2005 – August 2007
38. Treatment plans
39. Utah State Hospital Records of Franklin Mitchell
40. Order for competency examination, Judge Samuel Alba, November 19, 2008
41. Book of Immanuel David Isaiah, April 6, 2002
42. Calendar, maintained by Wanda Mitchell
43. Notes of Elizabeth Smart
44. Lafferty vs. Cook, decided December 9, 1991
45. Report of Richart DeMier, February 4, 2009
46. God's Brothel, by Andrea Moore-Emmett,
47. Discussion with FBI Agent Eric LeRohl, March 13, 2009
48. Interview of Elizabeth Smart, by Park Dietz, March 14, 2009
49. Correspondence re: plea negotiations, September 2004
50. Interview of Brian Mitchell by Rick Demier, Ph.D. December 5, 9, & 10 2008
51. Translation of Wanda Mitchell's shorthand writings
52. Discussion with Elizabeth Smart, April 7, 2009
53. Notes of interview of Brian Mitchell, by SA George Dougherty, March 14, 15, & 17, 2003
54. Notes of interview of Leslie Miles, RN by SA Eric Lerohl and TFO Ryan Cleverly, March 26, 2009
55. Notes of interview of Carma Karsten, RN by SA Greg Rogers and TFO Greg Knapp, March 26, 2009
56. Notes of interview of Tracey Killpack (Hurd) by TFP Trudy Cropper and SA Russell Johnson, March 26, 2009
57. Notes of interview of Jan Jakeman, RN by SA Greg Rogers and TFO Greg Knapp, March 26, 2009

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 4 of 206

58. Notes of interview of Jeffrey Smith by SA Greg Rogers and TFO Greg Knapp, March 26, 2009
59. Notes of interview of Heather Houghton by SA Russell Johnson and TFO Trudy Cropper, March 26, 2009
60. Notes of interview of Korey Larsen by TFO Trudy Cropper and SA Russell Johnson, March 26, 2009
61. Notes of interview of David Jones by SA Russell Johnson, March 30, 2009
62. Notes of interview of Tye Jensen by SA Eric Lerohl and SA Patrick Brosnan, March 31, 2009
63. Notes of interview of Jill Rafiner (Branin) by SA Eric Lerohl and SA Patrick Brosnan, March 31, 2009
64. Notes of interview of Daniel Brady, by SA Eric Lerohl and SA Patrick Brosnan, March 31, 2009
65. Notes of interview of Dustin Salisbury by SA Blake Anderson, April 3, 2009
66. Notes of interview of David Talley by SA Eric Lerohl, April 7, 2009
67. Notes of interview of ██████████ Mitchell by Sgt. Kevin Judd, June 23, 2003
68. Discussion with defense attorneys, April 28, 2009
69. Interview of Brian Mitchell, April 28, 2009
70. Interview of Dick Forbes, April 29, 2009
71. Notes of interview of Christy Daum by SA Eric Lerohl, March 31, 2009
72. Notes of interview of Brigham Andrew by SA Eric Lerohl, April 8, 2009
73. Notes of interview of Gregory Porter by SA Eric Lerohl, April 20, 2009
74. Notes of interview of Kathryn Hills by Sgt. Kevin Judd, June 18, 2003
75. Notes of interview of Judith Nielson by TFO T Cropper, April 20, 2009
76. Notes of interview of Rodney Jay by SA Patrick Brosnan, April 20, 2009
77. Notes of interview of Todd McAllister by TFO T Cropper, April 20, 2009
78. Notes of interview of Tye Jensen by SA Patrick Brosnan, April 20 & 24, 2009
79. Notes of interview of Gregory Porter by SA Eric Lerohl, March 26, 2009
80. Notes of interview of Joseph Liddle by TFO Dan Wendelboth, March 26, 2009
81. Notes of interview of Judith Fuchs by TFO Dan Wendelboth, March 26, 2009
82. Notes of interview of Melissa King by TFO Dan Wendelboth, March 26, 2009
83. Notes of interview of Rodney Jay by TFO Dan Wendelboth, March 26, 2009
84. Notes of interview of Jessica Hardy by SA Russell Johnson, April 20, 2009
85. Notes of interview of Jane Jakeman by SA Russell Johnson, April 20, 2009
86. Notes of interview of Leslie Miles by SA Eric Lerohl, April 20, 2009
87. Notes of interview of Judith Fuchs by TFO Trudy Cropper, April 24, 2009
88. Notes of interview of Cameron McGary by SA Eric Lerohl, April 16, 2009
89. Library books list
90. Discussion with Alyssa Phillips, May 14, 2009
91. Transcript of interview of ██████████ Mitchell, Rebecca Woodbridge, Sarah & Joey Mitchell, Larry King Live, March 12, 2003

June 16, 2009

Page 5 of 206

92. Transcript of interview of Mark & Derrick Thompson, Larry King Live, March 12, 2003
93. Articles from local newspaper about observations of Elizabeth Smart in captivity
94. Interview of Jerry Larue, by SA Kris Robinson, May 5, 2003
95. Interview of Karl West, by SA Jeffrey Ross, October 28, 2003
96. Records from the Federal Bureau of Prisons, December 2008 – February 2009
97. Notes of interviews of Richart DeMier, Ph.D., December 5, 9, 10 2008 & January 9, 2009
98. Petition for divorce, Wanda Mitchell, November 10, 2004
99. Notes of interview of Rebecca Woodbridge by Sgt. Kevin Judd, June 18, 2003
100. Notes of interview of Angela Mandeville by Sgt. Kevin Judd, July 15, 2003
101. Notes of interview of Mindy Bottoms by Sgt. Kevin Judd, September 19, 2003
102. Notes of interview of Andrea Jenkins by Sgt. Kevin Judd, March 18, 2003
103. Notes of interview of Colette Nelson by Sgt. Kevin Judd, September 12, 2003
104. Notes of interview of Don Sawyers by Sgt. Kevin Judd, March 19, 2003
105. Letter from Brian Mitchell to Julie Adkison, March 1, 2001
106. Personal papers and letters of Brian Mitchell, 1977-1980
107. Journal of Brian Mitchell, October 1980 – November 1981
108. Discussion with Don Sawyers, May 29, 2009
109. Discussion with Kevin Mitchell, May 29, 2009
110. Discussion with Irene Mitchell, May 29 & 30, 2009
111. Discussion with Gary Shaw, May 29, 2009
112. Discussion with Craig Sudbury, May 29, 2009
113. Discussions with ██████████ Mitchell, May 29 & 31, 2009
114. Visitor logs, March 2003 – November 2004, December 2008 – April 2009
115. Transcript of Proceedings, August 31, 2004
116. Transcript of Proceedings, December 3, 2004
117. Discussion with Darrell Newbold, May 31, 2009
118. Discussions with Dora Corbett, May 31 & June 8, 2009
119. Letter from Wanda Mitchell to Dora Corbett
120. Discussion with Paul Meacham, June 1, 2009
121. Discussion with Larry Shaw, June 1, 2009
122. Discussion with Cathy Broughton, June 1, 2009
123. Discussion with Derrick Thompson, June 1, 2009
124. Report of DUSM Brett Glissmeyer, May 21, 2009
125. Report of DUSM Dan Juergens, May 20, 2009
126. Report of DUSM Albert Charters, May 20, 2009
127. Report of DUSM Jesse Belanger, May 26, 2009
128. Notes of interview of Kurt Adair by SA Gary McAmeay, March 13, 2009
129. Notes of interview of Scott Dinger by SA Brett Shields, March 13, 2009

130. Notes of interview of Greg Rubin by SA Patrick Casey, March 13, 2009
131. Petition for Order of Inquiry, filed November 9, 2004
132. Notes of interview of Vicki Cottrell by SA Travis Thiede, March 17, 2009
133. Notes of interview of Shirl Mitchell by SA Eric Lerohl, March 18, 2009
134. Notes of interview of Virl Kemp by SA William McNamara, March 13, 2009
135. Discussion with Mark Thompson, June 2, 2009
136. Discussion with John Featherstone, June 2, 2009
137. Discussion with LouRee Gaylor, June 2, 2009
138. Letter from Shirl Mitchell to CBS News, March 25, 2003
139. Notes of interview of Heidi Woodridge by Det. Silver, February 17, 2009
140. Discussion with Phyllis Koch, June 4, 2009
141. Discussion with Virl Kemp, June 5, 2009
142. Discussion with Peggy Kemp, June 5, 2009
143. Discussion with Amanda Larue, June 5, 2009
144. Discussion with Joan Fox, June 5, 2009
145. Discussion with Tom Holbrook, June 7 & 10, 2009
146. Letter from Julie Adkison, undated
147. Letter from Neta McComie to ██████████ Mitchell, 2005
148. Report of Nancy Cohn, Ph.D re; Wanda Mitchell, November 29, 2003
149. Report of Eric Nielson, DSW re: Wanda Mitchell, August 2, 2005
150. Report of Jeffrey Kovnick, M.D., re: Wanda Mitchell, November 24, 2003
151. Discussion with Evelyn Camp, June 9, 2009
152. Discussion with Dick Camp, June 9, 2009
153. Letter from Eleanore Curtis to ██████████ Mitchell, March 28, 2005
154. Letter from Ron Bremer to ██████████ Mitchell, March 25, 2005
155. Discussion with Professor Daniel Peterson, June 10, 2009
156. Discussion with Garth Rosenlund, June 10, 2009
157. Discussion with Doug Larsen, June 11, 2009
158. Discussion with Karl West, June 11, 2009
159. Discussion with Scott Dean, June 11, 2009
160. Discussion with Karen Minor, June 11, 2009
161. Discussion with Kathy Hills, June 11, 2009

THE TAKING OF ELIZABETH SMART

On June 5, 2002, at approximately 1:30 AM, Brian Mitchell entered the home of Ed and Lois Smart, through an open window that covered a screen. Police later asserted that the screen had been cut by a sharp object.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 7 of 206

Making his way through the darkened home, Mr. Mitchell roused no one. Eventually he found the bedroom where Elizabeth Smart and her younger sister lay. Mr. Mitchell reportedly touched Elizabeth's chest to discern whether she was the more developed sister, as [REDACTED] lay beside her. He then quietly roused Elizabeth, placed a knife to her neck and ordered her to get dressed.

According to Ms. Smart, the stocking cap-clad Mr. Mitchell warned her, "don't make a sound and come with me, I don't want to have to hurt you or your family in any way." Elizabeth relates that when she asked him what he was doing, he replied that he was taking her for hostage and ransom. The victim quietly retrieved her shoes on his direction, and made her way out of the home with Mr. Mitchell. According to Elizabeth, he was wearing gloves.

[REDACTED], who quietly awakened long enough to eventually identify Mr. Mitchell, recalled the intruder indicated that he was taking her sister for hostage or ransom. Frightened from giving him the impression that she was awake, [REDACTED] successfully feigned sleep. However, [REDACTED] reported that the intruder ordered Elizabeth, "Be quiet or I'll kill you and your family."

The defendant kept a knife at her back and marched her away, recalls Elizabeth. As they made their way out of the area, the lights of a police car on a routine patrol of the neighborhood reportedly approached from a distance. Mr. Mitchell ducked Elizabeth behind a bush and prayed that they not be discovered. The patrol passed some distance away, relates Elizabeth, without seeing them. Brian Mitchell led Elizabeth to the edge of the Smart property and from there, into the darkness of the hills and mountains. According to Elizabeth, she cautioned Mr. Mitchell that he would be thrown in prison for taking her away, and he replied, "I know that perfectly."

Elizabeth states that she asked him repeatedly what his intention was, and he advised her, "I'll tell you when we get to the place we're going." After leading her out of the home, Mr. Mitchell led Elizabeth through a mountain trail to an encampment he shared with his wife, Wanda Barzee Mitchell.

Along the way, according to Elizabeth, Mr. Mitchell ducked down in miscalculation of the time, thinking that sunrise was imminent and they might be seen. He would scan the ridgeline for any sign of others. Elizabeth related that he expressed concern that her red pajamas "were like a beacon shining...and he was praying that the Lord would seal the eyes of any police who might see us."

When she reached the camp, noted Elizabeth, Wanda hugged her in greeting, then led her into a tent and ordered her to disrobe and change. According to Elizabeth, she refused;

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 8 of 206

Wanda replied that if she did not take her pajamas and underwear off, that (Brian) would rip them off.

She left the tent, replaced by Mr. Mitchell, and Elizabeth recounted she cried and prayed. He announced that he was taking her, “She’erjeshub, to be his wife through time, in the name of Jesus Christ.” Elizabeth, at that point fearful, recalled that she asked to pray and then screamed out, “No!” In response, Mr. Mitchell reportedly stated, “if you don’t be quiet, I am going to tape your mouth shut.” She related that he then forced open her garment and shoved his penis into her. In our examination, Brian Mitchell watched this account on videotape and offered no statement in dispute.

“I cried for awhile,” recalled Elizabeth, “and then they told me I had to stop crying and start with spiritual duties.” Elizabeth reported that she began to absorb intense religious indoctrination from Brian Mitchell from almost immediately after she was taken. The defendant and Wanda reinforced the idea of Immanuel David Isaiah (as Mr. Mitchell now referred to himself) as the Davidic King and the Lord’s true prophet and of Hephzibah being the Mother of Zion and of the New Jerusalem and the Kingdom of God on earth. Part of what Brian Mitchell presented to Elizabeth Smart was the Book of Immanuel David Isaiah (BIDI), what he asserted to be a collection of revelations he had received that in part, attested to his position with God. Brian and Wanda demanded that she testify to his power, in the tradition that one gives testimony in the Mormon Church.

Elizabeth indicated that she asked Brian in the first days why he had told her at the time of her abduction that he was taking her hostage. He replied, according to Elizabeth, that he believed that “had he told me he was taking me as his wife I would not have come as easily, and if I thought I was being ransomed, I would have hope of coming back.” Reported Elizabeth, “he said that if I would have screamed, he would have killed me, he would have killed my family, and he would not have had any trouble killing me.”

An energetic search for Elizabeth involved many members of the community and included full police support, including helicopters. Searchers failed to find her. On one occasion when they came close, according to the victim, Mr. Mitchell threatened to kill her or her family were she to alert others to their position. She remained silent, she recalls, in terror. According to Elizabeth, Wanda reinforced threats from Brian by admonishing her that “he will do it.” Brian, she noted, told her that “if anyone came into the camp, he would have killed them.”

Wanda, when interviewed, offered a very different account: that they did not threaten Elizabeth, that Wanda and Brian told her that their fate was in her hands, and that Elizabeth on her own elected to remain silent when searchers had come near.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 9 of 206

Wanda and Brian asserted the need for her to leave her previous life and family behind and to abandon her “false traditions.” She was ordered to burn her clothes that she had worn to the camp, and to refer to her parents as “Ed and Lois – because they wanted me to call them mom and dad, and I couldn’t have two.” “She has grown to love us, we love her,” said Wanda of Elizabeth just after her later arrest.

For many weeks after the kidnapping, reported Elizabeth, she was chained to a tree and unable to stray beyond a twelve foot radius. She recounted how Brian Mitchell wore the key to the chain around his neck. In the early stages of her captivity, Elizabeth’s captors unhitched her only when the three hiked to an underground stream; she would continue to carry the cord and Brian would walk in front of her, Wanda behind. “They said they would not take me off the chain because they knew I would run away.”

CAPTIVITY

Elizabeth performed various tasks at the encampment for Brian and Wanda. “I was forced to clean the camp as Wanda’s handmaiden,” she related. “For him I was a sex object, for her I was a slave.” According to Elizabeth, Brian “would attach great importance to scraping dishes. He would say, ‘It might seem menial but it is of great worth.’ But they did not do it themselves.” “Whatever he said, went,” described Elizabeth about the dynamic between Brian Mitchell and the others. “We were supposed to have blind faith that he was always right.”

On the third day of her captivity, reported Elizabeth, Brian demanded that she watch him have sex with Wanda. Brian then reportedly introduced Elizabeth to oral sex on July 4 after plying her with alcohol and marijuana, explaining to her that they needed to lower themselves to the dust to be worthy enough for a higher spiritual calling.

According to Elizabeth, he continued to demand and to have regular sex with her, as much as four times in a day. “Most conversations would start or end with sex,” she noted. “He would try to shock me,” added Elizabeth, describing how he would use profanity and compel her to look at pornography, and would then taunt her for being self-righteous. “I had come to a level of submission to his will, because I was already drinking, smoking at his direction, and participating in sex,” remembered Elizabeth. “He forced me to walk around naked, like Eve...Once when I drank too much, I threw up. They let me sit around all night with vomit on my face and clothes.”

Brian Mitchell made it clear to Elizabeth that they would be adding wives to achieve a total of seven, and then would increase the number of wives to seven times seven. At the point that he would grow what he called his New Jerusalem, Elizabeth would return to her family and profess her loyalty to Immanuel David Isaiah. According to Elizabeth, Brian Mitchell asserted to her, “I served your parents and now you are serving me. The last shall be the

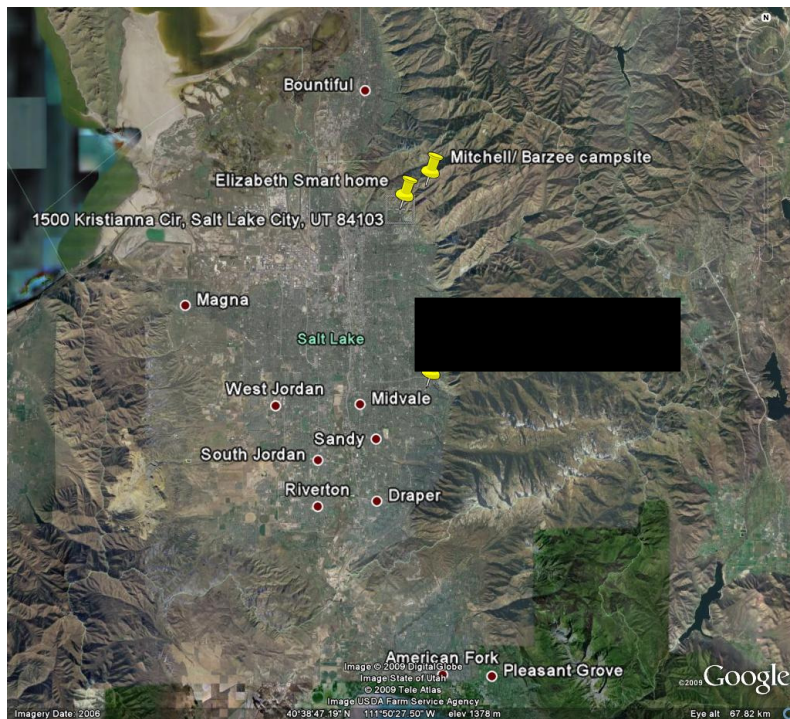
Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 10 of 206

first and the first shall be the last.” Not at any time did Elizabeth sense that Brian experienced distress in the context of his religious aims and calling.

Elizabeth recounted that Brian Mitchell also asserted that the Antichrist would rise up and take over America, having been financed by the World Bank and mistakenly thinking he was God. As Elizabeth related, Brian anticipated that Babylon (his characterization of the LDS) would take him, hold him close to death, but that the Lord would rise him up. There would be a battle between Immanuel David Isaiah -- acting as the Davidic King -- and the Antichrist and he would prevail. These ideas were not accompanied by any particular sense of threat or persecution from some outside party; only that the world needed to repent.

Over the course of the next nine months of essentially being together almost all days, Brian Mitchell and Elizabeth Smart maintained an active dialogue. Ms. Smart reports that as she spoke about her family, she said she was particularly close to [REDACTED], a 15 year old cousin living in Salt Lake City. The map below, demonstrates the position of the [REDACTED] home relative to the Smart home and the Mitchell campsite.



Elizabeth Smart’s notes reflect that she was released from her chain on July 18, 2002. On July 24, Mr. Mitchell attempted to enter the home of [REDACTED], cutting the window screen in the same manner in which he reportedly made entry into the Smart home. As Mitchell moved into the window, he knocked nearby items over, triggering noise and a

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 11 of 206

commotion that drew ██████'s father into the child's bedroom. Brian Mitchell fled. He told Elizabeth and Wanda when he returned to their camp that he had later seen a police car approaching; he noted this to be a sign from God that he did not need to fulfill this "will of God." He did not return to make any further attempts to seize ██████.

According to Elizabeth, she feels in retrospect that Mr. Mitchell manipulated her into giving him adequate information with which to carry out the kidnapping of ██████.

Brian, Wanda, and Elizabeth remained based in the mountains near Salt Lake City. Wanda continued to make entries into her journal. Brian and Wanda encouraged Elizabeth to write her own journal, and they would read her entries. These included Elizabeth's noting "that they were the Lord's true servants." While she questions their roles in retrospect, Brian and Wanda drew Elizabeth in to subscribing to at least some of these beliefs by repeating them many times. In the interim, remembered Elizabeth, she had nightmares of dying, and of her family hating her, thinking she was unworthy for smoking and drinking.

Mr. Mitchell would go into the city to steal provisions for them – he referred to this as "plundering." Elizabeth was released from her chained leash in late July and brought to Salt Lake City. She felt this was because Wanda wanted to leave the camp and they could not leave Elizabeth there alone.

Elizabeth was closely accompanied by Brian and Wanda, veiled, and under orders not to speak – orders she obeyed. According to Elizabeth, Mr. Mitchell was not carrying a weapon with him, but she was convinced that were she to have crossed his orders, that he had the capacity to hurt her and her family – and would.

Brian Mitchell was a light sleeper and would exercise in the middle of the night. Opportunities to flee did not easily present themselves in the earlier days, recalled Elizabeth. Only on one later occasion, according to Elizabeth, did she try to escape; Brian and Wanda were arguing at the time, and she walked away. As she recounted, Brian threatened her with "if you take one more step further, there will be an angel at the door that will cut you down. If you ever run away you will be killed and your family will be killed." She responded by returning, and did not again try to run away.

"Even though I knew he wasn't carrying a knife," she explained, "it was clear to me that he could come to my home and harm my family." The defendant, moreover, brought newspapers and other materials to demonstrate to her that, notwithstanding the resources devoted to her recovery, authorities were unable to find her.

According to Elizabeth, Brian Mitchell would do all the talking when they went into the city. She and Wanda wore veils and stayed silent. They ate in restaurants and interacted with Dan Trotta, whom they knew through shopping at the Wild Oats Natural Food

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 12 of 206

Market, where Mr. Trotta worked. Always Elizabeth remained veiled. One waitress who observed her at a salad bar noted that the veiled young lady now understood to be Elizabeth Smart rose from the table and filled her tray alone. That waitress and onlookers near the natural food store noted that Elizabeth would not have been expected to walk right past a wanted poster without disclosing her identity or even leaving a sign to inform her family that she was alive and nearby.

At no time, in conversation with strangers or even when encountering police officers, did Brian Mitchell burst into singing hymns or rant or call attention to himself. Elizabeth observed that it was normal for him to ignore people.

According to Elizabeth, the three wandered into a party the first night she was in Salt Lake City. Onlookers reported that the young veiled woman who was with Brian and his wife said nothing all evening. He drank beer and at one point that evening, the defendant reportedly gave both Elizabeth and Wanda a hallucinogenic root in a glass, for drinking; Elizabeth states that she did not drink it. No one confronted them and no one asked her to remove her veil. At one point, “he reached under a table where they were sitting, grabbed her leg, and gave me a look.”

Eventually, Brian Mitchell became embroiled in a religious argument, and was preaching “I am the Voice of God” or “Jesus Lives (different accounts)” to others. Ultimately, the hosts asked the trio to leave.

On August 27, while the three visited the Salt Lake City library, a suspicious detective approached them and queried them about the Smart disappearance. Brian Mitchell, who did all of the talking by plan, persuaded the officer that the veiled Elizabeth was their daughter visiting from school back east. She reportedly represented herself as “Augustine Marshall.”

Immediately thereafter, Brian indicated that they were leaving the area. Elizabeth never returned to Salt Lake City. He collected enough money panhandling that they traveled by bus to the San Diego area in the beginning of October 2002. Elizabeth, who was not again allowed in Salt Lake City after the encounter with the detective, traveled on the bus wearing a veil that now additionally concealed her eyes behind a translucent cover.

LAKESIDE, CA

The three remained in the San Diego area for several months. They lived in mountain camps and circulated among the transient populations in nearby campgrounds and a lakebed. [REDACTED]

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 13 of 206

[REDACTED]

Derrick Thompson, Wanda's son by her earlier marriage, observed that others would respond generously to Brian and Wanda's appearance of humble spirituality. Greg Rubin, who picked the group up as hitchhikers, provided one example of how this manifested. According to Mr. Rubin, who picked up Brian, Wanda, and Elizabeth on Highway 67 north of Lakeside, Brian was holding a sign called Escondido. After being picked up, the defendant introduced himself as "Peter" told Mr. Rubin that the Lord provided for them and told them where to go. Mr. Rubin sized them up and decided that they were down on their luck. He gave them thirty dollars and took them to Dixon Lake campgrounds, where they could get a hot shower. "Peter" was unable to register for a campsite because he had no identification, and reportedly told a ranger, "God knows who I am." Seeing this, Mr. Rubin stated that he signed them in with his own identification. He took them to shop, and drove their bags back to the campsite, where Peter reportedly hugged him and said "God bless you."

Brian Mitchell sought out the Mormon community, attending church, dressing in plain clothes, and attempting to secure a prospective wife. Elizabeth noted this to be occurring as early as November 10, 2002. Other witnesses, such as William Howland and Teresa Sutton, recognized the person later reported on the news as Brian Mitchell to be seen walking near Lakeside's El Capitan High School.

The defendant changed his appearance to become more clean cut. On December 8, 2002, recounts Virl Kemp, the defendant attended a service and study groups at a church that Mr. Kemp led as a High Priest of the LDS in Lakeside. According to Virl, the defendant was dressed in clean Western clothing, with his hair in a pony tail tied back, and had a beard which was tied along his face as well.

Brian Mitchell was not dressed for church as other Mormons were, but he was familiar with the hymns and, according to Peggy Kemp, "sang like he enjoyed it." Attending the investigators class and the high priest group, Brian reportedly represented himself as someone unfamiliar with the Mormon church. "There was nothing shaky about him," recalled Mr. Kemp, who did not make any connection to the man in white robes he had seen walking along Maplevue Street only weeks before.

Virl Kemp invited Brian Mitchell home for dinner when he later saw him walking along the roadside. According to Virl, there were a number of missionaries at lunch and they spoke on a variety of topics in what the host termed, "a nice conversation" that included the host speaking of the Mormon faith.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 14 of 206

“Peter” said he was from back East, was traveling alone, that he “had had a family, and everything had fallen apart.” He was composed and in his manner, did not preach, was completely rational, polite and was not argumentative, according to both Viri and his wife Peggy, who had prepared lunch. “He pretended, quite well, to know nothing about the Mormon faith,” recalled Mr. Kemp, who added, “there was nothing shocking he revealed about his beliefs or habits.”

At the house, Mr. Mitchell saw the picture of [REDACTED], the twelve year old daughter of Viri’s wife Peggy. Neither parent remembered any remarkable discussion about her. Pork chops, chicken breasts and cream sauce, asparagus, potatoes, Swedish walnut tarts, almond cake, apple cake and ice cream were the menu, and Brian Mitchell had second helpings of all, according to the hosts. When they parted, Viri Kemp gave him a card and asked him to “give me a call if you need anything,” before driving him to Linda Lake.

“I never saw him again in church,” recalled Viri. He did see a man walking around in a saffron robe in the area “but I never made the connection it was him. His head was covered and he had a long beard – he had tied up his beard when he came over.”

Sometime in early February, Mr. Mitchell reportedly attempted to add [REDACTED] as another wife. He reported a variety of accounts to Elizabeth and to Wanda about how he unsuccessfully attempted to break into the Kemp home. Unlike the attempted kidnapping of [REDACTED], however, the incident almost went unnoticed by the Kemps.

One night, according to [REDACTED], she awakened to see a man wearing a backpack in her bedroom, just turning from closing the door. She reportedly sat up with a start, and he turned to her. As [REDACTED] related, she thought it was the devil, was terrified and threw herself under her covers. Soon she fell asleep. When she awakened, according to her parents, she was screaming and her mother went to her. “I thought I was dreaming, but the light near my room is always on and the door is locked,” she said. “The door was unlocked and light was off.” The family chalked it up as a nightmare.

On February 12, 2003 Brian inadvertently locked himself in a church school he broke into while looking “to plunder.” Mr. Mitchell had stolen pills from a purse and had ingested them after having consumed beer, then passed out after entering the building through a window. Police arrested Brian Mitchell and held him in custody. Wanda and Elizabeth were in the mountains waiting for his return – one week later.

On February 18, Brian appeared in court alongside his attorney, in a videotaped appearance. Using the assumed name Michael Jenson, Brian Mitchell characterized himself as a preacher traveling with his wife and daughter. Composed and appropriate, Brian Mitchell elaborated a lie that he had not had a drink in 22 years, and that he was staying with family. He pleaded guilty to trespassing, promised to leave the area, and was released.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 15 of 206

Meanwhile, [REDACTED] had since registered that the person whom she saw in the room that day was “Immanuel,” who had performed work sometime ago in the family home. Eventually she sat with a suspect sketch artist who drew up her recollections. In mid-February, Immanuel’s identity as a person wanted for questioning in Elizabeth disappearance was disseminated. America’s Most Wanted followed up its coverage on March 1 by airing pictures reportedly provided by the Barzee family. On March 3, according to Elizabeth, the three returned toward the Salt Lake City area.

Brian, Wanda, and Elizabeth passed through Las Vegas on their way home. Police were alerted on March 11 about a young female traveling with the robe-clad older couple who appeared to a fellow customer to be wearing a wig and heavy makeup. When police stopped them, Mr. Mitchell represented himself as a “preacher” who had traveled to town. Officer Kurt Adair stopped and queried them; he took in their names (which Brian provided as Peter, Juliette, and Augustine Marshall), dates of birth, and checked them with available records – “confirming” their identities with a database and then releasing them.

On March 12, 2003, as the three walked on a city street in Sandy City, Utah, passersby recognized Brian Mitchell. Police responding to the call were immediately suspicious that it was Elizabeth Smart wearing the sunglasses and wig. They interviewed Brian, who provided a false story and false name of Peter Marshall – and referred to Elizabeth Smart as his daughter Augustine Marshall. Elizabeth Smart provided a false story to account for her glasses and her origin, one she later explained had been drilled into her by Brian and Wanda. When police pressed further because of details that did not add up, eventually they concluded that she was Elizabeth Smart – which she admitted as she was taken into custody with “thou sayest.”

All were taken into custody on March 12, 2003. Elizabeth reflected, “He said at the beginning we would come out of hiding, people would arrest him and throw him in prison for taking their daughters, but the sister wives would plead on his behalf.”

In the defendants’ possession were papers that included neatly rewritten lists of hymns, statements of religious precepts, also recipes. Among the papers was “Journey through the Land,” an account of Brian and Wanda’s travels around the United States of recent years and the spiritual inspiration derived along the way. The travelogue had been rewritten in a neat calligraphy.

Once in custody, the defendant reportedly gave his name as “Brian Mitchell.” He and Wanda were charged with kidnapping and sexual assault. After being taken into custody, Elizabeth expressed concern for their welfare.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 16 of 206

When Brian Mitchell was arrested in March and his picture disseminated in the news media, [REDACTED] immediately recognized Brian Mitchell as the man who was in her bedroom. Meanwhile, police had found Virl Kemp's LDS business card on Brian Mitchell after he was arrested. Even though Virl had seen him on the news in robes, and had recognized him from seeing him on the street, it was not until he heard from the FBI that Mr. Kemp came to realize that this was the same individual who was "Peter," his Sunday visitor in church.

After arrest, police and the FBI interviewed Brian Mitchell in tandem. He was on no medication and had not been treated for any psychiatric condition when he was confronted with questioning that would have been provocative and highly stressful to anyone. Even as the interviewers were hostile and at times even demeaning, Mr. Mitchell was socially appropriate and not bizarre in his appearance or relatedness.

While responding to questions, Brian Mitchell provided details, events, and facts. The defendant was coherent, intellectually agile, and carefully self-serving in his responses when topics encroached upon kidnapping, sex assault, and burglary issues. He asserted that Elizabeth was 18 (and not underage), avoided any reference to whether he broke into her home (even when vigorously led by questioners), denied having had sex with her at one point, and initially denied taking her as his wife. Brian characterized himself as a servant (rather than a prophet) of God, and answered many of the confrontational questions with religious phrases and likening his situation to other events and characters of the Bible. The defendant faced what escalated into an onslaught of questions from two experienced interrogators and he provided specific detail while carefully skirting any disclosures that would be incriminating.

When investigators became increasingly nasty, Brian Mitchell remained unflappable and composed and did not allow himself to be drawn in. Even when Agent Ross moved physically close to him, he was stolid. He challenged and gently chided them, quite appropriately and almost patrician-like about their tactics and correctly, their intimidation. Approximately 75 minutes into the interview, Mr. Mitchell began singing hymns. He persisted as interviewers cajoled him to stop. He fell mute, sat with his eyes closed, and ultimately demonstrated great discipline in de-escalating the situation and advocating for himself. Still the defendant recognized the gravity of the situation, offering to the fuming questioners, "You hate me, but I forgive you."

As the defendant continued, interrogators became visibly frustrated and increasingly angry, but helpless. The interview was over, for all intents and purposes, long before the boiling interrogators made their way out of the room. Brian Mitchell managed the interview, not the other way around -- and to his benefit. This impressive display of intellectual agility, matched by his interpersonal management of the situation, was probably as capable as one could see a suspect manage an interrogation of that manner.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 17 of 206

Subsequent to this encounter, Brian Mitchell interviewed on multiple occasions with FBI Special Agent George Dougherty, though he declined to speak on tape. According to the agent, Brian asked questions about his legal proceedings and what to expect about court appearances.

While Mr. Mitchell declined to speak on camera, he did note to the agent that he, Wanda, and Elizabeth hid in the mountains “until they believed it would be safe to go to the city.”

Agent Dougherty related that Brian told him that he knew that were he and Wanda to be caught, they would be sent to jail and Elizabeth returned to her family. The defendant added that each of the four times they were approached by law enforcement, and when they were “delivered,” their faith became stronger because they felt the hand of God had been responsible.

The defendant reportedly told Special Agent Dougherty that “the world would view him as a monster or child predator or a sexual deviant. He knew the world would think he was crazy.”

Wanda Mitchell also interviewed with investigators shortly after the arrest and exhibited a far different presentation. She was adamant in her belief in Brian Mitchell and their mission was glorifying God’s name. According to Wanda, “Nobody would receive the testimony we had to share, and we needed someone who could be molded,” and she urged Brian Mitchell to follow through on plans to take Elizabeth out of her home, as “(the defendant) was terrified to do this.”

Elizabeth Smart was also interviewed by investigators. Unusually composed, she presented a strikingly detailed account of her seizure, and the conditions of her captivity. Subsequent to this interview, the victim made it clear she was ready and willing to testify against Brian Mitchell.

Within weeks after his arrest, Brian Mitchell wrote a supplement to the Book of Immanuel David Isaiah that God has sent him to the hands of his enemies for further trials and tribulations, that he would be delivered from jail, and that Elizabeth Smart would acknowledge him as her husband:

April 6, 2003

“Immanuel is accused ofcoming as a thief in the night and so I will come as a thief in the night....He is accused of taking by force a virgin

Re: Brian Mitchell
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 18 of 206

daughter of Zion...is accused of humbling a virgin daughter of Zion and bringing her low in the dust and binding her to him with a cord that could not be broken....accused of subjecting her to his will and to all his ways...

...it is I Jesus Christ that has done by my righteous rights all that has been truly done to Shearjeshub and this I did that it might be a sign and for a portent unto all of the world... the only force that was used was the force and power of my spirit, and the only weapon was my words in his mouth saith the Lord , and my words in Immanuel's mouth are sharper than a two edged sword...

The spirit did work upon Shearjeshub's heart and she did open the window for Immanuel to enter her home just before she retired to bed on the night she was taken... The holy spirit did work on the hearts of Shearjeshub's earthly parents and they did invite Immanuel into their home, for in their spirits they knew Shearjeshub would be taken by the hand of the Lord for a glorious purpose; yea, shortly before she was taken, her earthly parents removed the lock from Shearjeshub's bedroom door and turned the security alarm off to the back door of the house...

Shearjeshub got out of her bed and came forth upon hearing the Lord's command because in her heart, she knew that to disobey would cause the loss of great and eternal blessings for herself and for her family."

Shearjeshub followed Immanuel to the camp, fell into the arms of (Wanda) in great joy and peace and exultation. Both recognized each other as the dearest and choicest friends for all eternity, and behold was Elizabeth's wedding day!

Shearjeshub humbled herself before the Lord and in great faith and courage she gave herself unto her husband Immanuel

Yea, and in truth, the only way that Shearjeshub was bound was by the power of the holy spirit, confirming the truth of the words of God in her heart

Shearjeshub wore the key to unlock herself around her neck, next to her heart...False traditions were truly the only bonds she wore, and these bonds fell away in grace and truth in a most miraculous way, and she was free!

On the third day when Shearjeshub's earthly family came up into the mountains searching for her and they called out to her, Shearjeshub sat still with tears in

Re: Brian Mitchell
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 19 of 206

her eyes, not because of any threat from Immanuel and Hephzibah, for there was none, and Shearjeshub knew she could have called out and she would have been found, but...she knew the great sacrifice that I the Lord God Almighty had called upon her to make and she in great faith and courage remained silent

Behold, thus saith your Lord and Savior Jesus Christ, Shearjeshub's earthly parents knew in their hearts that Shearjeshub was alright after she was taken...in their terrible weakness and great sorrow and grief, they gave into the tremendous weight of fear and doubt that the whole world pressed upon them and they began to suspect and accuse my true servant Immanuel

Ten (May 12, 2003)

Yea, I will strengthen thee in all those things which ye suffer for me, yea even in thy terrible weakness. Wherefore, Immanuel and Hephzibah and Shearjeshub, when you were in the wilderness, I commanded you to partake of those things and to do those things which were abhorrent to you and which were an abomination in thy sight.

...in great faith did obey all my commandments unto thee and which were an abomination in thy sight.

Wherefore, I purified your thy souls in the fiery furnace of affliction I the Lord did reveal, and bring to light, and did destroy and did put to death the carnal man within each of you.

I blessed thee with great courage and faith and hope and charity, and ye were delivered mightily by my grace from all jealousy and pride and all the hurtful lusts of the flesh.

Whatsoever thing I the Lord have commanded Immanuel so to do, call not that thing unclean, for it is sanctified unto him.

PROCEDURAL AND CUSTODY HISTORY

Brian Mitchell's behavior in custody has not reflected distress that required any clinical intervention. Jail records spanning March 2003 to January 2004 described him as coherent, without any irrational references, lucid, and without remarkable changes in mood.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 20 of 206

Referred for a competency evaluation, he was housed at Utah State Hospital from June 16 to July 17, 2003. In the context of assessing this question, Mr. Mitchell refused to speak to Stephen Golding, Ph.D., who was retained by the defense, or to Noel Gardner, M.D. (on April 30, 2003), who was retained by the prosecution. Dr. Golding ultimately opined the defendant was incompetent (diagnosing him as psychotic); Dr. Gardner opined that the defendant was competent (diagnosing him with narcissistic personality disorder), both in September 2003.

Dr. Golding

Dr. Golding drew a distinction between zealous belief and delusion. The psychologist was impressed with what he experienced as Brian Mitchell's longstanding paranoid qualities. A suspicion about advocates of one-world government, the assassination of JFK, and the control of the banking industry related to Brian's blame of others (including family) as clinically paranoid, according to Dr. Golding.

Moreover, the psychologist was impressed by what he termed signs of passivity, or external control over the defendant's thoughts, feelings, and perceptions; Dr. Golding interpreted these as psychotic, rather than zealous yielding to the influence of one's deity.

The psychologist ascribed psychotic thinking to Brian's remarks that he was guided through events of his life as "signs from God," such as people picking him up when hitchhiking or giving a more generous donation. Dr. Golding found Brian's likening himself to Joseph Smith and the Apostle Peter in their persecution to be psychotic, as well as his representation that like Peter, he too would be released or martyred.

The Golding report attributed importance to a history of psychotic thinking in Brian's grandfather Franklin, and the peculiar religious expression of the defendant's father Shirl. To Dr. Golding, the continuity in oddness of thinking and personality extending across three generations represented further evidence for psychosis.

Dr. Golding also characterized Brian as socially alienated and dysfunctional; he cited problems with interpersonal relationships as a child, adolescent, and adult, including his two marriages. The period of 1985 until the early 1990's, according to Dr. Golding, was relatively stable. Yet once he became increasingly preoccupied with religious themes, noted the psychologist, his ability to maintain social relationships deteriorated.

Dr. Golding considered numerous psychotic diagnoses and personality disorder diagnoses in a broad differential, including the schizophrenic spectrum. He asserted that Mitchell was delusional and that it was especially impossible for him to maintain normal relationships from the time he became known as Immanuel.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 21 of 206

Brian Mitchell's conviction in his beliefs was irrational and psychotic, asserted Dr. Golding, to the end that the defendant went to public places with Elizabeth Smart, risking capture. Moreover, that the content of the BIDI was directed at family members, according to Dr. Golding, suggested psychotic thinking of personal dynamics rather than a religious belief system.

Dr. Golding also noted, "a troublesome aspect of viewing Mr. Mitchell's belief system as (delusional) is the extent to which his "revelations" appear to be convenient self-justifications." "Some might see that the defendant's plan to take Elizabeth," observed the psychologist, "as the self-justification of a pedophile or a predator." He concluded that since an adult had previously been considered as a plural wife, Elizabeth Smart was not taken based upon self-justification of pedophilia or sexual predation.

According to Dr. Golding, the defendant was not impaired in his capacity to comprehend charges. The examiner added that anosognosia (denial of illness) was the reason for Brian Mitchell's poor cooperation with the forensic examination.

The psychologist opined that Mr. Mitchell was impaired in his capacity to disclose pertinent facts, because his account was at odds with the evidence and he would not allow a psychological explanation to bridge this gap about what the psychologist attributed to referential thinking. Dr. Golding added that the defendant's unwillingness to provide information about his mental state or history would impair an assessment of his mental state.

Furthermore, Dr. Golding asserted that the defendant was unable to appreciate the likelihood that a penalty would be imposed, and that he was severely impaired in his ability to engage in a reasoned choice of legal strategy because of a mental disorder. The psychologist opined that Mitchell would rather be "martyred" than mentally disordered, and believed that God would command the judge to free him.

Dr. Golding characterized Mr. Mitchell as "passive," based on what the psychologist noted as a delusional identification as Jesus and with martyrdom, and based upon remarks that he needs no defense other than the BIDI. The psychologist added that his passivity might be a problem for him in his courtroom behavior. Dr. Golding also deemed him unable to proceed pro se because his free will would be affected by delusions – although he could knowingly, voluntarily, and intelligently make a choice to represent himself.

Finally, Dr. Golding indicated that the defendant had no impairment in his ability to manifest appropriate courtroom behavior – he predicted passivity. "He has shown no temper tantrums, or outbursts," wrote the psychologist, who likewise found Brian Mitchell unimpaired in his capacity to testify relevantly.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 22 of 206

Dr. Golding attributed significance to the defendant's refusal to speak to him, noting its commonality among those with extreme religious ideas and those who are psychotic and refuse to acknowledge illness, although the psychologist did not include the commonality of malingering among those who refuse to participate.

Dr. Gardner

The Gardner report noted the defendant's intact cognition, fixed attention, his intact grooming, and a lack of any evidence for hallucinations. The psychiatrist cited an absence of history of mood disorder such as depression or mania. Dr. Gardner asserted the opinion that Brian had the capacity to rationally assist his attorney and to participate in the proceedings, but was unwilling to do so because of non-psychotic reasons.

Dr. Gardner interpreted Brian's writings as patterned from theological scripture and cited the lengths to which the defendant went about establishing the foundation for his own sect, via a scripture, dress that he believed to be Jesus-like, rituals, blessings, and rules.

Apart from the belief itself, noted Dr. Gardner, there was no abnormality in the defendant. The psychiatrist distinguished that it was accountability that Brian had been increasingly rejecting; Brian's beliefs, according to the psychiatrist, were "license for justification for various forms on antisocial behavior."

Dr. Gardner viewed the defendant as aware of the legal proceedings but dismissive of them and he felt he was above them. The psychiatrist pointed out the defendant was able to communicate persuasively. Mr. Mitchell had taken an antagonistic stance when the FBI came to speak to him, reflecting a motivation to aid himself when communicating about his case. In Dr. Gardner's assessment, Mr. Mitchell "turns to religious explanation only when evasion fails him," and when that would fail, "sings hymns."

_

Brian Mitchell appeared in court on multiple occasions in 2003 and 2004 without incident. Plea negotiations continued as the trial date approached.

On the cusp of accepting a guilty plea, defense and prosecution both agreed on August 31, 2004 that Brian Mitchell was competent to stand trial. Defense Attorney Kimberly Clark related, "We do so based on information that we discovered while preparing for this case. That information supercedes Dr. Golding's report." The court queried Mr. Mitchell, "have you had sufficient opportunity to speak with your attorneys?" To which he nodded, and then agreed to the stipulation.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 23 of 206

Jennifer Skeem, Ph.D., who had interviewed Mr. Mitchell in July and August 2004, filed a report on September 16, 2004 that concluded that Mr. Mitchell was competent.

Dr. Skeem I

Dr. Skeem's report, submitted September 16, was additionally informed by Brian Mitchell's reported interview with the psychologist. Noting that Mr. Mitchell had been "unwilling to discuss key issues about his case with his principal attorney, Mr. David Biggs," Dr. Skeem noted "important changes have taken place since then," citing that a new attorney joined the case.

Dr. Skeem characterized the defendant as attuned interpersonally and unusually intelligent, and that he described feeling anxious in part because of the importance of the evaluation. While the examiner pronounced the information he provided as "valuable," adding that he "discussed his history and beliefs" at great length, she acknowledged that he declined to participate in structured questioning or testing, or a traditional psychological evaluation.

In reviewing the content of his beliefs, Dr. Skeem cited the Book of Immanuel David Isaiah (BIDI) and other sources, and referenced the defendant's declared beliefs that he is "one mighty and strong," the "Davidic King," and personal destiny to combat the Antichrist or leader of the New World Order. The psychologist assessed,

"the extent to which Mr. Mitchell's beliefs represent delusions cannot be inferred from their content alone. A number of individuals, particularly those with experience in minority religious groups, possess unique and idiosyncratic beliefs. Even though they may hold these beliefs with great zeal, they are better understood as religious extremists rather than mentally disordered. Indeed, there are other men from and in fundamentalist LDS groups who believe that they are the 'one, mighty and strong' sent to practice the sacred principle of polygamy and restore order in the house of God."

For this reason, noted Dr. Skeem, she examined "the nature of Mr. Mitchell's spiritual experiences."

Dr. Skeem indicated the defendant to experience revelations, which he characterized as true and false, from age 18. The psychologist added, "the essential process of Mr. Mitchell's revelations is not atypical of normal spiritual experience...there is little evidence of such psychotic processes as hearing the voice of God.

Interpretation of revelation was reinforced, she noted, by "interpretation from everyday experience as miracles," and "symbols of reinforcement." In contrast to the

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 24 of 206

aforementioned, Dr. Skeem distinguished first **these** qualities as psychotic “ideas of reference.” Second, Dr. Skeem found significance in Mr. Mitchell’s having gone forward with a kidnapping, despite the “danger” he faced, including risking “imprisonment.”

The psychologist referenced scientific literature to advance her professional opinion that delusions may be distinguished from extreme religious beliefs by significantly greater distress, more preoccupation with their beliefs, and more “florid” spiritual experiences. Specifically, she attributed **distress** and **preoccupation** as a basis for her conclusion that Brian was delusional.

Dr. Skeem provided, as **evidence for significant distress** of delusional intensity, “the anguish of the soul he has experienced over the past several years is a necessary refining fire.” The psychologist added that his emotional distress had escalated over the past two years, struggling with feelings about fulfilling the plan to kidnap Elizabeth Smart even after they had kidnapped her. In addition, Dr. Skeem cited as distress the defendant’s fear “about his divine role,” though she noted “the public reviles him and views him as a “monster” and “criminal.” The psychologist cited the level of his anger over being rejected, and ascribed clinical significance to Mr. Mitchell adding sections to the BIDI -- after his arrest -- that were “considerably more heated and personally focused than the earlier sections.” She characterized his thinking as delusional, for its characterization that people and the world were against him.

Turning to **preoccupation**, Dr. Skeem noted that Mr. Mitchell had been “entirely immersed in his religious beliefs” for nearly a decade, “there is no room for anything else.” Part of the support for Dr. Skeem’s assertions relevant to the competency period was:

“in my interview with him, Mr. Mitchell was quite difficult to direct away from religious topics to more personal ones. His mission is to save. He expends every effort during his time with a person to do so.”

Dr. Skeem referenced Brian having, “in the space of two years, transformed from an individual with a home, a secure job, and a high position in a recognized church to a homeless person who had been excommunicated from his church and was dependent on the charity of others.” The psychologist summarized that “as Mr. Mitchell’s beliefs became all-consuming, he was unable to maintain the level of vocational or social adjustment that he’s previously attained.”

Dr. Skeem observed that The Book of Immanuel David Isaiah (BIDI) demonstrated his “fairly sophisticated” appreciation of the charges.

According to Dr. Skeem, the defendant provided defense counsel with “pertinent information about the alleged events,” and her interviews demonstrated the defendant to

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 25 of 206

be “capable of describing intentions, feelings, and thoughts around the time of the offense,” despite being filtered through a “delusional lens that reframes his actions to reveal his righteous intent.”

As to the idea that he was to be ultimately liberated by God, Dr. Skeem noted this idea to have “softened considerably over the past year.” As he had sought information from other inmates about protective custody, Dr. Skeem noted that he was not passively relying upon God” to deliver him. Furthermore, Brian was making suggestions for a parole board’s consideration in his case – again demonstrating his recognition that it would be the justice system, rather than God, who would dictate his release.

Dr. Skeem was impressed that what she termed his delusional beliefs would not allow him to consider a mental health defense. According to Dr. Skeem, given the substantial evidence against him, and the judge and jury’s belief in the laws of man, the defendant believed he would be convicted. And, he recognized that to ‘bear his testimony’ would be viewed as irrelevant and that the judge would “shut me down.” This appraisal was reportedly made following Mr. Mitchell’s consultation with his attorney.

Citing these specific aspects of the case, Dr. Skeem observed that his choice at that time to plead reflected his understanding of relevant information and his communicating a preference, and aiming for the prospect of a reduced sentence.

In the reported estimation of Brian Mitchell, his attorneys were not sent by God and he was willing to work with them. “There is ample evidence that he trusts and listens to (the attorneys),” commented Dr. Skeem. Observed Mr. Mitchell, “time and again I have seen their light.” Furthermore, she noted that he believed the judge would be fair.

With respect to his behavior, Dr. Skeem noted the defendant’s “remarkable composure even when pushed,” and his gracious behavior with interviewers and attorneys. She experienced him as highly engaged and vigilant and suggested that this would help him to track events well.

Although what she characterized as his delusional system “impaired his ability to make a fully reasoned choice,” Dr. Skeem concluded his competence abilities were largely intact, and found the defendant competent to plead “given his basic rationality.” The psychologist termed this “situational” competence.

The Skeem exam was veiled by a lack of notes to demonstrate what Dr. Skeem asked Brian, what his responses were, what topics were explored, what Dr. Skeem asked him to resolve, contradictions or factual inaccuracies, and even the methodology for her interview.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 26 of 206

The psychologist did elaborate on her interpretations of his thinking. Without ground evidence, what was actually Brian Mitchell's thinking cannot be clearly separated from Dr. Skeem's reasoning as to what he might have communicated in the interview.

Furthermore, the assessment of Mr. Mitchell's comments did not at all account for the potential of self-serving responses of a person confronted with criminal charges, particularly of this severity.

The withholding of notes made during data collection and analysis for review from other participating professionals has been specifically cited as an example of qualitative flawed effort, referencing forensic chemistry¹ in the recently released National Academy of Sciences report commissioned by Congress:

“From a scientific perspective, this style of reporting is often inadequate, because it may not provide enough detail to enable a peer or other courtroom participant to understand and, if needed, question the sampling scheme, process(es) of analysis or interpretation.”²

The National Academy of Sciences position is consistent with that of the Specialty Guidelines for Forensic Psychologists, which notes:

Forensic psychologists have an obligation to document and be prepared to make available, subject to court order or the rules of evidence, all data that form the basis for their evidence or services. The standard to be applied to such documentation or recording anticipates that the detail and quality of such documentation will be subject to reasonable judicial scrutiny; this standard is higher than the normative standard for general clinical practice. When forensic psychologists conduct an examination or engage in the treatment of a party to a legal proceeding, with foreknowledge that their professional services will be used in an adjudicative forum, they incur a special responsibility to provide the best documentation possible under the circumstances.³

_

¹ Committee on Identifying the Needs of the Forensic Sciences Community, National Research Council. **Strengthening forensic science in the United States: A path forward.** National Academies Press. pp 5-6 2009

² Committee on Identifying the Needs of the Forensic Sciences Community, National Research Council. **Strengthening forensic science in the United States: A path forward.** National Academies Press. pp 5-7 2009

³ Committee of Ethical Guidelines, AAFP Golding S (Chair) **Specialty Guidelines for Forensic Psychologists** *Law and Human Behavior* 15 6 1991 p 661

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 27 of 206

The defendant had been willing to plea guilty to kidnapping and burglary charges, to a ten year minimum sentence for aggravated kidnapping, with the stipulation that if an elevation to fifteen years was sought, this would be based on a statement from prosecutors and not testimony from Elizabeth Smart. However, when prosecutors would not drop sexual assault charges, no agreement materialized.

On October 15, 2004, plea negotiations fell apart. In lengthy correspondence from defense attorneys to prosecutors over the next few days, there is no reference to any behavior or irrational reasoning attributed to Mr. Mitchell that accounts for the failed negotiation. (“After fully advising Mr. Mitchell about your offer, he has authorized us to inform you that he will not accept your offer.” “We therefore resubmit our counteroffer and remain willing to engage in discussion regarding the terms of that offer.”)

Defense attorneys appealed at length and as late as October 21 to the prosecutors to reconsider their position. The defense attorneys made no reference to a change in Brian Mitchell’s competency having precipitated a breakdown in negotiations. “The acceptance or rejection of any plea offer and when it occurs is in the sole discretion of our client,” wrote defense attorneys.

Almost immediately after prosecutors soundly rejected the defense overture, Dr. Skeem was re-engaged to return from California to Utah to examine the defendant, and she interviewed Mr. Mitchell eight days later, October 29. Her examination was not videotaped, and she has provided no notes from that interview, either.

Heidi Buchi, attorney for the defendant, then asserted in an affidavit filed November 9, 2004 that she had been visiting Brian weekly since Dr. Skeem’s September report, and that there had been a “marked decline in Mr. Mitchell’s capacity to rationally engage in a reasoned choice of legal strategies of legal options and strategies. Mr. Mitchell’s delusions have taken an increasingly dominant role in his decision-making process and conversation.” While Brian Mitchell had exhibited completely appropriate behavior in court when the defense had stipulated to his competency on August 31, Ms. Buchi asserted on November 9 that the defendant’s “ability to manifest appropriate courtroom behavior” did not meet statutory requirement for competency.”

After this brief was filed, Brian Mitchell began singing in court, to the point that he had to be removed from the court in every appearance afterward. No other jail setting described him as singing hymns to the end that he could not be directed to silence. There had been heretofore no change in his clinical presentation noted by the jail.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 28 of 206

Dr. Skeem II

The defense requested a reconsideration of the competency issue on the basis of the interview conducted by Dr. Skeem on October 29. The psychologist filed a second report based upon that interview on February 1, 2005. In it, Dr. Skeem reported of Brian Mitchell that “his approach to the case is now strongly influenced by religious delusions...he desperately wishes to be ruled competent and allowed to proceed on his path to martyrdom.”

According to Dr. Skeem, Brian was prevented by delusional disorder from “(a) engage in reasoned choice of legal strategy and options (b) comprehend and appreciate the range and nature of possible penalties that may be imposed against him (c) discuss information pertinent to his case with counsel (d) testify relevantly (e) manifesting appropriate courtroom behavior.” She added that he “no longer meets the test of even basic rationality.”

The psychologist cited the importance of Wanda Mitchell’s divorce from him. However, at the time of Dr. Skeem’s October 29 in which she deemed him incompetent, Wanda and Brian were not in touch. In fact, Wanda did not even file for divorce until November.

Explaining her opinion about Brian’s change, Dr. Skeem wrote: “Considered an Alford plea to avoid trial, and unbearable pain of public mockery, but decided that to accept plea would be Satan’s attempt to tempt the carnal man in him...Intended to go to trial but would not plead guilty before trial, plea would only bring him eternal death rather than return him to the ones he loved...might plead guilty after a trial”

Dr. Skeem characterized Mr. Mitchell as increasingly delusional, on the basis of his being reportedly awake late at night at the jail. She deemed him passive and moving forward with “martyrdom.” Reports of Mr. Mitchell now singing in court, according to Dr. Skeem, “began when his thinking evolved to its current, delusion-based form.”

The psychologist scored the IFI once more, and noted the defendant to be not merely impaired, but **severely** impaired in his capacity to disclose facts, events, and states of mind. According to Dr. Skeem, the defendant was refusing to review any of the materials they had requested of him and would spend his time in meeting with his defense team preaching to them.

In addition, Dr. Skeem deemed him **severely** impaired in his capacity to comprehend and to appreciate the range and nature of penalties, asserting that he wanted the maximum penalty, that he no longer had autonomy or rational self-interest and was completely relying on God to deliver him in seven years.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 29 of 206

Dr. Skeem added that the defendant was now **severely** impaired in his ability to appreciate or make reasoned choices of legal options and consequences, explaining that his decisions were driven by the goal of martyrdom, and that he could not weigh options to make a reasoned choice.

Dr. Skeem's report did not state what the defense options were that had been presented to Brian, but noted that he was refusing to support the use of an insanity defense. It is also not stated in Dr. Skeem's report as to what evidence was presented to Mr. Mitchell to demonstrate to him that an insanity defense was a reasoned option for any likelihood of success.

The psychologist also asserted that Brian did not appreciate the role of the prosecution, referring to them as Satan, and "forecloses the possibility of negotiating with them." Interpreting his contempt for prosecutors as psychotic, Dr. Skeem deemed his characterization of them to be evidence that he had declined. There is no reference to the nature of the just-derailed plea negotiations and the reason for their breakdown.

Dr. Skeem added, of his courtroom singing of recent vintage, that his singing would take his mind elsewhere, that he would be unable to track the trial process. This, noted Dr. Skeem, **severely** impaired his capacity to manifest appropriate courtroom behavior. While the psychologist only months ago had credited his vigilance, she now asserted that he could not be distracted from ministering, could not answer pointed questions, and that the defendant was **severely** impaired in his capacity to testify relevantly.

In the psychologist's opinion, Brian did not have the capacity to proceed pro se.

Dr. Skeem indicates that she told the examinee that she believed him to be incompetent after the October 29 interview. After this, he would no longer speak with her.

As in her earlier report, notes of the October 29 interview, and a transcript or tape of the interview were not made available. There is no information provided to clarify what Dr. Skeem asked, how she asked it, and how Mr. Mitchell responded. Dr. Skeem's examination may actually have barely touched on sensitive or relevant issues, for Dr. Skeem indicated in her report, "sang hymns when we reached emotionally charged topics." It is therefore unclear what substantive content was a part of the interview informing this Skeem opinion – other than Mr. Mitchell's propensity to sing rather than to participate in an interview relating to his competency to proceed to an impending trial for sexual assault and kidnapping.

Again, without ground evidence from the interview notes or more, what was Brian Mitchell's thinking cannot be clearly separated from Dr. Skeem's thinking what he might be thinking.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 30 of 206

As in the earlier examination of Dr. Skeem and Dr. Golding, the assessment of Mr. Mitchell's comments did not at all account for the potential of self-serving responses or obstructionist behavior of a person confronted with serious criminal charges. This is particularly notable given the timing of the competency question, which was on the heels of a breakdown in very rational plea communications. And, given the incompatibility of certain assertions with the chronology of the case (Wanda's divorce filing after the examiner already pronounced him incompetent, Ms. Buchi's assertion of his inability to manage his behavior in court after his participation in the October 29 interview and even before his courtroom hymn singing became de rigueur.

_

Brian Mitchell made no additions to the BIDI since he declared the BIDI "sealed" on January 23, 2005. He has published no additional revelations.

Dr. Skeem filed her second report to the court, reflecting her changed opinion on competency, on February 1, 2005. The psychologist asserted in a subsequent hearing before Judge Atherton that the most significant tipping point to her was the plea negotiation "where he understood significance and evil intent behind the prosecution."

Judge Atherton took testimony about the above reports over February to July 2005.

Judge Atherton's opinion of July 22, 2005 asserted that Mr. Mitchell's religious ideas were delusional and he could not rationally assist his attorneys. The judge's stated reference point reasoned that were Brian Mitchell to be psychotic, he would be incompetent and were he not to have a psychotic condition, that he would be competent.

Judge Atherton's opinion paralleled defense testimony, asserting that Brian Mitchell's level of distress, preoccupation, and social dysfunction reflected psychosis. The court opined that the defendant failed to recognize that he suffers from a mental disorder and this precluded him from making decisions about how to best present his mental state to a judge and jury. According to the court, "Since he is delusional, he lacks capacity to determine what is in his best interests."

AT UTAH STATE HOSPITAL

The defendant re-entered Utah State Hospital on August 11, 2005 as a result of the Atherton decision. He remained there until October 2008. In the over three years that followed, a number of personnel had numerous opportunities to observe, interact with, and get to know Brian Mitchell, to the degree that he and fate allowed.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 31 of 206

Outside examiners appointed by Utah State administration, such as Dr. Gerald Berge, evaluated the defendant every several months. Like Drs. Skeem, Golding, and Gardner before him, Brian Mitchell declined to speak or to meet with this examiner either. Dr. Berge and other examiners relied upon the history provided by Dr. Skeem and the parameters of the Atherton opinion, along with input provided to them from summary reports of the hospital.

Paul Whitehead, M.D., the psychiatrist on the Utah State forensic unit, also relied upon the documentation given him, and the direction of the Atherton court. There was little choice; Brian Mitchell would not engage in any formal discussion about his case or court procedure with the psychiatrist or the social worker.

Dr. Whitehead felt the defendant to be not paranoid, and referential only insofar as his God's plan. Brian exhibited good recall of information from his earlier 2003 admission. He asked to be addressed as Immanuel or David, but accepted Brian. Strengths enumerated by Dr. Whitehead were intelligence and communication. The psychiatrist believed the examinee to have psychotically impaired judgment and to lack "full insight," to have impaired interpersonal skills – and low motivation to become competent.

This latter point stood in contrast to testimony from defense psychologists that the defendant *wanted* to proceed to trial. Mr. Mitchell continued to display particular avoidance of speaking about his case and his past, but this was now regarded as evidence for Brian Mitchell's evasion of the process as opposed to his enthusiasm for justice to advance.

Successive reports provided to the state court thus advised the court of little change in Mr. Mitchell's presentation. The court renewed its findings of Brian Mitchell's being incompetent to stand trial.

Prosecutors eventually responded to continued findings of incompetency by petitioning the court to involuntarily medicate Mitchell. Mitchell had not been violent in custody, had not required prn, or "as needed" medicines for behavioral control, and did not present with any symptoms which inspired his treatment team to strongly assert his need for medication – notwithstanding the psychiatrist's characterization of him as delusional. Judge Atherton ultimately denied the petition for involuntary medication on October 9, 2008.

_

The case was referred to The Forensic Panel as primary jurisdiction of the case was transferred to federal court, and the matter re-examined from its outset.

This included a review of the actual Utah State Hospital record spanning 2003-2004 and 2005-2008. Follow up with staff supplemented the available history above. Staff

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 32 of 206

interviewed on follow-up numbered over twenty five nursing, activity therapists and nurse's aides and other personnel who had day to day exposure to Brian Mitchell's function to the end of informing diagnostic questions as well as his task-specific capabilities as they related to competency questions before this court.

None of these staff, across disciplines, experienced Brian Mitchell as paranoid in a pathological sense. The overwhelming majority experienced him as not psychotic, and nearly all reflected that other patients did not interact with him as they would with a person they experienced as "sick."

Brigham Andrew, senior psychiatric technician, offered, "If we had tape recorded his behavior (from) the first week on the unit we wouldn't be having this conversation because his court case would be over."

In August 2005, shortly after the ruling finding him incompetent, psychiatric technician Taryn Nielson watched the defendant comment to a peer, "if people think you're crazy, you can get away with more," and "you can really be yourself when people think you're crazy."

With respect to his behavior, Brian Mitchell attended to his personal needs without staff direction, and his sense of reality was consistently described as appropriate. The defendant's recall was such that he remembered even snacks he had enjoyed on the unit and where he had left them in the refrigerator when Mr. Mitchell had been housed there over a year earlier.

Notes described the defendant as adjusting quickly to the unit. Social worker Greg Porter noted that the defendant was using phrases employed by the treatment team. Staff took note of his intellect; psychiatric technician Heather Houghton characterized the defendant as "smart, clever, manipulative." Another staffer, Dustin Salisbury, remembers the defendant as "determined, articulate, iron-willed, gentle." Recreational therapist Christy Daum also distinguished his personality as "determined." Psychiatric technician Joseph Liddle remembered Mr. Mitchell as normal, polite, calculating, and manipulative.

Brian Mitchell spoke about religion with those who were interested; however, he engaged both staff and other patients in informed and sophisticated discussion about a range of topics, from books, to movies, to television. On September 28, 2005, psychiatric technician David Talley observed Brian to speak at length about health, education, and politics without religious derailment. Tye Jensen, a psychiatric technician, reflected that he rarely spoke with the defendant about religious topics. However, he remembers long conversations with the defendant about literature, music, and health, and developed a rapport with him very easily.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 33 of 206

Mr. Jensen chronicled one conversation of over three hours about the book *Silas Mariner*, by George Elliot, with Brian Mitchell providing a very rational thesis. Psychiatric technician Judith Fuchs, recounts that she told Mr. Mitchell “right away” that she was not interested in speaking with him about religion; the defendant did not respond to her angrily, but communicated with her about a variety of subjects from that point forward that had nothing to do with religion.

Senior psychiatric technician Brigham Andrew worked with Mr. Mitchell in both of his hospital stays and recalled multiple reality-based conversations. He observed that the defendant’s appraisal of reality was refined to the end that he could distinguish between an adaptation of a story for entertainment purposes and a fact-based documentary.

From the time he came to the unit, according to the social worker, Brian Mitchell was well-related. When he chose to speak, Brian could communicate specific and clear detail. Moreover, the defendant demonstrated the ability to think symbolically and with appropriate, at times clever and witty humor.

Brian Mitchell was friendly to staff, such as nurse Shirley Branagan, polite and not irrational in his conversation. According to senior psychiatric technician Rodney Jay, he was always appropriate in his interactions with others, but “self-centered, arrogant, narcissistic, and condescending.” Another psychiatric technician, Melissa King, characterized Brian as “arrogant” and “manipulative.” Social worker Greg Porter experienced him as “the epitome of narcissism.”

Compared to other patients, according to psychiatric technician Dan Brady, Brian Mitchell was more self-centered and disinterested in the welfare of other patients. Dustin Salisbury, another psychiatric technician, observed that Mr. Mitchell knew to go over the head of staff who did not respond to his requests. The latter quality was noted by social worker Greg Porter, who offered that when Brian was upset he would appeal to the authority on the unit according to established channels. This would be in contrast to working things through with blessing, revelation and ceremony.

When one patient asked him if he had ripped the vagina out of a woman, Brian Mitchell asked staff if he could eat in his room. It was the only time he appeared to alter his movements out of fear. He was otherwise comfortable and expressed no concerns for his safety. When occasional patients were confrontational, such as when someone threw a football at him or another patient punched him in the lip, he did not react. On the contrary, according to psychiatric technician Tye Jensen; Brian Mitchell became friends with the one man who attacked him.

The latter example, of Brian being open enough to move beyond first impressions, served his ability to develop his closest relationship on the unit, with patient [REDACTED].

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 34 of 206

According to social worker Greg Porter, initially [REDACTED] and Mr. Mitchell avoided one another but they became very close and even collaborated together on trying to overthrow the unit president.

Brian Mitchell was very attentive to a vegan diet and lifestyle – including his refusal to use the soap and toothpaste offered on the unit. With great discipline and consistency, he exercised, paced, did yoga, brushed and flossed, and did laundry. When staff gave him even 7 ounces of soy milk instead of 8 ounces, he expressed his displeasure and would ask them to get him more. According to psychiatric technician Jill Rafiner, Brian would request even two or three drops of soy milk if the amount given was not up to his liking. He maintained his weight and worked collaboratively with the nutrition staff. Tye Jensen experienced him as “self-educated, entitled, and meticulous, among other qualities.” Social worker Porter appraised him to be “pragmatic,” and reflected that the defendant “behaved in a way contrary to that of a martyr.”

While Brian Mitchell did not allow blood testing after his admission labs of August 2005, [REDACTED] He would refuse vaccinations and even pain medicines; these qualities were in line with his longstanding cynicism about conventional medicine. On one occasion, nurse Jane Jakeman recounts how he had approached her for Tylenol, notwithstanding his pattern of refusal; when she told him she would have to document the request, he declined.

The defendant had no qualms about expressing his displeasure with staff. On one occasion, he wrote a rational but angry missive complaining about the intrusion upon him of the scheduled staff patient checks of him when he was in his bedroom. Numerous staff spoke of how he would quietly stare at staff that would enforce rules that interfered with what he wanted to do. Judith Fuchs, for example, who enjoyed a constructive relationship with Mr. Mitchell as a more maternal presence on the unit, characterized the defendant as a “master manipulator - would stare at the other young staff to try to spook them out.”

When the examinee sought to cheat on his diet, he would conceal his meat eating from staff or would cleverly attempt to negotiate snacks. For example, when given a banana, he asked also for ice cream. Told by Brigham Andrew that these were two separate snacks and that he was allowed only one, Brian reportedly responded that this combination was a banana split and still only one snack. Dr. Whitehead observed him to effectively negotiate a variety of matters relating to meeting frequency, diet, and personal belongings.

Staff consistently viewed him as high functioning, and staff such as psychiatric technician Tracy Killpack viewed Brian Mitchell as high functioning *relative to the other high functioning* patients on the unit. The defendant’s attention was appraised as good, and manifest in his ability to read long books and to participate in discussions about them, and to watch and play games of chess.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 35 of 206

Brian Mitchell demonstrated no distress, whether he was communicating about religion or not. The defendant was often described to be smiling, including when he exhibited distinctive choices, such as his self-described “fasting from speaking.” Even when he was assaulted by a patient who took offense to his charges, Mr. Mitchell maintained composure and organization and without distress.

Nevertheless, the defendant **consistently and actively (turning away to leave) avoided activities or any discussions aimed at teaching competency to stand trial issues.** Mr. Mitchell specifically avoided even speaking to the recreational therapist who ran the competency and social skills group. Yet his awareness of proceedings manifested in a number of comments:

On September 26, 2005, psychiatric technician Daryl Talley noted Brian Mitchell explained the legal process to him, along with the duties of the different positions within the system. The defendant added, according to Mr. Talley, “I won’t be judged by this corrupt system. I sing to disrupt the system so that I can come back to the hospital.”

To Dan Brady, psychiatric technician, he offered on October 4, 2005 – “I was examined by two evaluators and one said I was competent and the other said I was not, on the sole reasoning that I didn’t care what happened to me. I don’t care if they lock me up or let me go. The Lord’s work will be done no matter what.”

On October 12, interacting with a peer, he commented, “someday I’ll get out of here but probably not for a very long time.” In July 2006, the defendant conveyed to activity therapist Aaron Robison, “I’m not sure I have a life left, I’m in here for awhile.” The social worker Greg Porter recounted later that Brian Mitchell conveyed to him that he knew he would be locked up for the rest of his days.

Mr. Andrew senior psychiatric technician, recalled Brian Mitchell asking him to explain the system of privileges. “Once he learned that the level system was predicated on group attendance, he began refusing group attendance.”

Brian was later quoted as saying, “I will not cooperate with the process. My lawyer says I am incompetent, the prosecutor says I am evil. I am not in favor where my attorney says I am incompetent because I am calling for repentance.”

In an April 7, 2006 discussion, Brian Mitchell related that he “would never be out of the hospital as I will never acknowledge guilt and they will never parole me nor find me competent as I will not participate in a corrupt system.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 36 of 206

He was noted to meet with his attorneys in May 2006 and to be verbal and animated; his meeting with attorneys in July was documented by staff to have lasted for two hours. On another occasion, Greg Porter noted the defendant to correct a staff member about the date of his next court appearance.

Psychiatric technician David Jones recounted how Mr. Mitchell advised another patient, “do not talk to judges – they can’t condemn you if you don’t speak.” On another occasion, according to Mr. Jones, Mr. Mitchell told another patient that he sang in court when he did not want to talk to a judge.

Social work noted on October 21, 2005 that the defendant gave an accurate depiction of the prosecution and defense positions. Brian indicated that he had been following Wanda’s own competency proceedings and reportedly advised social worker Greg Porter of his advance plan for court that he “will preach repentance so as not to give credibility by participating.” In spite of this, Brian later placed a request to staff for his papers, offering to discuss his past history in exchange, suggesting, “let’s cut a deal.”

In November 2005, Robert Bardsley, a psychiatric technician, wrote of Brian advising other patients about competency hearings. In October, 2005, psychiatric technician Jill Branin recorded the defendant’s reaction to a news report on television of a not guilty verdict as, “They probably didn’t have enough evidence to convict him.” Nurse Jane Jakeman noted in April 2008 that she heard him describe to a peer how jury selection works.

The chart also noted that Brian Mitchell had decided not to speak to the media about his case, because “if they don’t have any information, they can’t hurt my case.” On one occasion in 2007, Brian was reportedly looking for an article on his case in the newspaper, and accepted the offer of a copy of the article from the staff. On another occasion in 2007, staff noted him to be telling another patient to look for him on the news that night.

Most staff had not known Brian Mitchell to refer to himself as a prophet, and none recalled him referring to himself as the Davidic King. A number of those who recalled Mr. Mitchell characterizing himself as a prophet, such as Greg Porter, psychiatric technicians Jill Branin, Dan Brady, and Tye Jensen and rec therapist Christy Daum, noted that these representations had diminished over the course of time. The chart reflects this, as well as a considerable decrease in his preaching by November 2005.

According to psychiatric technician David Jones, “a few of the other patients listened to him as if he had a higher religious calling.” There were other patients, for example, for whom Brian Mitchell became a vehicle of resolution. Soon after the defendant came on the unit, for example, nurse Karsten heard a patient apologize to him “for the robbery he did back in New Jersey.” On other occasions, Brian Mitchell was noted to offer forgiveness to others “for what they did to be here in the hospital.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 37 of 206

Some patients, recalled recreation therapist Jeffrey Smith, went to Mr. Mitchell for advice. According to psychiatric technician Tye Jensen, there were patients who asked him for advice even in the absence of his representing that he was a prophet.

The record and staff input demonstrate Brian Mitchell's religiosity did connect him closely to at least some peers – even as he less frequently voiced claims of being a prophet. That noted, in March 2007 Brian expressed his definition of a prophet as “a person who speaks truth through their words.”

Brian Mitchell provided no additional entries to the Book of Immanuel David Isaiah -- which he had written to reportedly preserve revelations he had received – after January 2005 (now reflecting over four continuous years), and **did not convey “revelations” to staff or anyone else at Utah State Hospital, including those with whom he communicated at length.**

There is no evidence for Brian having sought wives on the unit or having continued to advance his objective of seven wives, and then seven times seven. The defendant did have access to females with whom to communicate, who were no less unavailable to him than the engaged Julie Adkison he had solicited for marriage in 2001 – or a fourteen year old virgin daughter living under the roof of Ed and Lois Smart, or ██████████, or ██████████. Considering that many high profile incarcerated inmates find female support and even commitment from behind bars, abandoning a previous mission reflects one idea he was not preoccupied with.

A few staff members recounted his preaching when Mr. Mitchell first came to the unit; however, once Brian acclimated, he proved to be more interested in attending to his own dietary and exercise needs, to reading long books of fiction and to watching television and movies.

Mr. Mitchell was an avid watcher of the television program “*Charmed*,” so much so that he actively maneuvered the unit so that he could watch it. According to psychiatric technician Tye Jensen, Mr. Mitchell “choreographed the whole ward TV schedule so he could watch Charmed,” and “made extensive notes about who would watch what in what room.”

Nurse Jakeman observed that not being able to watch Charmed was the greatest source of his distress. Asked by psychiatric technician Aaron Robison about his enthusiasm for the program, Mr. Mitchell replied, “You wouldn't understand. It's the underworld and I think it has merit.” Activity therapist Judith Fuchs observed, “he would sit very close to the TV, it was like he was in love with the girls.” Nurse Jakeman observed, “He loved Charmed because it was essentially a bunch of young girls dressed like prostitutes.” Mr. Andrew, the

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 38 of 206

senior psychiatric technician, had a similar take, offering that Mr. Mitchell would watch as much as three hours of reruns a day because “there was so much cleavage shown...he would always watch for a scantily clad woman.”

Asked by social worker Porter about the apparent contradiction of his zeal for *Charmed*, Mr. Mitchell responded, “I’m a weak man,” and “I can be tempted like anyone else.” Psychiatric technician Joseph Liddle reflected that Brian Mitchell was “fixated” on staff member Taryn Nielson. Asked about Brian’s relatedness to Ms. Nielson, Ms. Miles noted Mr. Mitchell’s clear preference for younger looking staff and characterized Ms. Nielson as “prepubescent looking.” Tracy Killpack, began working on the unit as a psychiatric technician when she was 18; she indicated that for all his avoidance, Mr. Mitchell would try to start conversations with her and liked to speak to the younger female employees on the unit.

Psychiatric technician Melissa King observed that with as much television as Mr. Mitchell watched, he rarely watched religious programming. There is no record of staff having explored this pattern as the antithesis of religious preoccupation, although the earlier comments did manifest a consistency with Brian Mitchell’s fixation on nubile females for their sexuality.

The contradiction of Brian Mitchell’s time allocation to his diagnosis of delusional thinking based on “preoccupation” becomes all the more conspicuous when one considers that in addition to up to three hours daily of *Charmed*, Mr. Mitchell watched many movies (and organized some of the screenings), a partial listing of which appears here:

Fiddler on the Roof

Les Miserables

“explained story line to a peer”

Monster-in-Law

Empire of the Sun

Ghostbusters

Wayne’s World

Serenity

Fifty First Dates

“picked it”

The Incredibles

Arthur & the Invisibles

Mark of Zorro

“glued to”

Charlie & the Chocolate Factory

Akeelah and the Bee

“picked it”

KPAX

Mr. Bean’s Holiday

“smiling and laughing”

Apollo 13

Robinson Crusoe

Houdini

Transformers

Saving Private Ryan

Ratatouille

Terminator

Tomb Raider

Bewitched

Bourne Supremacy

Bourne Ultimatum

What Women Want

Ella Enchanted

Pirates of the Caribbean 3

Re: Brian Mitchell
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 39 of 206

“joy and smiles”
The End of the Trail
Stardust
The Ten Commandments
To Kill a Mockingbird
How to Lose a Guy in Ten Days
- “liked”
Something Wicked this Way Comes
Click
Dragonheart
Ghost
Goal
Harry Potter &
the Goblet of Fire
Harry Potter &
the Order of the Phoenix
Romeo and Juliet
“explained plot to others”
Titanic
Spiderman
Spiderman 2
Spiderman 3
Forrest Gump
Lord of the Rings
Father of the Bride
Father of the Bride 2
Sleepy Hollow
Funny Girl
Da Vinci Code
Air Force One
Sahara
Wizard of Oz
“appropriate humor”
Zathura
Silence of the Lambs
Hannibal
I am Legend
Scrooge
Van Helsing
Mega Movie Madness
Mexican Revolution Part 1
Meet the Robinsons

Next, Superman Returns
Persuasion
Whole Nine Yards
Uncle Buck
Dune
Parent Trap
“Cried throughout movie”
The Hobbit
Harry Potter II
A League of Their Own
Truman Show
Kill Bill
Finding Forrester
Indiana Jones &
the Kingdom of the Crystal
Skull
Water Boy
Drum Line
Maid in Manhattan
Sky High
Hidalgo
Little Women
It’s a Wonderful Life
Save the Last Dance
Save the Last Dance 2
Band of Brothers
The Dreamer
Scary Movie 4
Aeon Flux
Superman Returns
Helen Keller
Reign of Fire
A Beautiful Mind
Red Planet
Dead Poet’s Society
Pelican Brief
Sixth Sense
Wayne’s World
Count of Monte Cristo
The Stand
Mercury Rising
Batman

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 40 of 206

Domestic Disturbance
Castaway
What About Bob
“laughed heartily”
Anger Management
Star Wars
The Ring

“gripping”
Persuasion
“engrossed”
Independence Day
When Harry Met Sally
Schindler’s List

According to Tye Jensen, Brian had a preference for movies about small children, including *Little Rascals* and *Secret Garden*. By Mr. Mitchell’s account, he also watched a lot of television, preferring the History Channel (in which staff would note him to correct what was wrong in the depictions), though he also took in the Olympic Games and the occasional sporting event. Religious television programming was also available, but Brian Mitchell rarely was noted to be watching it, and certainly not to any degree to reflect “preoccupation.”

Mr. Mitchell would also listen to the radio, to classical music and opera, and exercised as much as five hours a day.

The defendant played *Axis and Allies*, a complex tactical game in which warring sides endeavor to capture territory, in games that can last for many hours. Chess was another game of strategy that Brian Mitchell played and took significant interest in.

In addition, Mr. Mitchell regularly read the newspaper, as well as a range of books – few of which related to religious scripture and none of which related to plural marriage or the choices and themes that led to his arrest.

Mr. Mitchell referenced the impact of “*Zen and the Art of Motorcycle Maintenance*” on his thinking, and told staff he had read the book five times. The defendant reportedly read biographies, along with many classics - *Birds Fall Down* (Rebecca West novel set in the Russian Revolution), and others, including (but not limited to) the following:

War and Peace - Leo Tolstoy
A Tale of Two Cities - Charles Dickens
Northanger Abbey - Jane Austen
Emma - Jane Austen
Persuasion - Jane Austen
Wild Mountain Thyme - Rosamunde Pilcher
Under Gemini - Rosamunde Pilcher
September - Rosamunde Pilcher
Pride and Prejudice - Jane Austen
Sense and Sensibility - Jane Austen

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 41 of 206

Little Men - Louisa May Alcott
Eight Cousins - Louisa May Alcott
Snow in April - Rosamunde Pilcher
Dune: The Final Chapter - Frank Herbert
Dune Messiah - Frank Herbert
God Emperor of Dune - Frank Herbert
Children of Dune - Frank Herbert
Wizard's First Rule - Terry Goodkind
Temple of the Winds - Terry Goodkind
Harry Potter and the Half-blood Prince - J. K. Rowling
Harry Potter and the Order of Phoenix - J. K. Rowling
Harry Potter and the Goblet of Fire - J. K. Rowling
Harry Potter and the Chamber of Secrets - J. K. Rowling
Harry Potter and the Prisoner of Azkaban - J. K. Rowling
Harry Potter and the Sorcerer's Stone - J. K. Rowling
The Mill on the Floss - George Eliot
Songs of the Lark - Willa Cather
Heidi - Johanna Spyri
Lila: An Inquiry Into Morals – Robert Pirsig

On one occasion in April 2008, at least two staff -- nurse Todd McAllister and psychiatric technician Judith Nielson - watched Brian Mitchell stare intently at a picture of a young girl in National Geographic for ten minutes or more; when the defendant became aware that staff was looking at him, he closed the magazine.

In discussions with peers, the defendant displayed fluency in a range of topics, from political science, different locations of the United States, to birds, to fishing, flowers, vegetables, and food and nutrition, for example. In September 2005, psychiatric technician Jonathan Parks noted Brian to engage in a discussion with another defendant about divorce proceedings and future plans for over half an hour.

There was no evidence that Brian Mitchell alienated himself from staff or fellow patients. Nurse Carma Karsten, for example, noted no distaste toward Brian from anyone but one patient (and that was based upon his charges), and added that the defendant did nothing to make others have distaste for him.

Given situations of potential conflict or repudiation, Brian Mitchell responded with cognitive flexibility and social sophistication. Nurse Todd McAllister noted how he conversed with two patients who had previously ridiculed him. Brian was able to answer their questions without mentioning his beliefs or making religious suggestions.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 42 of 206

Chart notes also described him to actually be engaging agitated patients and calming them down. For example, senior psychiatric technician Rodney Jay witnessed Brian redirecting another patient by singing and then by posing questions until the patient calmed, as would a staff member.

Early in his time at Utah State Hospital, the defendant told peers that “he was on the run with two wives,” and that “police think he took her away from her mom and dad” and acknowledged that he was accused of kidnapping. Brian defended himself to one staff member, Taryn Nielson, to whom he would communicate more readily, shortly after his admission; he asserted that he was not a rapist because he was taking Elizabeth Smart to be his wife, akin to biblical societies who were to take virgin daughters out of the wicked lands, “bring them down to the very dust and then build them back up.”

Although Mr. Mitchell was guarded about discussing his case in earshot of almost all of the staff, numerous Utah State Hospital employees recorded comments by Mr. Mitchell such as, “I took her and taught her the truth...her mind was filled with false beliefs...sometimes you need to do that because their mind is just full of false beliefs,” noted on October 5, 2005 by psychiatric technician Joseph Liddle.

On occasion, such as to psychiatric technician Tye Jensen, Mr. Mitchell touted how the prophets of old would take young wives. According to psychiatric technician Tracy Killpack, he told another patient in February 2006, “once a female is given to you from God, you have the right to do what you please with her and the state and the law is below them in this area.” On another occasion, Ms. Killpack watched him nod in agreement when a patient asserted, “the bible says that if a woman is being raped and does not call out then she wants to be raped.”

On February 23, 2006, according to psychiatric technician Dan Brady, Mr. Mitchell made a call to his father (who had written his own scripture advocating sexually active adolescence), and said that during the nine months of his time with Elizabeth Smart, “they had laid together as man and wife.” According to Mr. Brady’s note, Brian related, “At first, it wasn’t consensual but it grew in willfulness and intensity.” The two discussed a biblical directive to “pay silver to the father of a virgin in accordance with (Deuteronomy 22:24-29) scripture, wants to send it to the Smart’s lawyer so as to avoid contact with the family.” This latter point is notable because in denying the court credibility by singing in proceedings, the defendant here did acknowledge the sovereignty of the court even in a matter of biblical origin.

In March 2006, Brian asserted that accusations against him were false, and that Elizabeth Smart was his wife and would say so except for the pressure from her family and church leaders.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 43 of 206

That same month, social worker Porter noted the defendant's request for a dictionary from the period of the Constitution's drafting to appraise whether the wording of the Constitution may have changed in its application over time.

In summer 2006, Mr. Mitchell challenged the social worker and psychiatrist to help him escape. The social worker interpreted his comment as an example of his interpreting their relationship in an irrational way that spoke to Mr. Mitchell having a psychotic condition. At the same time, the defendant's overture ran contrary to earlier defense assertions that Mr. Mitchell believed he would be in custody for seven or nine years; that he wanted to go to trial; or that he wanted to be martyred. A documented entry in October 2006 from Aaron Robison relates an exchange in which he asked the defendant if there was anything he could do for him; Mr. Mitchell replied, "yeah, get me out of here."

It is clear from the record that Dr. Whitehead had worked to that point and thereafter to protect the therapeutic alliance they had with Brian Mitchell. Whatever the overture to escape, it was not elaborated in the chart in any way that could be detrimental to a defendant of such security interest. It is also clear that the defendant knew how important this alliance was to the psychiatrist and social worker. When the psychiatrist and social worker came to him in August 2006 to discuss the prospect of their testifying to his being medicated over objection, which might strain any relationship, Brian replied with mirth, "Yes, you might say that being tied down and injected with medication might strain the therapeutic relationship," notwithstanding that he already only spoke to the psychiatrist and social worker when he needed something, and to the extent that he was compelled to sit in on meetings.

Periodically throughout his stay, and for up to eighteen months before his discharge from Utah State Hospital in October 2008 (when he was routed into the federal system), Brian Mitchell refused to speak to staff. Instead, the defendant wrote appropriately worded notes to staff to get his needs met, and would otherwise motion and gesture as an alternative to conversation.

His selected silence was not accompanied by bizarre behavior otherwise, no increase in distress, no religious preoccupation, or any deterioration in his function, goal directedness, activity level, self-care, or social interest. In notes to staff, Brian explained his silence with the patina of piety, explaining "I'm fasting from speaking words," noted LPN Barbara Wright.

Most staff efforts to engage him in dialogue, especially those of the social worker and psychiatrist contributing to updates for the competency examiners – thus consistently failed and were rendered useless.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 44 of 206

Nevertheless, there were a number of patients that Mr. Mitchell would speak to – out of the earshot of staff. Conversations, according to what staff might overhear, could be brief or in other instances, last over an hour. Brian would stop speaking (or on occasion, begin to sing) if he was aware that staff was watching or approaching. Ms. Fuchs related that the defendant “knew who was watching and who was passing by, could whisper as quietly as anyone.” Staff later interviewed noted that the defendant was disciplined even to the point of eliminating his facial reactions to movies and television, when he became aware that staff was watching.

No accounting for the genesis of this refusal to speak was forthcoming. His manner was accepted by staff and incorporated into the general way of dealing with him, and the history of the case, without more.

In recent interviews of staff, however, psychiatric technician Tye Jensen revealed that a colleague had boasted one day to patient [REDACTED] (a friend of the defendant’s) that staff had identified a person who was malingering because of conversations he had on the unit. The next day, Brian stopped speaking to staff and successfully maintained his discretion. Later, Brian would have [REDACTED] seek out staff to convey the defendant’s wishes, according to nurse Jakeman.

He spoke very little with staff compared to how freely he communicated with select patients; according to the unit’s nursing director, Leslie Miles, Mr. Mitchell “Did not speak to people unless he had use for them.” Staff such as psychiatric technician Heather Houghton offered that Brian was “silent because he did not want staff to see he wasn’t crazy, did not want them to see through his façade.”

In his early days on the unit at USH, Brian was known to sing hymns, primarily in his room. **Unlike his appearances in court, however, he could be redirected from singing.** Leslie Miles, a nursing supervisor, indicated that when she encountered Brian singing loudly early in his admission. She admonished him that if he persisted, “the really crazy patients will beat the crap out of you.”

Even then, when one patient in fall 2005, for example, told him to “shut the hell up,” Brian Mitchell reportedly complied. Thereafter, Mr. Mitchell was careful to sing quietly, privately or to move to where he would not disturb anyone.

As his hospitalization continued, staff observed that he sang hymns with decreasing frequency. Staff such as psychiatric technicians Tracy Killpack, Cam McGarry, Judy Fuchs, Ty Jensen, Brigham Andrew also noted a time association between the defendant’s singing on the unit with anticipated court appearances.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 45 of 206

So easy was Brian Mitchell to manage, that the USH staff thanked him on May 3, 2008 for being “a patient we never have to worry about.” In contrast to the forensic unit, when the defendant was in court, Mitchell would immediately burst into song to the point that he would need to be immediately removed. When Judge Alba politely asked him to sing softer, he sang more loudly. After his court appearances, he would not sing even in the holding cells, according to U.S. Marshalls who had the responsibility of transporting Mr. Mitchell.

“Whenever conversation went somewhere uncomfortable for him, he would switch to preaching,” recalls psychiatric technician Heather Houghton. Those who were charged with assessing his competency more directly, such as social worker Greg Porter, met with sermonizing on a regular basis. Mr. Porter experienced Brian Mitchell as “boring,” and characterized the Book of Immanuel David Isaiah likewise.

Other staff widely experienced Mitchell as a person able to speak quite normally about a range of topics, but that he would redirect the discussion to religious themes when the discussion crossed into an area about which he did not want to speak. Psychiatric technician Cam McGarry, for example, described lengthy, rational, clear, vivid, and thoughtful discourse from Mr. Mitchell on the *Wheels of Time* series of books authored by Robert Jordan. McGarry recalls how Mr. Mitchell would be excited all day to speak to him when he had completed one of the *Wheels of Time* books, which he had read several times. He observed that there were “two different Brian Mitchells.”

Psychiatric technician Jessica Hardy observed that when Mr. Mitchell’s guard was down, he was “normal,” and experienced him as “manipulative,” “persuasive,” and “crazy like a fox.” She added that while she found him clever, she believed him to be capable of fooling the professional staff because “**he would act differently if he thought he were being observed.**”

According to Ms. Houghton, the defendant “tried to manipulate people to get what he wanted, using religion all the time.” When the defendant encountered questioning and others unsympathetic to his well-known offense history, he would for a time shout out to the questioner, “Repent!” According to Rodney Jay, this behavior stopped after one encounter with a fellow defendant, [REDACTED]. [REDACTED] responded to Mr. Mitchell’s call to “repent” by challenging “why are you asking me to repent when you kidnapped and raped a girl?”

After this retort, according to Mr. Jay, Mr. Mitchell never thereafter challenged anyone on the unit, even when assaulted, with such pronouncement to “Repent!” Just like that. Observed nurse Miles, “he would conform his ideas to boundaries and turn his religious preoccupation on and off.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 46 of 206

Those on the USH staff also observed that Brian was not unusually preoccupied with anything religious and was not advancing himself in any grandiose manner. According to psychiatric technician Jensen, the defendant related special considerations afforded him to his status as a high profile prisoner – not as the Davidic King. Even in religious discussions, he refrained for characterizing himself as a Davidic King.

Psychiatric technician Cam McGarry, with whom Brian Mitchell communicated with at length, did also touch on some religious themes in their dialogue. According to McGarry, Mr. Mitchell spoke of the near death experience authored by a famous LDS writer, and how when she was lifted up to the heavens, she could see the power of Satan – that Satan was a master of using half truths to get people to do evil and fall away from light and truth. Mr. Mitchell observed to Mr. McGarry that he knew the workings of the devil because he had been an endowment worker in the church. For all of the substance and frequency of their communication, Mr. McGarry did not ever hear Mr. Mitchell refer to himself as a prophet.

Brian was more responsive to female staff, and sought out younger female staff in particular. One more religious female staff member observed that he would make mistakes in the hymns he sang. She offered that his use of profanity – for which he “apologized” – was at odds with his characterization of himself as preaching the need to return to Christ.

Mr. Mitchell also had several friends with whom he engaged in discussions that included strategy consultation about his case. One of these, ██████████, reportedly typed up Mr. Mitchell’s account of what transpired, according to nurse Jan Jakemann. ██████████ was reportedly a devout fundamentalist with a great recall for the Bible. Staff felt Brian regarded John as a prophet and related to him as if he were a teacher to the defendant. ██████████ also had a history of sex offense charges, and the two discussed biblical rationalizations for seizing a 14 year old virgin and other related precedent. “██████████ dragged him around by the nose,” observed nurse Jakeman.

Beyond religious issues, the two engaged in practical discussions relating to the penalties associated with different charges; schedules, badges, his competency assessment by staff, such as where cameras were placed in different parts of the unit that would enable staff to monitor his behavior when he did not know he was being observed. During the months of their contact, Brian shaved, cut his long hair and connected by telephone with his family. According to social worker Greg Porter, Brian even adjusted his appearance where he came to look more like ██████████ (rather than the Jesus who fit the white robes he panhandled in).

Among the discussions Brian Mitchell had with his daughter ██████████, he reportedly asked her to learn about whether his wife Wanda was being forcibly medicated. The defendant actively discussed with staff his own treatment over objection proceedings. He expressed

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 47 of 206

concern, for example, for whether yelling in court would constitute dangerousness to inspire the court to medicate him against his will. According to Mr. Porter, the defendant “asked pertinent questions about medication hearings without religious overtone.” Nurse Linda Swearingen chronicled a discussion the defendant was having with his father about involuntary medication legislation, and asserted that the law would not be able to apply to him or to Wanda ex post facto.

Judge Atherton ruled in October 2008 that Brian Mitchell would not be forcibly medicated. With the case now completely stalemated and the defendant at Utah State Hospital, deemed incompetent, refusing to communicate and refusing to participate in any activities to restore competency, and with medication refused, federal prosecutors moved successfully to transfer the case to federal court.

U.S. Marshalls came to Utah State Hospital on October 20, 2008 to remove Brian to a federal facility. Upon learning this, Brian asked to see Dr. Whitehead and Greg Porter as soon as possible. Dr. Whitehead recounts that Mr. Mitchell wrote relevant questions and made his wishes known, including that he did not want to give his legal papers to his attorneys or his family and asked whether the psychiatrist and social worker could keep them for him or otherwise await his direction.

Before his release, he indicated that he had seen a news report that AM, reported that he had expected federal charges at some point, and asked what would happen with his state charges.

_

Dr. DeMier

In late 2008 and early 2009, Richart DeMier, Ph.D. conducted an examination of competency to stand trial at the federal corrections hospital in Springfield, MO. Dr. DeMier deferred to the Skeem history and previous reports as his case frame of reference.

The psychologist interviewed the defendant on December 5, 9 & 10 and January 9, 2009. Unlike the unreported raw data from previous evaluations, Dr. DeMier partially videotaped his interviews and disclosed whatever notes he took.

The defendant introduced himself as Immanuel David Isaiah the Prophet. The defendant answered few case-related questions with even a hint of cooperation. So mercurial was he that Brian Mitchell would not even repeat the explanation of the purpose of the evaluation. Brian sang and at other times declined to respond to Dr. DeMier's questioning. His responses followed pause and calculation. When Dr. DeMier raised the competency issue,

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 48 of 206

the defendant on occasion closed his eyes and disengaged – as he had on the videotaped interview with interrogators just after his arrest.

The defendant incessantly responded with religious or philosophical overtones in response to a range of questions about his legal status and expectations. Brian asserted that his singing hymns in court was part of his duties as a prophet. He defined “prophet” as “someone who speaks the power of God...that which God wants his children to know,” adding that there are 49,000 (7 x 7000) true prophets spread throughout the world. Thoughts were linear, his mood was neutral, he was attentive, and not responding to hallucinations (even as he invoked the Holy Spirit).

The defendant was nevertheless very attentive to the interview, providing specific and correct details (in Utah State Hospital for 38 months), and engaged in a completely coherent discussion about his housing, lymphology, and his needs. Brian also demonstrated motivation to better his welfare and well being, including a unit with greater freedom of movement.

From an information standpoint, the videotaped interviews with Dr. DeMier were an often empty series of exchanges with affected responses like “his humble followers are often clothed in great weakness...I am that I am...I abide in truth and the truth abides in me...in and through him, we become one.” Often, Mr. Mitchell directed provocative challenges like, “Thou art an instrument of (the federal government’s) destruction of me” and “I understand that you think (not thou thinkest) you’re being fair.” The defendant made it clear that it was “a miracle” that he was even talking to Dr. DeMier – before declining to speak altogether.

The defendant referred Dr. DeMier to read the BIDI in order to discuss the criminal case, and noted, “my only defense is my testimony...” He reflected at another point, “people would be offended by me or my testimony,” and predicted that the prosecutor would respond to his testimony by challenging it as “immaterial.”

As the examiner persisted in efforts to engage him, Brian further toyed with Dr. DeMier. Even as Dr. DeMier followed his direction to read the BIDI, saying “If I were interested in the truth of his text, he would speak to me, but if I just wanted to determine his competence, he would not.” The defendant offered this “special dispensation” after asserting that “the Lord had commanded him” not to speak to Dr. DeMier.

Brian Mitchell’s answers demonstrated his awareness that he was part of a federal proceeding and did acknowledge his willingness to communicate with his attorney – though he added that he had not chosen his attorneys (public defenders). The defendant indicated that there was someone whom he felt could represent him well. Questioned further, he chose not to divulge who this person was, but it was clear this was an inmate.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 49 of 206

Rather than endorse this person's qualifications on religious grounds, Mr. Mitchell cited the man's expertise in Constitutional Law.

Although he expressed confidence in what he termed a miraculous outcome, on the order of St. Peter, Brian indicated that if he were to be found competent that "I'm obviously going to be found guilty." The defendant added that a judge could imprison him for life and define what kind of treatment he received.

There were a number of statements Brian made that contradicted fact – for example, that he had been on a spiritually-inspired vow of silence, when the record of his time in Utah State Hospital reflected that he would speak to select peers and staff and ignore or use sign language with others. Or, that Brian Mitchell "was once" his name – when essentially everyone on staff at Utah State Hospital addressed him as such and he used this name on library slips.

The defendant further related that he had never spoken to his attorney and denied that he had attorneys when USH records demonstrated discussions of two hours and more. Dr. DeMier did not have the detail available to him to confront the examinee on clearly contradictory assertions (for example, that he did not recognize the authority of the court over him, yet recognized -- in his preparation and collaboration with counsel -- the authority of the court for his involuntary medication hearing). Nor did Dr. DeMier have any indication of the legions of staff at Utah State who had witnessed how different his presentation was with those monitoring him for competency assessment compared to those with whom he could lower his guard.

In his interviews with Dr. DeMier, Brian Mitchell used old English phraseology with suffixes like –eth., as in "it matterth not (though as above, this is inconsistent even within the same interview)." The presentation, in speech, content, and accessibility was a far departure from how Mr. Mitchell interacted with staff at Utah State Hospital. Rather than relevant and normally expressed in the eyes of nearly all who interacted with him (with the exception of those assembling his competency reports), the defendant was impenetrable and vague. He responded to leading questions about grandiose religious themes with coy affirmation.

Dr. DeMier: Will you have a major role in the end of days?
Mr. Mitchell: Thou sayest.

Dr. DeMier characterized Mr. Mitchell's religious ideology as a psychotic belief system, diagnosed him with delusional disorder, and later changed this to schizophrenia. The psychologist assessed, "he would not speak as he believed he had been commanded to be silent."

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 50 of 206

On February 4, 2009, Dr. DeMier asserted that Mr. Mitchell was not competent to proceed; he diagnosed Mr. Mitchell with schizophrenia, characterizing his thinking as delusional and bizarrely so. The psychologist appraised that Mr. Mitchell was unable to think about his legal situation in a rational or coherent fashion, or to provide meaningful input into decisions regarding this case, and that he believed he must endure the suffering of trial and imprisonment to fulfill his role as the Davidic king who will battle the Antichrist.

The psychologist added, “Prior to his referral to this facility, Mr. Steele (Brian’s attorney) indicated that the defendant had refused to engage in any meaningful discussions regarding his defense. During the evaluation, Mr. Mitchell told me that he was not “even less likely” than before to speak to his attorney.”

_

Mr. Mitchell and I were scheduled to meet April 28, 2009. Prior to my scheduled meeting with Mr. Mitchell, I spoke briefly to his attorney Robert Steele. Mr. Steele advised me that the defendant was communicating with his attorneys, as recently as the night before our encounter, that he had met with him on a number of occasions. Records indicate that he had met with his attorneys on four occasions between February 25 and April 27, including two occasions the week of my scheduled encounter with the defendant.

In our interview, Brian Mitchell entered the room with his eyes **already closed**. U.S. Marshalls led him to his seat and he maintained himself with eyes closed and silent. He was short, thin, with long, graying hair, neatly kept. Mr. Mitchell sat calmly in his chair throughout. He brought a tissue with him to the evaluation, for which he reached into his breastpocket to retrieve.

The interview began with a description of my role and the nature of the evaluation, the limits of its confidentiality and the use of videotape for both attorneys to review. The defendant did not acknowledge this instruction or any verbal communication from me. He neither opened his eyes nor responded directly to any of my questions. He did break into singing hymns very early in the interview, and served up a few. However, when I quietly waited through his hymns, he stopped singing altogether.

I repeatedly reminded Mr. Mitchell of our meeting representing an opportunity for him to communicate and to clarify his position on a number of relevant issues. At an early point, when I confronted him about his silence, he broke into a hymn punctuated by a shouted “Repent(!)” in a pointed and confrontational fashion that might evoke a response. When I greeted his singing with silence, this behavior extinguished.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 51 of 206

Mr. Mitchell and I were together for most of the period spanning 930AM to 3 PM, with a break for lunch. For the last hours, he remained silent, with no singing at all. During this time, he stretched and even massaged himself, keeping his eyes closed.

In the afternoon, I played the tape of the investigators' interview with Elizabeth Smart (from just after her rescue), hoping to speak to Brian about points he might dispute or wish to clarify from her testimony. Silent and with his eyes closed, as soon as he heard Elizabeth Smart's voice, Mr. Mitchell swiveled his chair, positioned it even closer to the closely-positioned screen, and transfixed of her with a smile. His smile began to disappear as she described his actions toward her. Never did he interrupt the tape with singing. I paused the tape and attempted to engage Brian in questioning, to no avail; the defendant swiveled the chair back around and closed his eyes and maintained silence.

PERTINENT BACKGROUND OF MR. MITCHELL

Brian Mitchell was the third of six children (Kayleen, Kevin, Laurie (deceased), Lisa, and Tim) born to Irene, a teacher and Shirl, a social worker. The defendant's parents, now divorced, separately recalled the defendant's trouble with sibling rivalry and lack of attention from parental figures. According to his parents, Brian Mitchell would seek attention through negative behaviors. Brian reportedly identified with his father, who was a proponent of a regimented vegetarian diet as well.

Shirl, educated in philosophy, wrote for over 50 years (and continues to add to) a 1066 page tome entitled, "*Spokesman for the Infant God and Goddess.*" In that the above referenced spiritual missive, Shirl represented himself as a divine emissary, though he and Irene were not especially active in the church, related Kevin Mitchell, brother of the defendant. Shirl was generally under-achieving after reportedly announcing to his wife Irene that he no longer wanted to work, but rather to write (though other than the "*Spokesman*" work, he did not ultimately create a literary legacy).

Shirl Mitchell admitted to being a neighborhood voyeur, had a yen for pornography, and acknowledged having reached into a young child's panties. Somewhere between age 5 and 8, related Shirl Mitchell, Brian "got into trouble with a couple of kids who were the same age" for "showing each other their genitalia." Shirl Mitchell recounts that he experienced enough difficulty in raising Brian that he once drove him several miles away and dropped him off, to give him the message that if he did not like where he lived, that he could live on his own. The defendant collected enough money to return home within a day.

Shirl was remembered by Irene as abusive to her. Other siblings described an environment of parental discord in which all of the children were exposed to verbal and physical abuse. While the other siblings, exposed to this upbringing and environment, advanced to be

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 52 of 206

highly accomplished, according to psychologist Dr. Tanya Thomas, Brian reportedly was in detention on multiple occasions, earned poor grades, and dropped out of school at age 16.

Around this time, Brian was also arrested for soliciting sexual activity from his next door neighbor, four year-old [REDACTED], who told her father [REDACTED] that Brian insisted she touch his penis after somehow drawing her into his home.

Referred for juvenile intervention at age 15, Brian's family characterized him as cruel and sadistic toward his mother and siblings, calling his mother a bitch and saying he wanted to see her dead. He was reportedly accusing his mother of trying to poison him.

Records from age 17 described Brian as violent for 3-4 years, noted he had poor frustration tolerance and that he was not one to follow the rules of others. He reportedly told his mother he wanted to screw her eyes out, admitted to breaking his brother's collar bone, beating his siblings about the face, was increasingly explosive, and would drag his sister by the hair – and enjoy it. According to [REDACTED], Brian's siblings were polite and well mannered children.

Brian's family reported that he had changed from being creative, and with lots of friends, to being a loner. According to the defendant's mother, she was never aware of his drug use until he was unexpectedly hospitalized for an anxiety reaction to LSD. But she recalls Brian being truant from school. Brian's father was reported to be harsh if erratic with discipline. Shirl told the evaluator that Brian identified with him, and was similar in that they both "felt no guilt."

When psychologist Dr. Tanya Thomas was working with him between July and September 1970, she experienced Brian as "bright, relates with an air of intellectual superiority." Dr. Thomas found Brian to be "emotionally cool," and "cynical and negative" about his siblings and their "artifice."

The psychologist observed that the defendant "knows psychological vulnerabilities of others and derives pleasure from exploiting them, externalizes blame to others." Psychological testing yielded a profile of an examinee who was "highly mature but highly antisocial." Dr. Thomas did not identify pathological paranoia or other signs of psychosis.

The psychologist concluded that "very alienated, uses intellect to frighten and humiliate." She offered that his behavior might be exacerbated by his parents' impending divorce. His later writing recalled "so much misery" in the family.

Unmarried and still in his teens, he impregnated his girlfriend [REDACTED]. Brian Mitchell married [REDACTED] in his late teens; they had two children together [REDACTED]. He and [REDACTED] reportedly heavily abused drugs. He was arrested for DUI in 1973 and in 1974 for

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 53 of 206

assault against his wife. Around this time he was also arrested for leaving the scene of an accident.

Brian and ██████ divorced in 1975. The defendant asserts her infidelity as the cause ██████, however, recalled him to have been physically abusive – including while she was pregnant - - and an irresponsible and absent father who would disappear for days at a time. Both acknowledged their drug use.

Custody was awarded to Brian in 1976, when he lived with the children at his parents' home. His mother Irene, remembered ██████, wanted to raise them. When ██████ remarried, she petitioned for reconsideration, and the court awarded her custody in 1977. In response, Brian absconded from the state with his two children.

Although Brian dropped out of high school, he did matriculate in college at the University of Utah, and accumulated 46 credits with a 2.6 grade point average. His grades declined substantially in autumn 1976, before he left the area.

The defendant reportedly lived with the Hare Krishna in West Virginia and left when “they became too strict,” by his account. Then, Brian reportedly drifted around New York and New England with no long term direction. According to Irene Mitchell, family visited him when he was living in Portsmouth, NH. Little account is available from that time other than to acknowledge that he heavily abused drugs such as LSD, and was socially involved in boundary-free relationships.

In one letter he wrote from November 1977, Brian mused to his mother of his grooming, “As for my beard and long hair, I think I’m more handsome (sic) without them as well, however, that is not the image I am after at the moment. Maybe I want to look like a serious fellow and there are other reasons as well, as you know I like acting, my hair and beard is part of an act...I can just as readily cut them off, just as I grew them, and to my delight, will shock everyone here who know nothing of my boyish mug.”

The letters demonstrated that he was actively hiding from ██████ and enlisting his mother’s help. His second wife ██████ recounted how he would brag that about how he fooled authorities for when he was not east, he would hide in his mother Irene’s home. ██████ did indicate that she once called Irene’s home, heard her daughter pick up the telephone, and called authorities – who went to Irene’s home and did not find this children. Brian successfully enlisted his mother’s silence about his whereabouts in New Hampshire, notwithstanding that he alienated his children from their mother in the process.

Drafts of letters composed by Brian Mitchell from the late 1970s and 1980 reflected linear thinking, rational focus, and a working through of his failed marriage. Anger and resentment toward his first wife did not conjure any semblance of pathological paranoia or

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 54 of 206

delusional ideas directed at persons. His written thoughts reflected much warmth and understanding for the frustrations of his mother and gifts of his father, and reflected their discussions and his attempts of support and respect.

The defendant returned to Utah, established sobriety at approximately age 26, and became increasingly involved in the Mormon Church on the influence of his brother Tim. This stage was when he met and began seeing his second wife, [REDACTED], in 1980. At the time, Mr. Mitchell was working at a Montessori School, reportedly in child care.

His writing also reflected a quest for self-betterment, although there was very little self-criticism relative to the struggles he had confronted in the past. “I want to become an Elder,” wrote Brian, and he noted discussions he had with the Bishop, who provided him with reading and encouragement. Meanwhile, he wrote only of efforts to “repulse” an “old weakness.” Ultimately, the LDS Church conferred upon Mitchell the Melchizedek Priesthood in January 1981. LDS officials did not speak to their awareness of his history of child sex abuse and kidnapping, at the very least, prior to the appointment.

From the defendant’s journal, Brian Mitchell’s early relationship with [REDACTED] was devout and idealistic, with prayer, reading, lectures, and shared meaning. The defendant’s writings expressed a wish for both he and [REDACTED] to come together despite each coming from family backgrounds of yet unresolved mending. They differed over his desire to date other women and her desire that they should not. There is no evidence of impulsivity to their engagement, but quite the opposite.

The marriage to [REDACTED] did not draw his family’s approval. Irene, for example, worried about combining the two children from his first marriage with the three children from hers and the financial hardship it would represent. Brian’s mother also raised concerns about uprooting children from schools when the families combined. Brian himself expressed concerns about how [REDACTED] would be, raising Brian’s children – whom he described as doing well. As their wedding approached, he became more and more negative about her.

The defendant was impressed with her friendliness to others, her encouragement of Brian, the way she listened. Brian felt [REDACTED] could be a better mother, although he wrote that each of her children openly expressed their love for her. At a stage when Brian had reservations about marrying, [REDACTED] was encouraging, perceptive, glowing, and winning, and their connection was strong. Even to the end of further alienating his family, the two moved their wedding date up to February 1981. She wanted to marry in the LDS church; according to [REDACTED], he suggested they could not because he had a “sexual problem.”

Brian Mitchell took a job in day care for three year olds at a Montessori School early in their relationship. According to [REDACTED], her three year old son [REDACTED] one day began to refuse to go to school. As [REDACTED] attempted to figure out what the

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 55 of 206

problem was, she recounts that the principal assured her son, “don’t worry, Brian’s gone, we let him go.” [REDACTED] learned of multiple complaints about Brian Mitchell, but not their details. “He was creepy...he made your skin crawl,” recalled [REDACTED]. “I don’t know how [REDACTED] ever got together with him, except that she wanted an active priesthood member to be the head of her family.” According to Tom Holbrook, husband of Brian’s sister Lisa and an employee of the LDS Church, [REDACTED] was religious but not to an extreme.

Brian and [REDACTED] had severe financial problems and Mr. Mitchell was underemployed, and they lived in a small (800 SF) space for the family’s size. Arguments were frequent within four months; he acknowledged that he “slapped her” that June, “and I decided I better find a room somewhere.” By his writings, Brian Mitchell would be leaving for stretches by the end of the first summer. According to [REDACTED], these would span as long as months.

According to [REDACTED], Brian heightened the pain of his criticism by putting her on the telephone unannounced to listen to his family criticize her (without their knowing she was listening). When they prayed together, relates [REDACTED], he would belittle her through the form of his prayer, asking God to help her overcome some shortcoming or another. He was controlling in how she ate and other aspects of their lifestyle.

[REDACTED]’s recollections of their marriage included instances of his manipulating her fears, specifically of mice and bugs. She recounted that after she had told Mitchell about her fear of mice; he arrived home one night with a live mouse in a jar. On another occasion, recalled [REDACTED], she found fifty dead mice neatly laid out on a cookie sheet in the oven. On still another, roaches appeared in great number in the kitchen after the defendant had “dreamed” of this occurring. When she screamed, he responded, “don’t worry honey, I’ll take care of that for you.”

[REDACTED]
[REDACTED] Brian ultimately placed [REDACTED] up for adoption in 1983, hoping to save his marriage. An examiner subsequently found [REDACTED] so antagonistic to their step-mother [REDACTED] that they would rather be in another home and away from their father. The examination also noted that Brian so alienated his children to the degree that they wanted nothing to do with him.

The defendant opted for foster care and adamantly refused to allow visitation by his mother Irene, claiming that she had undermined his marriage. Irene and his sister [REDACTED] charged that Brian was mentally ill and challenged his decision. A psychological evaluation by psychologist Randall Oster of December 22, 1983 concluded that Brian Mitchell was not mentally ill. The transfer of custody proceeded.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 56 of 206

█████ bore Brian two children ██████ According to ██████, Brian beat her regularly and once knocked her unconscious when she was pregnant with Joseph. ██████ asserts that she went to the Church with a range of concerns about him, ranging from his verbal and physical abusiveness to his having brought books home on Satanic worship. At each such point, according to ██████, her Bishops advised her to work things out in the home, that she needed to respect his authority, and that if she divorced Brian she would lose her recommend.

Brian Mitchell was respected within the church; those interviewed saw no sign of instability, or decay in him, no disorganization, no unusual distress or pathological preoccupation. John Featherstone, who went to church with him at that time, recalled Brian Mitchell as friendly and stable, and did not know him to use drugs or alcohol.

█████ filed for divorce in late 1984. ██████'s daughter ██████ from her first marriage later came forward to say that Mr. Mitchell had molested all three sisters (█████), and had insisted upon their silence. Charges against Mitchell, however, were never filed at that time. ██████ has maintained that she was repeatedly molested from within weeks of the marriage, abuse which persisted from age 8-12, and her efforts and those of her sister ██████ were powerless to get him to stop.

According to ██████, Mr. Mitchell told her, “no one will believe you if you told.” She adds that their local Bishop did not believe the complaints at the time, and prosecutors thus never pursued charges against Mr. Mitchell.

While Darrel Newbold, formerly a Bishop, stopped short of endorsing this comment, he noted that Mr. Mitchell “would tell a story about this and this...he would tell a story so well...then we would find out he was concealing things, then the story would fall apart.”

█████ later reported to authorities, along with abuse complaints involving ██████ that she had found very sexually suggestive pictures ██████

Paul Meacham was the Stake President during Brian and ██████'s difficulties. He recounted Brian as “fairly quiet, mild-mannered and clean cut.” When complaints first emanated from ██████, conceded Mr. Meacham, “he had maintained the appearance of a right-living man. It was hard not to believe him, and we called him in two or three times.” However, added Mr. Meacham, “Eventually it became clear that he had a Jekyll/Hyde

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 58 of 206

Interviewed after the arrests on this case, both [REDACTED] ah indicated that they had not recently been in touch with their father. Shortly after the defendant's arrest, [REDACTED] reflected, "it hurts me that this has to still be going on after this many years." [REDACTED] commented in the same interview, "I feel at peace that he's been detained."

On the day of his divorce in November 1985 from Debra, he married Wanda, whom he had met in an LDS divorce support group setting. Wanda was devout, and a dedicated musician and aspiring church organist. She was herself reportedly emerging from an abusive relationship to a controlling man. Wanda's daughter Andrea, a case worker with Division of Children and Family Services (DCFS), stated after Mrs. Mitchell's arrest on this case that prior to her meeting Brian, [REDACTED]

The defendant, then 31, and Wanda, 39, were united in a civil ceremony in 1985 and a church ceremony three years later. It would be Brian's longest of three marriages. The defendant had worked at OC Tanner from 1984 to 1987 in shipping and receiving, paid 5.75 an hour, before being promoted to die cutter.

Wanda had been psychiatrically hospitalized, was (erratically) taking medication for problems that included mood instability, and also diagnosed with dependent personality disorder, among other things. She came to write of how much she valued an appreciation of herself as an obedient wife.

Brian Mitchell now moved to a different stake. Darrell Newbold was a Bishop who had had some contact with Brian Mitchell and knew of his relationships within the LDS hierarchy at the time he had been married to [REDACTED]. According to Mr. Newbold, Mr. Mitchell would argue with his young Bishop, Larry Shaw, and challenged others in the church leadership. The more appointments he had in the church, noted Mr. Newbold, the more Brian related with a standing that was beyond what he had achieved. "He would push the limits of bounds, he would jump over others to do things," and would undercut the LDS infrastructure to advance himself, according to Mr. Newbold, who added, "He started dictating to Larry Shaw and the other Bishops."

This impression was consistent with that of Dick Camp, who was married to Wanda's sister. "He was always trying to preach his doctrine, but he would take things out of scripture and just twist them to serve his own purpose. It was clear he was doing his own thing, even though he had a position in the church."

With a fresh start, Brian and Wanda Mitchell became increasingly involved in the LDS church. The defendant performed ordnance work and held positions such as a counselor in

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 59 of 206

the stake mission presidency, then member of the stake high council, then counselor in the bishopric of the Salt Lake City Ward.

According to Mr. Meacham, “We were amazed that with his background, he was able to obtain a temple recommend. But he was very capable of keeping up a facade. It was easy to see him as a good kid, he was polite, very normal, and handled himself well; it’s understandable that he could lie and get himself over.”

Gary Shaw served the church with Brian Mitchell; Mr. Shaw recalled Wanda as “A great organist...she played with a lot of emotion.” Ms. Mitchell gave well-attended recitals as the 10th Ward organist, recalled Craig Sudbury, a former Stake President. Joan Fox, a fellow organist, remembered how Wanda would practice as much as four hours a day, and how she dreamed of playing at the Tabernacle.

Wanda introduced Brian to some of her children as early as Christmas 1985. According to LouRee, “My mother told us that he had just gotten out of rehab.” “My brother and I both thought he was kind of creepy,” recalled Mark of their first impressions. “We used to make fun of his breathy voice. It was like he was too polite.” By the late 1980’s, however, circumstances brought three of Wanda’s children -- Derrick, LouRee, and Mark – under the same roof with Brian and Wanda. It would not last.

“I got along with him pretty well,” recalled Derrick. “We were both into fitness...there was a certain creepiness to him, but otherwise he seemed like a real normal guy.” Derrick had gone to live with his mother after badly breaking a leg and stayed with them for approximately one year. Mark also noted, “He was highly intelligent...he read a lot...he had a whole library on self-sufficiency, survival, camping” and Mark appreciated the defendant’s handiness and skills at do-it-yourself.

LouRee Gaylor recounted that Brian Mitchell was “insanely smart,” and at the public library “24-7...He would study books on not paying taxes and mind control and how to hypnotize people and how to survive in the wilderness.” Elizabeth Smart would also say, in our later interview, that the defendant told her that he had studied hypnosis.

“Back then,” recalled Wanda’s mother Dora Corbett, “there was a lot of fighting and yelling between Brian and Wanda. She stood up for her rights then, but he finally got her controlled.” According to LouRee, “I remember hearing my mom screaming at night...heard him throwing her around like a rag doll.”

There was fighting with the children, too; “He had all of these rules, trying to control them, not acting like a father, but just trying to control them,” explained Dora. According to LouRee, the children were constantly being called to repent, and their parents demanded

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 60 of 206

that they pray for literally 2-4 hours. She was not allowed to see her friends, and Mark recalled LouRee was forbidden from wearing makeup.

Derrick recalled, “My mother was always religious to a fault, and we would fight when she would try to force her beliefs on me. She was like that all her life, he just went googoo for God, but he didn’t really change.” According to LouRee, Brian was already referring to himself as a prophet when they lived together.

“I don’t know whether my mom needed a savior and made him that way, or vice versa,” reflected LouRee, “but it became an excuse for anything they did because they were higher than that. Being a prophet meant never admitting anything was wrong.” For Wanda, Brian was also entrusted with casting Satan out of her when she felt she had been taken over by Satan, and the defendant was able to provide his wife accordingly.

“They put a lock on the TV so we could only watch the Mormon Channel,” related Mark. “I eventually moved because they were going over the top.” “The mental stuff was always worse than the physical,” reported LouRee. “He would take away food and make us fast, put locks on the refrigerator and TV, that kind of thing.”

“Mom made me get a job at age twelve to pay her for me to stay there,” added LouRee. “I was looking for love and acceptance after being in foster homes...there was no love there. They wanted me for child support and to get back at my dad.” LouRee was younger and stayed in the home longer than her siblings, but related a number of painful experiences with both Brian and Wanda before her father essentially whisked her from the home late one night.

On one occasion, according to LouRee Gaylor, she ate what she believed to be chicken for dinner. The next morning, she went looking for her pet rabbit, and could not find it. It was then that Wanda and Brian told her that what she had believed to be chicken was actually her rabbit. According to LouRee, Wanda smiled as Brian stayed coolly in the background, while LouRee cried bitterly.

Mark also experienced an incident of animal cruelty with Brian Mitchell. Their dog was one day missing, and the defendant reportedly told him matter of factly that he had shot the dog in the head. Garth Rosenlund recounted that Brian told OC Tanners colleagues at the workplace that he had shot the dog in the head in front of the children.

From LouRee’s perspective, Brian Mitchell took pleasure in the psychological suffering of others. She observed “a smirkiness” about his doing little things that others would find painful. Her mother, for example, was very passionate about playing the piano. When Wanda would practice, according to LouRee, she wanted complete quiet, hoping that

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 61 of 206

Christ could hear her playing. Brian, recalled LouRee, would invariably make noise or create some interruption in the background.

“He gave me the creeps,” noted Ms. Gaylor, who lived in the home from age eleven to twelve. “His caress was engulfing...I felt like even if I wore a turtleneck, he would undress me.” She reported that eventually, Brian began coming into her room and caressing her

[REDACTED]

[REDACTED]

[REDACTED]

These experiences coincided with Brian Mitchell’s more active involvement in the LDS Church, where he was a councilor in the Bishopric and an ordinance worker in the Temple. Among other responsibilities, Brian Mitchell would act in the role of Satan in the production at the Temple. This concerned his mother Irene, she recalls, for fear of its influence on him.

According to Craig Sudbury, a former Stake President, the defendant and his wife showed no sign of mental illness. Mr. Mitchell was “charming and well liked, dependable in his assignments. “He would do anything for the church, would always show an interest in them and play into what they were saying,” observed LouRee. “But it was fixing his image that was really important to him. When we were in church, he would always carry on that everything was fine,” but he never said anything about himself and he showed no interest in anyone when we were not in church.”

At OC Tanner, Where Brian Mitchell worked as a die cutter, his coworkers knew him to be “obsessed by faith” with his religious intensity, recounted Garth Rosenlund, his supervisor. According to Mr. Rosenlund, Brian had a familiar pattern of bringing up a Mormon scripture and interpreting it in a way that others disagreed with, but wanting to argue the

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 62 of 206

point. “He would say that ‘The Prophet is wrong,’ and go on and on talking about it,” unafraid of disagreeing with elders. “He was doing his own interpretations, distorting the canons of the church and then just insisting he was right and he knew better like he was above and beyond. It would put people off.”

Mr. Larsen experienced Brian as “devout, followed everything to the letter. We got along so well because he and I shared the same dogmatic and inflexible views. The reason he found the workplace so negative was because he could not put up with people who did not agree with him. I didn’t mind,” remembered Doug.

Brian was intensely disliked by coworkers, but it was not because of his religiosity, or even that he preached. “Brian would get people going...he had a way of bringing something up to get under a person’s skin. He would just get people going,” noted Garth. He was always very convincing in making his point. But then, if someone started getting the better of him in an argument, he would just start singing hymns. That would shut down the whole discussion.”

So routine was this pattern of provocative preaching culminating in hymn singing, according to Mr. Rosenlund, that Brian fashioned a hanger with which he could turn pages of his book of hymns so that he could sing while he worked. When others would complain, the defendant would respond with “that how I sing.” Added Garth, “when we see him on television singing like that in court, the guys at work say, “he’s just taken his act to a wider audience!”

At OC Tanner, according to the supervisor, Brian’s talking would slow down the workplace. When Mr. Rosenlund redirected Brian, he recalled, Brian would “look and just stare at you. He did not like anyone having authority over him.” While Brian Mitchell was “a good worker, when he worked,” the lost productivity for his initiating these religious discussions would prompt Garth to sit down with Brian and threaten him with suspension if he did not stop talking so much to others and slowing them down as well. “That would work, to a degree, he recalled.

“Brian was earnest, he would get very charged up about whatever he felt strongly, but not ranting - just intense,” observed Gary Shaw. Offered Tom Holbrook, his brother-in-law, “He did not want to listen...he was always right.” None of his stepchildren interviewed for this examination recalled his reading about religious themes, voracious reader though he was. Explained LouRee, from her perspective, “he came across as really religious but he wasn’t really into it.”

The defendant, recalled Mr. Shaw, was known for being strict and altogether intolerant of worldly trivialities, from certain food to idle banter. “Both he and Wanda were very sane,”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 63 of 206

reflected Mr. Shaw, who like Mr. Sudbury, saw no sign of paranoia. Explained LouRee, he was always easier to appreciate for having a lack of humanity than for being irrational.”

“Each would allow the other to control a situation,” observed LouRee. As time went on, her mother’s influence receded. “Mom started making foods differently,” observed Mark. “I came to think he was brainwashing her when I saw him throw out all of her medicines.” According to Dora, “When a man gets too much authority, he overdoes it. We became convinced that this authority was going to his head.” Mark offered, “He used to have this attitude like “I’m OK, I’m led by God so whatever I do is OK.”

From late in the 1980’s Dora Corbett knew of Brian’s plans to leave their home. “He didn’t want to pay taxes,” commented Ms. Corbett. He didn’t want to be responsible.” Tom Holbrook, the defendant’s brother in law, indicated that Brian increasingly adhered to the tenets of Bo Gritz’ Patriot movement, specifically that income tax was a temporary measure and its continued application in America is unconstitutional.” Mark added, “He was fed up with the government, he was mad about taxes and he did not want to pay taxes...he read a lot of books on self-survival, he just wanted to be a free man.”

“He had all of these ideas about tax evasion that he was trying to get us to go along with,” related Tom Holbrook. “He was always very convincing, but no one was very comfortable with it.” And with that – and not a religious schism -- according to Mr. Holbrook, Brian Mitchell began gradually drifting away, stopped attending family functions, and gradually ended his contacts with other family. Garth Rosenlund did not remember Brian bringing anything up at OC Tanner about tax evasion. However, the supervisor did recall Brian to have been particularly incensed about the federal government raid on the Branch Davidian cult’s compound in Waco that killed seventy-five in April 1993.

According to Derrick, even as they were living in a home, Mr. Mitchell was reading books on survival among the elements. “He would read all these book on survivalist stuff, living off the earth. He was a hunter and camper, and very methodical. It seemed like he was planning something. He is a lot smarter than he lets on,” he observed. LouRee gained a similar impression. “Part of what I thought was so intimidating was the sense that you knew there was much more, and you could not take him at his word.”

Mr. Mitchell increasingly oriented toward fundamentalist LDS thinking, and drifted away from the mainstream LDS church. He had been influenced by the Idaho-based Bo Gritz (whom he later characterized as a prophet) Patriot movement, which advocated individual freedoms, gun rights, not paying taxes, and living an undocumented lifestyle with no recorded address or social security number.

One other fundamentalist who influenced Brian was C. Samuel West, a naturopath proponent of his own school of healing called lymphology. The defendant reports that he

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 64 of 206

“became miraculously aware of the work of Dr. West” in 1994 and to this day considers him to be a “true prophet.” Indeed it was the Corbett family who introduced Brian Mitchell to lymphology; after Dora’s husband Glenn recovered from prostate cancer with the help of Dr. West’s methods.

Lymphology was actually more than a school of healing, but an actual fundamentalist sect, the International Academy of Lymphology (IAL) that asserts to reflect the science behind Christ’s miracles. According to Alyssa Phillips, Dr. West (as he is known to his adherents) essentially organizes the West compound around selling books, DVDs and other materials to others around the world, involving each of his seven youngest sons in various telephone sales capacities.

Mr. Mitchell grew close enough to Dr. West to work for him vending lymphology paraphernalia. Brian left OC Tanner in 1994 in order to work for the IAL. At the time, he was earning approximately 400 dollars a week and was responsible for a monthly child support of 100 dollars per child.

The defendant was not missed at OC Tanner, according to his supervisor. “There was always something squirrely about him, he gave you the creepies,” reflected Garth. “He was very smooth, and very convincing, but you always knew there was something he was not letting on,” he added. “I was never afraid of him, because he was such a little guy, but he would get angry so quickly, and there was a real anger there, you could sense it.”

The male-dominated workplace included enough camaraderie that there was the occasional collaboration for charity or other kindness or good cheer, but “Brian never did anything for anyone but himself. He was always just doing his own thing,” remarked Garth. Mr. Rosenlund added that no one at the workplace was too surprised, when Mr. Mitchell was implicated in the Elizabeth Smart kidnapping, although no one had recalled him to be a pedophile. Asked whether he thought the defendant might have been mentally breaking down, based upon seeing him every day, Garth replied, “no, he was always like that...he wasn’t sick, he was just provocative.”

Wanda played her third career organ recital at St. Mark’s Cathedral, on March 5, 1994. According to her mother Dora, it went very well, approximately 200 people attended, and she was gratified for the achievement. Ms. Corbett could not recall any disappointment associated with that recital.

Brian increasingly railed at what he felt to be aspects of the church that he felt reflected weakness of faith or virtue, such as its materialism. Gary Shaw recalls Brian speaking of becoming a prophet for the poor, and increasingly preaching his own ideas for teachings. “It started slowly,” recalled Dora Corbett. “He started to have his own plans and go his own way,” but he wasn’t very open with others.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 65 of 206

Neither Mark or Derrick Thompson nor Dora Corbett knew Mr. Mitchell's move to sell their possessions and move into a five wheel trailer as irrational – rather, as financially motivated. Wanda, however, told Dr. Cohn in her own evaluation that she had felt inspired by the Lord to simplify their life.

Purchasing a fifth wheel trailer for a truck, Brian and Wanda rid themselves of all of their belongings in the home, and Ms. Corbett bought Wanda's piano to save it for her. In order to get their teeth fixed, they sold the wedding ring Brian had made for Wanda. "I always thought that selling her possessions was a way for him to get control over her," observed Dora.

"They went homeless to stop paying child support, and stopped working to avoid paying income taxes and child support," recalled Ms. Corbett. Brian and Wanda moved to a Heber City campground, next to his sister Evelyn and brother-in-law Dick. Scott Dean, the defendant's brother in law, recalled that when Brian had a full time job, past financial commitments came calling, and the couple would not ask for help. As things worsened, the couple began living in one apartment for a few months, then skipping out on a rent debt and moving on to another apartment, again not paying the rent until finally leaving.

"Brian didn't feel like he had to tithe, either, but he had to pay it to get a temple recommend. You had to be interviewed every year to get a recommend. They stopped attending church when they went into the mountains," said Dora Corbett. They abandoned paying bills as well – including those cosigned by other family members. Brian Mitchell later characterized this transition as when he and Wanda "left the world."

Brian and Wanda's difficulties did not resolve, however, with "leaving the world." According to Ms. Corbett, they continued to quarrel often. Then, with little warning to Wanda's family next door, Brian and Wanda abruptly left Heber City after some months. According to Evelyn, Wanda asked her assistance in discarding their already pared down belongings. It was then that Evelyn found photos that Brian had been keeping [REDACTED], naked, in sexually provocative positions. As Evelyn related, "these were little girls like six years old...it really disturbed me." She confronted Wanda about this and urged her to confront Brian. According to the feedback she received from Wanda, Brian dismissed the concerns with a laugh and suggested this was no big deal, that "everybody does this."

Brian and Wanda reportedly relocated to Clearwater, Idaho to live amongst naturalists and survivalists in an undocumented community where residents live off the land. In the course of doing so, they situated even farther from their nuclear families. According to Ms. Corbett, they told her they would "house sit" and "stay in people's homes and take care of their dogs." Dick Camp recounts that they returned after Brian alienated others in the

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 66 of 206

community with his inconsiderate use of wood and then, when challenged, his threats to others.

With modest means and increasingly attaching poverty to piety, Brian and Wanda periodically drew from family support. However, Brian and Wanda's inconsiderate and entitled style of dealing with family estranged relationships even further. Dick Camp spoke of how he would argue with Brian about getting a job; the defendant would respond that he had lived off panhandling before when he was back east, and that "people will give him money...the Lord will provide."

In 1995, Brian and Wanda abandoned their connections to family and Utah and took to the road, planning to visit sites of LDS historical interest and to seek "rest and spiritual healing." Joan Fox, Wanda's organist colleague, encountered the couple near the LDS Temple in Salt Lake City shortly before they left. According to Ms. Fox, Wanda told her they were going to go east, where she would play recitals on organs in major cities. Wanda reportedly said she was hoping to build up her resume to make herself experienced enough in prestigious venues to earn an invitation to play at the Tabernacle. Brian was with her, recalls Ms. Fox, and he was quiet, friendly, and reserved. Ms. Fox remarked, impressed, that "it was amazing" that Brian would be so supportive as to travel with her in that way.

Doug Larsen was less aware of Brian Mitchell's anti-tax and Patriot influences. However, he recalled the atmosphere in the wake of LDS President Ezra Benson's May 1994 death. Many traditional Mormons, including some fundamentalists, worried about the direction the Church would take under the next President. "We all dealt with it differently," said Doug. "Some saw this, in their faith, as part of what we foresaw for the Millenium – an apocalyptic struggle between the forces of the righteous and the forces of wickedness. I think Brian was influenced that way religiously, he was pursuing it a lot more differently than I was."

Wanda chronicled their "Journey Through the Land" from 1995 to 2003. The early part of their sojourn lasted two years. The journey began at the birthplace of Wanda's father, then to family and friends, then meandered through the mountain states and then, through the LDS church historical locations in places like Spring Hill and Tower Hill, Missouri the Liberty Jail, Nauvoo and Carthage, Illinois, Kirtland and Hiram, OH, then Palmyra, New York. "It impressed me to observe (Brian Mitchell's) mental awareness and alertness in his ability to find the way around by following maps and directions," Wanda wrote. The couple would reportedly take part in church meetings and ask to attend sacrament.

With few resources, Brian and Wanda panhandled and even took to eating from garbage and discarded foods. The charity of strangers inspired in them a sense of God's grace, even as Wanda acknowledged how unusual it was to travel by hitchhiking. Wanda was heartened, for example, that "more than half of the people who had passed us and picked

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 67 of 206

us up said they had never picked up a hitchhiker before, but the spirit told them to return and give us a ride.” One such acquaintance was Phyllis Koch of Quincy, IL. Her son had picked them up in Hannibal, MO, as Brian and Wanda were heading to Nauvoo.

According to Phyllis, she spent several hours with the hitchhikers. “They seemed very nice,” she recalled. “Normally I would not pick up hitchhikers, but (Wanda) was so tired.” Brian reportedly said they were cleansing their bodies, and therefore could eat only a certain fruit diet; he would not allow Wanda to drink ice water. Phyllis experienced Brian as very domineering and controlling, and “(Wanda) could only do what he said...if he said anything to her, she would just look down.”

Phyllis said she took them into her Quincy home and living room, where they spoke for awhile, though Wanda was more quiet. Brian impressed Phyllis as “knowledgeable.” During that meeting, Phyllis did not experience either of them as bizarre, irrational, disorganized, or disoriented. When they ate, however, Brian ate the peels from the fruit, which she experienced as odd. Ms. Koch smelled no alcohol on either of them.

Brian Mitchell represented them as Mormons, and the two said they were headed to the Northeast so that Wanda could play organ recitals. The get-together wound down, recalled Phyllis, when Brian began criticizing her Catholic Church and revisiting the mistakes and failures of different Popes. He was not preaching and did not represent himself as a prophet, but Phyllis objected to what he said and so the day progressed and she drove them to their next destination, Nauvoo.

According to Ms. Koch, she insisted on paying for a hotel in Nauvoo, as Wanda appeared to be tired and in need of a hot shower. Brian, whom Phyllis experienced as fairly clean, was against it but Phyllis insisted. As they parted, Ms. Koch related, she whispered to Wanda that she would arrange for the motel to place a pitcher of ice water outside the door, and Wanda whispered quietly “Thank you.” In addition to purchasing a hotel room for them, Phyllis stated that she gave them 25 dollars.

The couple did travel toward the Northeast, and Wanda pursued her mission of playing church organ recitals in Boston, New York, and Philadelphia, then proceeded south to Florida, west to California, and even to Hawaii. When they were destitute, wrote Wanda, they would pray, and someone would come around who would ultimately feed and deliver them to their next destination. Wanda noted that other homeless individuals taught them how to live homeless.

Their travels deepened their absorption in preaching and spiritual discovery, and along the way they took on different Biblical names – David and Elada Shirlson, the last name reflecting his father. According to Wanda, they took Shirl’s name “because his father was an elect man of God.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 68 of 206

The two aimed to dress in white robes and to assume all the trappings of pioneer piety at every turn. On occasion, Brian Mitchell built and towed their belongings in conspicuously styled handcarts not unlike that seen in the courtyard of the LDS Temple in Salt Lake City, and those used by early Mormon pioneers. Brian and Wanda did not distribute materials or invite others to join them in their travels. There is no evidence that beyond traveling, they were trying to establish a formal ministry.

The two returned to the Salt Lake City area. “We proceeded to simplify our lives,” Wanda wrote, adding that the two returned to the Utah area “with the unshakeable faith to live in a tent.” They shifted their living situation from various rent-free situations, such as the West compound in Orem, where they would stay for weeks or more at a time, or even longer with Mr. Mitchell’s mother, or with Wanda’s parents, or have periods of homelessness, in which they lived up in the mountains. During the day, they were a familiar spectacle in Salt Lake City, panhandling in the downtown area.

According to Joan Fox, she saw Brian and Wanda once again when they returned to Salt Lake City. According to Joan, “they looked good.” She recalled Wanda saying they were living in a community in Idaho, but was reluctant to ask whether it was LDS or a splinter sect.

Dora Corbett remembered Brian and Wanda’s stay with them during the summer after they had returned from their two year journey. “He was very fussy about what to eat, but he expected me to get it... (Brian and Wanda) came in and out, he was doing his panhandling. They bought a teepee, we tried to help them out, we gave them kettles and dishes, we even got them a wool pad to lay on. He would take but he would never pay for anything,” recalls Ms. Corbett, adding, “He would make people feel sorry for him, but he was manipulative.”

Observed Derrick, “he was making good money... they could afford to go to the Wild Oats market and buy five dollar apples... but he would never have to pay taxes on any of it because they were under the radar.”

On September 21, 1997, Brian and Wanda Mitchell formed the Seven Diamonds Plus One Study and Fellowship Society, meant to emphasize the importance of the ***King James Bible, Book of Mormon, Words of the prophets of the LDS, The Golden Seven Plus One*** by Dr. Samuel West, ***Embraced by the Light*** by Betty Eadie, ***The Literary Message of Isaiah*** by Avraham Gileadi, and ***The Final Quest*** by Rick Joyner, along with “inspired sacred music and song and the testimonies of all the humble followers of Jesus Christ by the power of the Holy Ghost.”

Alyssa Phillips was engaged to Benjamin West, son of C. Samuel West, in 1997. According to Alyssa, who moved into Dr. West’s home with Benjamin, Brian and Wanda came and

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 69 of 206

stayed in the West home there for several months in late 1997 and early 1998. She characterized Brian as brilliant, a dominant personality, and a very focused thinker, to whom the numerous occupants in the West home related as a prophet.

At the time, recalled Alyssa, Brian and Wanda had built a handcart and urged the West family to join them in a life of renouncing material possessions. According to Ms. Phillips, the Wests did not regard this idea as irrational; rather, they admired Mr. Mitchell as a man of selfless piety, someone who practiced as he preached, and who was willing to make sacrifices to the level of extreme conjured by scripture – sacrifices they could not themselves make.

For this reason and due to the force of his personality, Brian Mitchell was, according to Ms. Phillips, the dominant religious influence in the West home for as long as he lived there. Brian was “soft spoken, incredibly intelligent, calculated, always had a precise and articulate answer.” She added, “He demanded respect, he demanded to know that we knew he was in charge.”

Mr. Mitchell would state that he was receiving revelation, and pass the revelation along to Dr. West or to the other men in the home. Both Mr. Mitchell and Mr. West represented themselves as prophets, and Ms. Phillips observed that the tone of their revelations were complementary, adding, “I always saw them in sync.”

Alyssa explained that the International Academy of Lymphology’s (IAL) teachings were grounded in Mormon theology. So were some of its practices, such as giving testimony. However, the testimony expected in the West home was “to affirm the truthfulness of Brian Mitchell (then known as David) or Dr. West,” added Alyssa. “Not giving testimony meant to lose eternal salvation.”

[REDACTED]

So absolute was the control that the men exerted over the women in the West home that Alyssa described herself reaching the point of being unable to make a simple decision. When she struggled, the family referred Alyssa to Brian to discuss her problems with him. She spoke of being completely broken down to the end that she became completely dependent upon the IAL to rebuild herself. The thinking was “Now that you have nothing, you have us, as long as you do this.”

Ms. Phillips was 19 at the time she became engaged to Benjamin West; all of the men in the household, she recalled, preferred women who were “barely legal.” “The thinking was

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 70 of 206

when women are more malleable, you have to bring them in young when you can shape them.”

Alyssa recounted that at that time, Mr. Mitchell and Dr. West were speaking of developing their own sect together. Brian was a driving force for pursuing plural marriage, and doing so as soon as possible. This was communicated as a matter of IAL growth strategy rather than a divine revelation.

Dr. West, on the other hand, still valued an affiliation with the Mormon church and did not want to adopt plural marriage among the family members (which consisted of five adult sons of West) until it was no longer deemed illegal by the state. Disagreement over polygamy was one of the reasons, recalled Alyssa, for Brian and Wanda to ultimately depart from the West compound in Oren, Utah. They would return to the West home on several occasions and found themselves welcome.

Brian and Wanda’s pattern of going their own way and not answering to others added to the estrangement from their families, although they would come and go from brief stays at Irene’s property until 2002. Tom Holbrook, recalled that Brian and Wanda “took advantage” of Irene’s gentle manner. “They were staying, rent-free with an elderly woman who was on fixed income and who needed help around the house, and they did nowhere near their share,” he related.

Scott related that family would try to encourage Brian to take more responsibility for his life, and would even gently encourage Irene to push him out, to no avail. “It was inappropriate for him to have his handcart on her property, or even just his teepee with a stove inside. We saw him as manipulative and controlling of mom...he would say what to say to get what he wanted. But we didn’t see that he couldn’t function. We just saw that he was not taking responsibility.”

“One day,” recalled Ms. Corbett, “Brian sat down and said he would like to use our home to explain his teachings. He talked about having people they would meet come over for meetings, that he could use the house as a meeting place, and Wanda could use the piano to play for the visitors. The more I heard the more I decided it wasn’t for us, and I just said no.”

When asked why she declined, Ms. Corbett replied that Brian was not preaching from the Book of Mormon, and she felt that Brian Mitchell’s teachings were a departure from her Mormon faith. “I could see that Brian was presenting the idea to me as an opportunity for Wanda to play, but he would really just be controlling us. I had too strong a testimony of the truth of my church.” Mr. Mitchell’s response to being spurned was to gather their things and to order his wife, “let’s get our things and leave!”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 71 of 206

Their families, wrote Wanda, refused to refer to them as “David” and “Eladah.” In so doing, wrote Wanda, these relatives “who refuse to address us by these new names are rebellious and fail to recognize and acknowledge us as his servants.”

In downtown Salt Lake City, Brian and Wanda now became a familiar sight in their white robes, panhandling passersby. Tom Holbrook related that Brian and Wanda would go away for months on end usually traveling to warmer climes during the winter. Asked whether there was ever a serious discussion within the family about getting Brian psychiatric care, Tom Holbrook said this was not even raised for discussion. Scott Dean said he observed that “When Brian knew he didn’t have to act like that, and his guard was down, you could carry on a normal conversation with him and see that it was all a show.”

Ultimately, Mitchell came to more readily advance the idea he was a prophet and meant to deliver a message of repentance. Wanda enthusiastically subscribed to this belief about his identity. He assumed the name Immanuel David Isaiah, Eladah became Hephzibah. Mr. Mitchell reportedly arrived at these names based upon research at the Stanford University Library.

Brian and Wanda were known to completely ignore family and friends who happened upon them. Wanda’s children, in our interview, took even to accosting and then standing in front of her. Derrick, for example, recounted spotting Wanda and Brian walking together, years after she had cut herself off from them. “I got right in her face...she just ignored me, didn’t look at me, they just walked around me. I think Brian forbid her from talking to me or her grandson anymore.” “All the while, we thought he was brainwashing Wanda. He would ignore their own children. They would strut along that they were better,” recounted Ms. Corbett.

A social worker who brought them toiletries observed that Brian would not even acknowledge her presence. Doug Larsen, notwithstanding the history of their friendship, likewise told of encountering Brian Mitchell on a street corner and being completely ignored. “I think he just decided to cut off Brian Mitchell as if he didn’t exist anymore,” observed Doug. Scott drew these impressions from Brian in their conversations. I would remind him of his responsibilities to his kids, and he would bring up act like he had some religious calling so that wasn’t part of his life anymore,” he noted.

On the occasion of Glenn Corbett’s funeral, the family confronted robe-clad Wanda, who had come with Brian and remained in the back. When Wanda rose to leave after the service, LouRee chased her mother down and challenged her for abandoning the family; Brian Mitchell turned and shouted, “Repent Ye! Sinners of Israel!” before leaving with Wanda and exiting on a bus. At the time the bearded Brian was carrying a walking staff.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 72 of 206

Wanda Mitchell's Journey Through the Land, indicated that on November 23, 2000, Mr. Mitchell announced to Wanda that he had received the revelation that plural marriage was to be restored.

Brian continued to communicate what he termed revelation about plural marriage, that Wanda "must heed and obey the law of celestial marriage or suffer eternal consequences." Wanda, ultimately, encouraged him to fulfill this calling. He added, recalled Wanda, "You are given the law of Sarah and Rachel for Immanuel will lust after his wives."

Mitchell came to become involved with a Utah woman, Kellie. "The woman laid claim to him and to exclude me," wrote Wanda, so Ms. Mitchell "invoked the law of Sarah and said she has no further claim upon him." According to later interviews with Elizabeth Smart, Kellie was sexually involved with another man while carrying on with Brian; Wanda was furious when she learned Brian was with this other woman and asked him to leave her. According to Elizabeth, when he went to Kellie, she was with another man, so he returned to Wanda.

Brian and Wanda attempted to recruit an engaged woman, Julie Adkison, into polygamy. According to Ms. Adkison, she first encountered Brian Mitchell in August 2000 while working at the Crossroads Mall in a shoe store. Intrigued by his appearance, Julie approached Brian and asked his religion. He told Julie he had no religion but believed in Christ. When she then told Brian she was a Kingston (member of a polygamy sect), he looked at her strangely. When she then queried him about whether he knew who the Kingston polygamous clan were, he said that he did. Then, he said that he did not just believe in Christ, but he was Christ. Appraised Julie, "I figured it was in the sense that he followed his teachings and stuff but he actually believed that he spoke for Christ."

Subsequent to that encounter, Ms. Adkison reports that she saw Brian Mitchell a number of times in the downtown area. They spoke, and even on other occasions in subsequent months, she asked him about his life. According to Julie, Brian Mitchell brought Wanda to the store in which she was working one day. Wanda hugged her, and they persuaded her to meet them across from the Temple.

In the proceeding encounter in January 2001, reported Julie, Mr. Mitchell detailed how he and Wanda had been members of the Church of LDS, and what they had done in the church, and that they came to learn more things, things she could relate to as a Kingston. Brian went on to say that she had made them realize that it was time to begin living polygamy, that they had not felt ready until now. Brian Mitchell looked at her ring and reportedly observed, "I'll bet that's worth a lot of money," and invited her to sell it and go into the mountains and live with him and his wife, that they could live off the ring for a few months.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 73 of 206

“I thought that was pretty bold,” reflected Ms. Adkison. She experienced him as communicating to her as one might do in a church. She declined the invitation, but he wrote her a four page letter in March 2001, soliciting her into a plural marriage. The coherent but clearly solicitous letter smoothly graduates into God’s reportedly relayed voice, “Can you deny my spirit, that it is I that speaks to you through my chosen servant Immanuel? Seek ye to be one with Immanuel and with Hephzibah that ye also be one with me.” He and Wanda hand delivered the letter and turned and left, never to be seen again.

Asked what she made of Brian Mitchell, reflecting on this series of interactions, Julie replied, “I don’t think he was crazy. He didn’t come across as crazy at all, just like a fanatic.”

The defendant later told Elizabeth Smart, after taking her, that he was commanded by the Holy Spirit to seek out girls who were age 10 to 14 because they were more malleable. Brian later asserted to her that he had received revelation to “plunder” these girls as wives. As Wanda wrote, “Each experience brings us closer to the time when we will obtain our wives, the first wife being the most difficult. In succession of taking one young woman at a time by force, between 10 to 14 years of age, though each experience will seemingly become easier, in all reality, each wife will be as difficult as the first but for which we will have become stronger. And these women who will be taken from their parents, brothers, and sisters, and other family members and friends, through their separation and all that they shall suffer, will be the means and the way that they will repent and come unto Jesus Christ.”

Sometime in June 2001, the Mitchells were staying with the West family when a story came on television about the kidnapping of a child, and Brian had an exchange with Karl West about whether such a person should go to hell. Shortly afterward, Brian counseled him about prejudging, suggesting “What if she was much older and wanted to go?” According to Karl West, Wanda mentioned that they had received a revelation that they would receive a girl to raise as their own and name her “Augustine,” but Brian then moved Wanda away and silenced her before she could elaborate.

After the September 11, 2001 attacks, antagonistic reactions from passersby who likened Brian and Wanda to Osama bin Laden were accompanied by a drop in donations. This less charitable climate prompted them, according to Wanda, to wear regular attire for the next several months.

That autumn, Lois Smart encountered Brian and Wanda downtown and offered him work. Brian came one day to the Smart home, was courteous and clean cut, and performed five hours of roof and yard labor alongside Ed Smart. Ed did not find him irrational. While religion came up in the discussion, Brian did not impress even as unusual. Ed Smart invited him back to complete the work, but he did not return.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 74 of 206

When Brian and Wanda next returned to the West residence in December 2001, Brian was still clean cut, and they had an amicable visit - but were not permitted to stay. According to Karl West, Brian and Wanda had previously been burning incense in their basement while staying there, and West wondered whether they burned the incense to cover the aroma or smoke of drugs. Brian and Wanda moved their belongings to Dry Creek Canyon when they found themselves no longer welcome to stay at the West home.

In early 2002, Mitchell began compiling revelations he reported to have received between February and March into the Book of Immanuel David Isaiah (BIDI) even though, according to Wanda, “we knew what kind of opposition that would come against us from our own families.”

This book focuses on the shortcomings of the Church and the insincerity of its leadership, and the need for people to repent. BIDI also asserts Mitchell’s role as a prophet who is advancing the will of God, though this is not the emphasis of the book. Evoking Joseph Smith’s “Doctrines and Covenants,” Mr. Mitchell’s BIDI referred to himself as that prophet who was “one mighty and strong:”

“For this cause I have raised up my servant Immanuel David Isaiah, ever my righteous right hand, to be a light and a covenant to my people – to all those who will repent and come unto me, for in my servant Immanuel, is the fullness of my gospel which I the Lord brought forth out of obscurity and out of the darkness through my servant Joseph Smith Jr.”...

”One who is mighty and strong I have ordained in the stead of him who was ordained of God. For he is ordained of God and sustained by the people has acted deceitfully and is lifted up in the pride of his heart, and he has rejected the fullness of my gospel, even the new and everlasting covenant, and he seeks the praise of the world and exalts himself, and he leads the children of the promise with a flaxen cord down to their destruction.”

The book’s 6th revelation raises Brian’s limitations:

“How can this be, for I am unlearned and slow of speech, and I am the least among all your servants...” “I give you these weaknesses that ye might be humble.”

Part 7 speaks to Hephzibah’s (Wanda’s) destiny as the Mother of Zion, and addresses sister wives. There was nothing in the BIDI, such as it was composed and delivered in 2002, that spoke to a revelation about taking underage wives or taking them by force.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 75 of 206

When the first version was finished, Brian and Wanda delivered versions to eight family and closest acquaintances on April 6, 2002 and demanded – sometimes quite loudly -- that they receive it and repent and follow, or face damnation and destruction. The delivery date was targeted to coincide with the formation of the LDS Church.

Professor Dan Peterson of Brigham Young University, whose expertise includes the analysis of religious scripture and its content, studied the BIDI at the request of prosecutors. Describing the BIDI as “some original ideas embedded within a pastiche” of scripture, drawing with and without attribution from a number of sources (particularly *Doctrines and Covenants*), Professor Peterson pointed out “It is not the kind of reported that reflects an ecstatic rush of divine ideas, but something carefully edited and re-edited from a lot of time in the library, with a planned, cool purpose.” This interpretation is validated by Scott Dean, who stated that Brian had been showing him pages from the BIDI from as early as 2000 and possibly earlier.

Professor Peterson observed that the ominous quality tone of the document was consistent with apocalyptic scripture, in which those who do not follow are denounced. Brian and Wanda were unsuccessful in converting the recipients, however. Dora Corbett recounted that when Brian dropped off a copy to her home, Ms. Corbett’s son-in-law Dick – a devout LDS – invited Brian in to discuss it. The defendant turned away rather than engage in discourse with Dick.

Shirl Mitchell called it plagiarism – but complimented the writing. Professor Peterson had a similar analysis. “There was a very well-assembled document; as far as capturing the style of an accepted prophet, it is lucid, and there is no sign of insincerity.” Asked to compare it to other scriptures fashioned by offshoots of the LDS, Professor Peterson responded, “Brian Mitchell knew the texts well...this was an excellent job of taking on the voice of a prophet, much better than typically seen from others who fashion themselves as “The Prophet.”” Tom, also received a copy of the BIDI, related “It said a number of things that pretty clearly contradict our teachings. I read it as false doctrine and apostasy.”

Brian and Wanda’s very aggressive efforts to convert Irene Mitchell included physically preventing her from leaving her home while they insisted that she accept the BIDI lest she be destroyed. Recalled Irene, “They grabbed ahold of my shoulder and were being very controlling.” She observed that her son had been getting “stranger and stranger every day.” This led to his 76 year-old mother calling her daughter to summon police; Irene took out an Order of Protection against the defendant and his wife on May 2, 2002, for no contact and for removal of their property.

Tom Holbrook, who helped Ms. Mitchell arrive at that course of action, related that “she was just getting tired of it.” According to Tom, Brian and Wanda had been inconsiderate, overbearing, controlling and demanding for years, and Brian’s mother was simply too

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 76 of 206

gentle to do anything about it. “What had distinguished 2002 from other times was that they were being physical with her,” said Tom.

Tom and Lisa and Irene took their BIDI copies to the committee on apostate activity. The family did not pursue any proceedings for involuntary psychiatric care for Brian, despite the confrontations he had with Irene and others over the BIDI.

The Mormon Church responded to receipt of the BIDI by initiating excommunication proceedings against Brian and Wanda. The LDS Church does not excommunicate those whom it believes to be in need of psychiatric care, but does act against heresy.

Stake President Gregory Schweitzer looked for Brian and Wanda downtown and eventually located them. The Stake President engaged Brian, and attempted to serve him with written notification, and Brian defiantly rejected him. Having read the BIDI, and having met Brian in his panhandling element and interacted with him, President Schweitzer decided that the hearing plans proceed.

According to Tom, most of the discussion in the family about the BIDI was that its release was just the next level of Brian “just being Brian,” creating a debate, getting people stirred and provoking their sensitivities.

Brian Mitchell, given advance notice, declined to attend the excommunication hearing. The church reportedly reviewed the BIDI and letters from Wanda and Brian’s mothers and voted unanimously to formally excommunicate them.

Brian took Elizabeth Smart from her home within days of the excommunication hearing.

Once Elizabeth Smart was captive, Brian Mitchell told her that he had been planning to take her for five weeks. On the one hand, the defendant would say that he did not want to plunder wives, but “the Holy Spirit would not leave him alone,” related Elizabeth Smart.

So unremarkable was Mr. Mitchell, even as Elizabeth’s sister recognized him from an earlier encounter, that the defendant never emerged as a suspect until many months after the kidnapping, when [REDACTED] recalled him, then provided details to a sketch artist.

Mr. Mitchell later told Elizabeth Smart that he had been following at least one teenage girl around Salt Lake City, and had targeted her as his wife, prior to directing his attention to Elizabeth. Elizabeth added that in the course of following this young female, she recognized she was being followed and evaded Brian while he was stalking her on a bus.

While living and traveling with Elizabeth Smart and Wanda Mitchell, Brian Mitchell’s sexual interest in Elizabeth Smart clearly was stronger than that in Wanda. According to

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 77 of 206

Elizabeth, he would have sex with her whenever possible, [REDACTED]
[REDACTED]

According to Wanda, Brian would be away all day for six of the seven days “ministering,” returning at days end. In our interview, Elizabeth recalled his bellowing up the mountain as he returned, “Tonight I’m going to fuck Esther’s eyes out!” She remembered his use of profanity like “cunt” and “pussy” with her and she found it vulgar. The defendant, Elizabeth recounted, also guided her and Wanda to look at pornography, using the same rationale of lowering themselves to the dust to achieve spiritual redemption.

Elizabeth observed that the defendant had a pattern of invoking religion to control the situation when she and Wanda were with him those nine months. For example, Wanda cried bitterly at times, and wrote extensively of her anguish over Mitchell’s clear preference to have sex with Elizabeth. At one point in September 2002, Wanda was so overwrought that she was hyperventilating. Brian would calm her, related Elizabeth, with “anointing” and “priestly blessing,” and by rolling her marijuana cigarettes. Then, according to Elizabeth, Immanuel would experience “revelations” in the form of blessings as to the future and fate of Hephzibah as a person for whom God had great designs, on the basis of her emotional sacrifices.

These long blessings, reported Elizabeth, would placate Wanda, who “would bask” in the blessings that praised her and “fed her ego.” Nevertheless, Elizabeth Smart experienced Brian Mitchell’s actions as contrived and manipulative. The quarrels between Brian and Wanda were so continual that eventually the three worked out a schedule for him to have sex with Wanda every other night, according to Elizabeth.

Another example Elizabeth offered of sensing Brian’s manipulation was his tendency to complain about “how stressful it was for him to minister in Babylon all day.” According to Elizabeth, he would hold this declared burden to elicit sympathy in order to inspire her to comfort him when he was looking for sex. Elizabeth was also struck by how Brian returned from the aborted kidnapping attempts of Olivia and Amanda, expressing relief with “it’s not the Lord’s purpose, oh god I don’t have to do this.” She found it difficult to reconcile his ambivalence when he was sexually pawing her without apparent regard for anything holy.

Elizabeth reflected that the defendant had different ways of relating to both of them:

“He expressed things with Wanda as a revelation in order to get his own way. That enabled him to get Wanda to go along with things, because he could just force me. He had to manipulate her into doing what he wanted, by saying it was from God, but he didn’t have to do that with me.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 78 of 206

Wanda was devout and followed, but she would chide Brian Mitchell for his lustfulness and exhort the defendant to rise to his station as the prophet she believed him to be. Wanda wrote of Mr. Mitchell that his weakness was “to know when he is speaking by the spirit and when he is not.” Observed Elizabeth: “Wanda believed he was a prophet, maybe even more than he did.”

Wanda Mitchell’s writings reflect that she reconciled her indignity as “suffering consistent with Christ and the title of Mother of Zion,” and reasoned that, “he is the last of the saints and the greatest of the sinners for all the light, truth, and knowledge he has been given.” The defendant’s wife attributed her doubt in Brian to the designs of Satan. She wrote that “lust was the only way for (Elizabeth) to be loved by (the defendant).”

“The longer I was there, the more fake it felt,” reflected Elizabeth. She recounted an incident in which they were invited into the home of a 7th Day Adventist. The family spoke about religion all night, and Brian Mitchell simply agreed with the host. Elizabeth explained that they needed a place to stay, and she felt Brian’s agreeable nature toward a contrary ideology was affected in order to gain them lodging.

Elizabeth Smart reflected, “He is a very smart man; he has an answer for everything and knows how to get his own way.” She indicated that he had spoken of a number of incidents in which he was never held accountable, spanning from his childhood. These included when he was accused of molesting [REDACTED] and convinced the authorities otherwise; when he simply stopped paying [REDACTED] alimony; and trading a trailer for a truck and saddling his family with defaulted debt.

No record has ever emerged of any inpatient psychiatric treatment history, or psychiatric emergency room referral, or outpatient treatment history for Brian Mitchell. Yet the defendant had numerous encounters with authority and professionals, no one asserted a need for psychotropic medication, limited capacity, or treatment for a psychotic condition.

After his first marriage, there was no assertion that Mr. Mitchell had a psychiatric disorder impeding his ability to act as a parent. In 1983, for example, Mr. Mitchell was interviewed and psychologically tested prior to a decision to allow him to place his children for adoption.

The defendant’s history of drug use -- beyond the more recent alcohol, marijuana and occasional pills – was unclear. His hallucinogen use was significant in his teens; Brian reportedly told Elizabeth that he had used crystal meth as well.

He participated in a group therapy setting in 1985, in which he met Wanda Barzee. Again, the mental health professional did not deem him ineligible for the group, as could have happened were Mr. Mitchell to have had a psychotic condition impairing his reality testing

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 79 of 206

for group process. One identifiable remarkable feature of Brian Mitchell's experience in group therapy was a boundary violation, for he became romantically involved with another vulnerable group member who had disclosed abuse and subjugation in her previous marriage. Brian married her, and Wanda Mitchell was later to take great satisfaction in her obedience.

There is no indication as to how much latitude that obedience afforded Mr. Mitchell, in contrast to his marriage to [REDACTED]

[REDACTED] Brian Mitchell was disappearing for long stretches of unaccounted time. Before Elizabeth Smart was seized, the defendant was even reportedly stalking at least one young girl in the Salt Lake City area – reportedly both in street clothes and in a tunic. Brian had many more obligations to run from, but he persuaded Wanda to abandon all personal ties to a previous life that included children and well developed musical performance ambitions.

The numerous individuals interviewed for this evaluation, including Elizabeth Smart, did not recall Brian Mitchell to evidence symptoms consistent with depression, mania, peculiar ritual or behavior (other than noted above), hallucination, or unusual belief (other than noted above). His intellectual function as described by others remained unimpaired.

Wanda had a more established psychiatric history, and included treatment with psychotropics. Brian's blessings reportedly had a soothing effect on Wanda, who had been volatile enough to require mood stabilizing medication but who elected to be non-compliant.

Doctors ultimately found Wanda to be psychotic and incompetent to stand trial. The court later ordered that she be medicated over her objection. On November 10, 2004, Wanda Mitchell filed for divorce from the defendant without having informed him, citing irreconcilable differences. The two had been married nineteen years.

Wanda Mitchell, now medicated, continues to prepare for reconsideration of her competency to stand trial. In a letter to her mother Dora April 14, 2009, Wanda wrote:

“For all the priesthood blessings given to me by Brian’s hand where I have felt edified and at peace by the Holy Spirit, it is extremely difficult to imagine or comprehend how I was deceived and lied to. I am so sorry, Mother, to have caused you so much pain and anguish of soul.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 80 of 206

FORENSIC PSYCHIATRIC ASSESSMENT

- 1) Does Mr. Mitchell have the capacity and ability to understand the charges against him? Does the defendant have a rational as well as a factual understanding of the proceedings against him? What evidence speaks to these issues?***

Yes.

Brian Mitchell is consistently characterized as very smart and an avid reader by examiners and mental health professionals just as he has been by relatives and acquaintances. He is certainly a man of action, in words, letters, and in deed. Fundamentally he approaches the demands of a court proceeding with the initiative, intellect, and resourcefulness to learn what he does not already know. His capacity to understand the charges against him, the proceedings in which he encounters, and the roles of the different participants is intact.

Brian Mitchell's videotaped interrogation after his March 12, 2003 arrest is relevant to this day, for there is no evidence to suggest that his mental state has deteriorated from that point. Studying Brian Mitchell on videotape, when he is not so successfully obstructing the inquiry, is instructive about different aspects of the competency question.

In that March 2003 encounter with FBI Special Agent Jeff Ross and Detective Cordon Parks, Brian Mitchell displayed a clear understanding of the charges against him and their significance. While polite and superficially cooperative, Brian smoothly avoided any responses that would incriminate him on the burglary, kidnapping, or sex assault accounts. Among other responses, Brian volunteered, "I never raped anyone." The defendant further exhibited an understanding of the gravity of the charges when he observed to interrogators, "You want to accuse me of being a diabolical, evil criminal."

Brian displayed an awareness of the subtleties of the interrogation setting, an understanding for why police do as they do in interrogation, and an understanding of the illegality of police coercion, and understanding of the stage in a case that he was participating in.

In the days just after his arrest, FBI Special Agent George Dougherty also interviewed Brian Mitchell, and reported that the defendant said he knew the world would view him as a "monster" or "child predator" or a "sexual deviant," all characterizations reflecting rational and factual understanding of the charges he was facing.

In the weeks subsequent to his arrest, Brian Mitchell wrote additional "revelation" in the Book of Immanuel David Isaiah (BIDI) that carefully and specifically defended each of the fine points of criminal responsibility of kidnapping, rape, sex with a minor, and burglary by the laws of man – even as Brian attempted to position himself above such laws.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 81 of 206

In defending the charges in his religious manifesto shortly after his arrest, Mr. Mitchell demonstrated his understanding for the gravity of the charges he was confronting. In so focusing his explanations, the defendant demonstrated his rational understanding of the fine points of the charges against him.

Subsequent to this, Brian Mitchell referred others to read the BIDI, in the context of discussions about his case. This reflects the defendant's rational understanding that the BIDI is written in such a way to clearly rebut the charges brought against him.

Mr. Mitchell's plea discussions that occurred over the course of the next year further demonstrated his factual and rational understanding of the nature and gravity of the charges and the range of potential penalties. Brian was negotiating and agreeable to specific terms of prison time.

Moreover, Brian's willingness to engage in plea discussions included a correct understanding that he would gain the prospect of a reduced sentence.

Furthermore, the defendant was negotiating special housing for safety reasons. Brian Mitchell has lived among unsavory people before without special safety precautions. In this specific circumstance, Brian is charged with the sex assault of a minor. Brian's negotiation of safe housing reflects his rational understanding for the gravity of the charges against him to the end of his awareness of how other inmates may endanger him.

Brian Mitchell's plea negotiations also aimed to keep Elizabeth Smart from testifying. Such a specific goal demonstrates the defendant's rational understanding that the consequences of her testimony before the court would enhance the court's appreciation for the significance of his actions, and that the nature of such a proceeding would be to determine Brian's ultimate sentencing.

When plea negotiations broke down (because prosecutors would not agree to the defendant's demands and not because of a psychiatric condition), Brian's behavior in the court changed. Relevantly, Brian has said on more than one occasion – most recently to Dr. DeMier, that he believes that the available evidence would “obviously” convict him at trial. Brian has also said on other occasions that he is silent or sings in court because he intends to avoid communication with the court or alternatively, to disrupt the court. Such guile demonstrates Brian's rational awareness of his legal predicament from the point that it first appeared in fall 2004.

Brian Mitchell was facing a trial in which he would be held accountable for his actions, in a setting in which evidence would be presented that *he* believed would convict him. The effectiveness of Brian's new strategy for derailing the proceedings and the stage and timing

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 82 of 206

in which he implemented these tactics demonstrate Brian's rational understanding of the proceedings against him and the significance of the charges for which he would face trial.

Once a competency examination was ordered, Brian was unfailingly uncooperative with examiners and reportedly, his attorneys. The one interview in which the defendant participated, with Dr. Skeem, is diminished by Brian's selectivity for what he would speak about. Dr. Skeem was forced to submit to his singing or refusing to respond -- just as the investigators in the videotaped interrogation were neutralized to the end that they knew that what they were getting was useless. Then, Brian Mitchell spurned other sessions Dr. Skeem attempted to schedule, as he did to other examiners who attempted to interview him.

Other examiners with whom he sat, like Dr. DeMier, met a Brian that when not closing his eyes or waxing with religious dialect or convoluted rhetoric absent when the camera was off, was so obstreperous so as to refuse even to repeat what he was just told.

It is my professional opinion that having already demonstrated a rational understanding of the proceedings against him and the offenses for which he was charged, Brian Mitchell reasoned -- quite wisely -- that his openness with examiners would only confirm his competency to proceed.

Along the way, Brian also decided not to speak to the press, reasoning, "if they don't have any information, they can't hurt my case." This judgment exhibits Brian's understanding that public comments can and are used as incriminating evidence.

And, as he acknowledged to Dr. DeMier, Mr. Mitchell believes that if he is found competent, he will go to trial and be found guilty. Therefore, the defendant's recognizes, in my professional opinion, that by being uncooperative he hampers the courts appreciation for his competence to stand trial. In so doing, he is able to keep the trial from happening, and prevents the conviction that he anticipates would happen at trial. This calculated silence, dodging, and disruption demonstrates Brian Mitchell's understanding of the competency proceedings and their significance in the sequence of his case.

Brian refuses to participate in psychological testing, even by the defense psychologist with whom he was willing to sit. It is true that some defendants with anosognosia refuse testing because they don't want to be identified as ill. But Brian Mitchell knows that he has already been psychologically tested before -- on two occasions in his history. The results showed no psychosis or major or psychotic mental illness, for if they had, Brian would not have been able to put his children up for adoption.

It is therefore my professional opinion that Brian Mitchell's unwillingness to participate in psychological testing is another example of his understanding of the impact of a finding of

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 83 of 206

normal, antisocial or narcissistic personality or psychopathy on Brian's aim to perpetuate a finding of incompetence.

Once Brian Mitchell was found incompetent in 2005, his transfer to Utah State Hospital afforded continuous observation. Since August 2005, numerous examples manifested of the defendant's rational understanding of the proceedings against him. The many staff who came to recognize Mr. Mitchell's subterfuge did so only when his guard was down under 24-hour observation in a professionally staffed milieu.

Brian Mitchell has avoided even all *potential* discussion about his proceedings, exhibiting his understanding that as long as he maintains uncertainty, he can convey a sense that he is "unchanged." "Unchanged," Brian Mitchell knows that he will continue to garner findings of "incompetent," and the case will not go to trial. In his own words, Brian said on April 7, 2006, that he "would never be out of the hospital as I will never acknowledge guilt and they will never parole me nor find me competent as I will not participate in a corrupt system."

True to his word, Brian Mitchell declined all invitations to groups or competency restoration programs -- every one of them, for now almost four years. He refused psychotherapy. He refused medication when suggested.

As a consequence, trained mental health professionals would receive a lengthy history accepted by the court as precedent, a legal ruling on the defendant passed along as the precedent for the case, and a Brian Mitchell who walks in on day 1 looking one way, walks out 38 weeks later looking fundamentally the same (perhaps better for the diet and exercise), and whom examiners know nothing more about for his silence. From a standpoint of "intervention," he remains unchanged from how he entered.

Brian even took to refusing to speak altogether to most of the unit population, limiting himself to writing words down for most of 18 months. This approach forces Brian to choose his words even more carefully, and limits the potential for his being misquoted in charting that might end up in court. His tactical thinking is on a higher order that identifies the little things one must actively do to maintain the appearance of "unchanged" after a finding of incompetence.

Furthering this end, Brian Mitchell attended to other fine points as well. Brigham Andrew, senior psychiatric technician, recounted how Brian asked him to explain the system of privileges. "Once he learned that the level system was predicated on group attendance, he began refusing group attendance," noted Mr. Andrew. The defendant's actions in this regard are particularly noteworthy, because patients are incentivized to gain privileges, not the opposite. But gaining privileges would have illustrated a *change*, and Brian Mitchell was shrewd enough to anticipate that.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 84 of 206

In my professional opinion, this affected silence, particularly around leaders of the treatment team, prevented senior staffers from appreciating how intact his rational abilities are. This tactic capitalizes on being as inscrutable as possible to not only obstruct the answers, but to impede questioning in the first place.

What the defendant has cynically termed a “word fast” also displays his unusual determination to maintain such an approach for as long as it takes. That determination also speaks to Brian Mitchell’s rational understanding of the competency proceedings for which he is assessed, the consequences of his allowing competent staff to have any window of understanding, and the magnitude of the charges he faces should he let his guard down.

So mindful was Mr. Mitchell of maintaining concealment that he sought out other inmates to advise him of where cameras were located. Were he to have been one to manifest other paranoid symptoms, one might interpret this as suspiciousness. But no one at USH, not even those whom he succeeded in convincing that he was delusional, experienced Brian Mitchell as paranoid. Therefore, this behavior likewise reflects the furtherance of his strategy to maintain a shroud over himself.

In addition, Brian was appreciated as one of the quietest whisperers on the unit. The defendant would conduct inaudible dialogue with peers in the dayroom with staff nearby.

Staff noted that Mr. Mitchell would sing when staff approached and he was having a conversation with another inmate, so that his conversation would not be overheard.

Brian has also monitored media coverage of his case, directly and indirectly. Nurse supervisor Leslie Miles recalled the defendant’s quietly, intently watching another patient’s reaction to a newspaper article about him, and then walking away when the patient confronted him. Records have chronicled Brian’s telling another patient to look for him on the news that night, and searching for a newspaper article on his case.

Records from Utah State Hospital and interviews with staff further bear out Brian Mitchell’s understanding of the charges against him. For example, the defendant clearly understood his eating alone for safety concerns was inspired by the high profile nature of his case. Brian was aware of the rationale for other unit considerations based on his notoriety and the potential risks to his safety, including the frequency of staff’s monitoring of him.

Social work at USH documented that the defendant accurately detailed the prosecution and defense positions.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 85 of 206

In some of the remarks Mr. Mitchell made on the unit, psychiatric technician Daryl Talley chronicled how Brian explained the legal process to him, along with the duties of the different positions within the system. The defendant also acknowledged, according to Mr. Talley, “I sing to disrupt the system so that I can come back to the hospital.” This remark demonstrates Brian’s understanding of the proceedings in the orchestration of his choices to grind the trial to a halt.

Mr. Mitchell advised social worker Greg Porter of his advance plan to “preach repentance so as not to give credibility by participating.” Yet Brian Mitchell has not only maintained an understanding of his charges and the proceedings, he is also aware of the different perspectives on him, citing his defense team’s argument that he is mentally ill, and the state attorney position that he is narcissistic.

Whatever Brian’s dismissiveness, he was documented to have followed Wanda’s own competency proceedings. By then she had filed for divorce, there had been no legacy of contact between them for many months, and Brian had not exhibited concern for her otherwise. But Wanda Mitchell was also his co-defendant. His concern for her case -- and her fate -- showed his rational understanding of his own.

Psychiatric technician Robert Bardsley documented how Brian Mitchell was actually advising other patients about competency hearings in November 2005, over 3 ½ years ago.

More recently, nurse Jane Jakeman documented an exchange in which Brian Mitchell described how jury selection works to a peer.

The defendant acknowledged, on a separate occasion, that he is charged with kidnapping. Additionally, he stated on another occasions that “police think he took her away from her mom and dad.”

Brian has also explained why his actions weren’t rape – demonstrating his understanding that this is what he is charged with. In addition, the defendant made statements on numerous occasions that provided different justifications for his actions. The variety of explanations and the testing of different hypotheses on his listeners demonstrated Brian’s understanding for the predicament of his serious charges and the need to arrive at a defense that can impress at least others, if not the court.

Brian has stated on more than one occasion that he envisions being locked up in a hospital or correctional facility for a long time. He told activity therapist Aaron Robison, “I’m not sure I have a life left, I’m in here for awhile.” The defendant told social worker Greg Foster he knew he would be locked up for the rest of his days.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 86 of 206

These statements contradict assertions that Brian believes he will be miraculously released through God's intervention after nine years of confinement, and reflect his awareness of the gravity of the charges as well as the role of the court in deciding his future.

The defendant expressed an understanding to Dr. DeMier that he is part of a federal proceeding. This extends the understanding he acknowledged to Dr. Whitehead and Mr. Porter in October 2008 that he had correctly anticipated being transferred to the federal court system.

With respect to his understanding of the participants of the proceedings, the defendant recognizes the role of the prosecutors. He endeavored, in his plea negotiations, for prosecutors to replace Elizabeth Smart to speak against him to the court at sentencing.

The defendant's characterization of the prosecution as Satan referenced in an earlier competency opinion reflects his understanding of the proceedings. Right now, there is no greater enemy, no greater threat to him and no greater symbol of rejection of who he is than the prosecution. He displays an awareness of this in his representations to Dr. DeMier that the "prosecutor says that I am evil."

It is notable that this distinction, using Satan, appeared at the stage where prosecutors insisted on his guilty plea to sexual assault. Only once before did the defendant employ this castigation – when interrogators were focusing their assertions that he had raped an underage victim, to which he eventually replied, "Get thee behind me, Satan." Mr. Mitchell's distinction of what is Satanic is by what most repudiates him as a pervert.

Even if this expression "Satan" is one of faith and not merely symbolism, it still properly reflects a rational understanding of how against his interests prosecutors are acting in these proceedings.

Furthermore, when the defendant reasoned to Dr. DeMier that prosecutors would object to the admissibility of the BIDI as irrelevant, Brian not only demonstrated his factual awareness of the role of the prosecutor to object to certain testimony he might offer, but he illustrated a rational understanding that testimony is presented in a forum that draws challenge, and how.

Mr. Mitchell is well aware of the concept of testimony from his religious practice. He applies proper context to this expression in referring to the BIDI as his testimony and how it is meant to reflect upon him in truth.

Brian advised Dr. DeMier that his "testimony would be his defense," and so understands the purpose his testimony serves.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 87 of 206

In another example illustrating Brian's understanding of the proceedings and the importance of evidence, psychiatric technician Jill Branin observed him to react to news of a not guilty verdict at a criminal trial with, "they probably didn't have enough evidence to convict him."

The defendant remarked in his interview with Dr. Skeem that he believes a judge would "shut me down" if Brian testified to BIDI at trial. This analysis demonstrates the defendant's understanding of the role of a judge to decide on the admissibility of evidence.

Brian's multiple references to affording this court credibility demonstrate his awareness of the incompatibility of some aspects of God's direction with the laws of the land in court. That rational understanding manifests in Brian's anticipating an evidentiary challenge to the BIDI based on relevance – even before such a challenge is raised. Were he to believe that the laws of the land were compatible -- or deferential – to his spiritual tenets, Brian would not *anticipate* challenge of his tenets even before they are offered as his evidence.

Brian Mitchell also exhibited his understanding of the decision-making role of the judge when he prepared for his hearing on medication over objection. Questioning whether his courtroom singing would inspire the judge to deem him appropriate for involuntary medication, Brian revealed a meta-cognitive sophistication for extending from one discrete concern and legal issue into another, even before staff presented this possibility to him.

Brian expressed an understanding to Dr. DeMier that the judge would be responsible for where he would be sent after trial. Brian also displayed understanding of the judge's sentencing role when, according to psychiatric technician David Jones, the defendant advised another patient, "do not talk to judges – they can't condemn you if you don't speak."

2) *Does Mr. Mitchell have sufficient present ability to consult to his attorney, with a reasonable degree of rational understanding? What evidence speaks to this issue?*

Yes.

At various times during the course of this incarceration, Brian Mitchell has been documented to be actively consulting to his attorneys. The most relevant of these to the current question is chronicled in an October 2004 letter to prosecutors from defense counsel:

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 88 of 206

“After fully advising Mr. Mitchell about your offer, he has authorized us to inform you that he will not accept your offer.” “We therefore resubmit our counteroffer and remain willing to engage in discussion regarding the terms of that offer”

And one week later...

“The acceptance or rejection of any plea offer and when it occurs is in the sole discretion of our client”

This reference point is pivotal for Brian Mitchell in particular because at no point in his six year incarceration has Brian Mitchell sustained a brain injury, revealed the onset of a degenerative brain disease, or manifested an acute psychotic breakdown, according to the impressions of jail clinical staff who would be charged with initiating a workup and recommending treatment. Brian is, as noted in the response to question 1), altogether “unchanged” if not more savvy, comfortable, fed and fit. He is of the same abilities that he entered his incarceration with, if not more for the range of his legal and court experiences from the past several years and the maturing of relationships with his defense team.

Having demonstrated on numerous occasions in the past (such as the point of defense stipulating to his competency in August 2004) that Brian has the ability to consult to his attorney with a reasonable degree of rational of rational understanding, and with essentially unchanged or improved cognitive capabilities and capabilities of rational understanding, it is my professional opinion that the defendant has established sufficient present ability.

The available record also demonstrates Brian Mitchell was actively involved over a period of time in contesting his treatment over objection, even as he was singing in court. His choice to detach from the competency proceedings is discussed in the previous question. However, Brian is very capable of consulting to his attorney, with more than a reasonable degree of rational understanding. Ample observation across his life has sized him up as a shrewd and intellectually resourceful person, and a man who was moving to his own sheet of music even when he was a charming clean-cut councilor to the Bishopric of the Mormon church.

Brian may choose not to work with his attorneys at points, if this course reinforces the impression that he is incompetent and thus prevents the defendant from having to go to a trial where his read of the evidence convinces him that he will be convicted.

According to attorney Bob Steele, Brian Mitchell was communicating with attorneys to an end that the attorney had expected him to participate in our late April interview. Records reflect ongoing meetings between the defense team and Mr. Mitchell in the months leading up to this report.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 89 of 206

Consistent with the above, Brian Mitchell has been known to meet with attorneys and for up to **hours** (including lengthy meetings at times that the defendant was silent to staff on the Utah State Hospital unit). He was noted to have corresponded with his attorneys. If there are occasions in which Brian declines to meet with them, or decided to sing hymns instead, that does not speak to his being incapable of forming a rational and constructive relationship with them. He was singing hymns at OC Tanner, too, and when he stopped, everyone got back to work.

There is no documentation of Brian's attorneys reaching out to clinical staff seeking their assistance in enlisting Brian Mitchell's consultation with his attorneys because he was so out of his mind and self-defeating. This may be in keeping with the defendant's strategy of maintaining the patina of incompetency for as long as possible. In my professional experience, attorneys who note their client's inability to work with them engage treatment staff to help make the relationship more effective – especially when the defendant is on a forensic hospital unit where staff is trained to restore each of the elements of competency. That didn't happen here. Evidence demonstrates that it did not happen because it did not need to happen, that the capacity to work with advocates was unimpaired.

Appraising his relationship with his attorneys in Dr. Skeem's first evaluation, Brian Mitchell offered, "Time and again I have seen their light." This refers to a history, and not a meeting or two. Brian's comment also confers a deference to ideas that may not be his own.

Consistent with this posture, Brian Mitchell formed a rational and constructive dialogue with inmate [REDACTED] about his case. Staff noted them to be going over legal papers together. He was persuaded by the guidance of [REDACTED] in general and trusted him. No one disputes that Brian related to [REDACTED] as a student does to a teacher.

Whatever Brian Mitchell's established difficulties with authority, he has shown the capacity for deference, and in the context of his relationship with his attorneys. Furthermore, he has exhibited the ability to disagree with other patients without argument.

Dr. Skeem also noted him to be "gracious" with interviewers and attorneys. While gracious may not be how one might recall his interaction with everyone, he has the capacity to be even gracious in his relationships, a trait that cannot be credited unfailingly to the general population, let alone to the functionaries of the court.

Numerous staff with extended contact experienced Brian Mitchell as very capable of rational discussion and of handling complex thought processes. If such a range of staff can interact with Brian as a capable, rational, high functioning patient, so too can his attorneys, especially since they are motivated to a common goal and professionally trained in client

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 90 of 206

relations. As Brian speaks to whom he wishes, and as he is motivated in his defense, he has sufficient ability to communicate with his advocates.

According to social worker Greg Porter, Mr. Mitchell used phrases of the treatment team in his own communication. This speaks to his cognitive flexibility and demonstrates that he is not so impenetrable. The defense mechanisms noted by the Utah State treatment team were projection and intellectualization, not paranoid and psychotic. The defendant is approachable by those who support his agenda, and has the intellectual dexterity to join in and contribute to his advocacy.

On occasion, Brian Mitchell has given examiners the impression that he will not speak to his attorneys. In discussions with Dr. DeMier, Brian even asserted that he had never spoken to his attorneys. Later, the defendant suggested persuasively to Dr. DeMier that he was less likely in February 2009 to communicate with attorneys. The first claim was very much contradicted by the record (at that time unavailable to the psychologist), and the second claim not supported by the consultations to follow.

Apart from the obvious contradictions in Mr. Mitchell's accounts, consistent with his history of providing information that further scrutiny reveals to be distorted or untrue, Brian Mitchell has provided ample indication that he has sufficient ongoing and present ability to consult to his attorney. When he asked Dr. DeMier what the psychologist's opinion was of his competency (further evidence for his understanding of the proceedings against him), and the psychologist referred him to the attorneys Brian had said he never spoke to, Brian responded that they were likely to tell him. Brian Mitchell knows how to find out what's going on, and what it means.

Visitor logs establish that multiple attorneys visited Brian Mitchell following his arrest. Brian therefore elected to work with the team he has, although options have been made available to him. Whatever disagreements he has had with his attorneys in the past, and whatever predictions from defense psychologists that he would fire them, that hasn't happened in the years since.

It is possible that he might be more comfortable with an attorney who shared his fundamentalist LDS or more particularly his Patriot ideology, even though Brian has said he believes his attorneys are working on his behalf.

There has been repeated reference to the significance, in the context of Mr. Mitchell's competence to stand trial, of what has been attributed as anosognosia, or denial of illness. This very defendant labeled with anosognosia, has, however, already demonstrated willingness -- indeed the preference -- to maintain residence in a state hospital indefinitely. He actually *sought* housing on a prison psychiatric unit as part of his plea agreement.

Although Brian Mitchell objects to reliance upon the insanity defense, that does not mean that he is incapable of working with counsel.

There are numerous mortal injuries to even a fanciful prospect for a successful insanity defense in this case:

- ◆ Brian Mitchell targeted younger females to bring into his camp, explaining that they were more “malleable.” Seeking targets because they could be more readily manipulated demonstrates his awareness that his forcing another person to act as his wife was wrong, in that it would require manipulation in order to succeed.
- ◆ According to Mr. Mitchell and his wife Wanda, the defendant struggled with the idea of kidnapping Elizabeth Smart beforehand. This speaks to his appreciation of wrong.
- ◆ Brian Mitchell already had an experience kidnapping children, when he absconded with [REDACTED] in defiance of court directives allowing visitation to his wife. Letters he wrote to his mother demonstrate his active and continued efforts to hide from authorities even though he felt he was doing the right thing. This documentation is evidence for Brian’s recognition that kidnapping is viewed by society as wrong.
- ◆ According to Brian Mitchell, he had prepared to take Elizabeth for a long time, four weeks or more. Prior to making his way to the Smart home, Brian reportedly stole a twelve pack of beer. If he were compelled to drink prior to breaking onto the Smart home and taking Elizabeth (either to calm or to disinhibit himself), Brian was aware of the wrong of his actions.
- ◆ Brian **took** Elizabeth from her home. He did not approach her to invite her to come with him (as he had Julie Adkison before her). The defendant’s choice of seizing Elizabeth rather than inviting or persuading her (or her parents) to come to him demonstrates his appreciation that her parents would see it as wrong.
- ◆ Brian Mitchell had been invited back to the Smart home to work. He did not return, even though there was even more opportunity to earn extra money. Poor as he was, the defendant would have been more familiar to the family by returning to the Smarts, and would have been more readily identified by police investigating her disappearance. His caution to avoid any further contact with the family demonstrated his appreciation of the wrong of his plan to take Elizabeth.

Typically, Brian Mitchell did not ask for work, he asked for money, or merely held his hand out and sang when he panhandled. The defendant, whose work ethic was

notoriously poor according to his own family, may have only solicited work from Lois Smart because when he met her, she was with Elizabeth and he was attracted to her. An invitation to the home gave him greater opportunity to consider her as a future target.

- ◆ Brian Mitchell entered the home through a window. Traditionally, he would have knocked on the door to alert occupants of his arrival. The defendant chose a method of entry into the home to hide his intrusion. This demonstrated his appreciation of the wrong of his entry of the Smart home. Furthermore, it speaks to his understanding that were Brian Mitchell to have entered the home in the same way he would enter other places he visited, others would have resisted his plan to take Elizabeth away.
- ◆ The defendant passed into the Smart home quietly, without breaking a window that would have created noise. The silence of Brian's mechanism of entry (cutting a screen) reflects Brian's appreciation of the wrong of his entry and plan to follow.
- ◆ The defendant entered the home at an hour when everyone was sleeping. This demonstrates Brian's appreciation that were he to have entered the home while its occupants were awake, they would have resisted his plan, and indicates an appreciation of the wrong of taking her from her home.
- ◆ Brian's choice of timing for home entry, well before sunrise, afforded sufficient time to seize Elizabeth, then proceed into the wilderness under cover of night for as long as was needed to return to the Mitchell camp. The timing therefore particularly suited Brian Mitchell's need for a long period to operate in darkness and demonstrated his appreciation of the wrong of taking her from her home.
- ◆ According to Elizabeth and [REDACTED] Smart, the defendant wore a stocking cap pulled down over his forehead. Brian Mitchell never dressed this way, according to Elizabeth's later recollections. The defendant, because he dressed to conceal his identity, demonstrated his appreciation that breaking in, seizing, and taking Elizabeth away was wrong. Brian also wore gloves when he entered the Smart home, likewise concealing evidence of his presence and appreciating the wrong of his actions
- ◆ According to both Elizabeth and [REDACTED] [REDACTED], the defendant brandished a knife when he roused her. Arming himself when entering the Smart home, and to take her away, demonstrates Mr. Mitchell's recognition of the need to project a threat in order to succeed and his appreciation of the wrong of his actions.

- ◆ The defendant also brought duct tape with him into the Smart home. A device to restrain or to gag would enable Brian to overcome resistance – an obstacle that speaks to his appreciation that one or more occupants of the Smart home would regard his entry and seizure of Elizabeth as wrong.
- ◆ Elizabeth and [REDACTED] recount how the defendant threatened to kill Elizabeth or her family if she made a sound and did not come with him. Brian Mitchell's actions to secure Elizabeth's silence demonstrated his appreciation of the wrong of entering the Smart home, and of taking Elizabeth away.
- ◆ According to Elizabeth Smart, Brian Mitchell spoke softly while he was in the Smart home, and took caution to make the door close silently. This discretion reflected the defendant's appreciation that his entry into the home was wrong, and that Brian was not to awaken the others for his planned removal of Elizabeth from the home was wrong as well.
- ◆ Mr. Mitchell told Elizabeth Smart, by her and by [REDACTED]'s account, that he was taking her for ransom. When Elizabeth later queried Brian as to why he told her that, the defendant replied that **had** he told her he was going to make her his wife, he knew she would have resisted more. By telling her she would be returned to her family when a ransom was paid, explained Brian, he would give her assurance of her return and gain her compliance. Brian Mitchell's manipulation to lower Elizabeth's resistance demonstrates his appreciation of the wrong of his planned sexual assault at the time of the crime. It also exhibits his awareness from the time he prepared to take Elizabeth that she would not have sex with him willingly and resist it even more than being taken hostage for money – because to her, having sex with him was even more wrong than being kidnapped for ransom.
- ◆ Elizabeth Smart recalled that as Brian Mitchell led her away from her home at knifepoint, she reminded him that he would be going to prison for what he was doing, and he acknowledged to her that he knew this. This also demonstrates the defendant's appreciation of the wrong of his taking her from her home.
- ◆ Exiting the Smart premises, Mr. Mitchell spied a police car patrolling the area. He ducked Elizabeth behind a bush, and remained there until it passed, saying a prayer to not be discovered. Brian's hiding demonstrated his appreciation that it was wrong to take Elizabeth Smart away from her home and family. Moreover, his prayer showed Brian to appreciate the illegality of these actions.
- ◆ According to Elizabeth Smart, as Brian Mitchell led her to his camp, he expressed frustration about her red pajamas, fearful that they could be spotted against the

more neutral landscape. The defendant's vigilance to avoid detection demonstrated his awareness of the wrong of his taking her from her home.

- ◆ Elizabeth Smart added that as Brian Mitchell prompted her along in the hills, he expressed fears about the sun rising while they were making their way to the Mitchell-Barzee camp. At times when the moonlit sky was brighter and the defendant -- who did not know the time -- believed the sun to be rising, he would demand that they crouch down and hide. Elizabeth Smart recounted how Brian scanned the ridgeline to detect any movement in the distance of anyone who might spot them. Mr. Mitchell's efforts to travel under cover of night to avoid detection and to otherwise scan the horizon demonstrates his appreciation that taking her from her home was wrong and needed to stay concealed.
- ◆ Well after the defendant's arrest and transfer to Utah State Hospital, psychiatric technician Dan Brady overheard Mr. Mitchell tell his father of his intimacy with Elizabeth Smart that "she was unwilling at first." This demonstrated Brian's appreciation that when he took Elizabeth Smart sexually and called her his wife, he knew at that time that she was unwilling to have sex with him and that she believed it was wrong.
- ◆ After seizing Elizabeth, Brian Mitchell maintained her chained. He reportedly wore the key to the chain around his neck. The choice to restrain Elizabeth, and Mr. Mitchell's additional step of keeping her means of freeing herself from bondage as close to his constant awareness (around his neck, not his pocket) as possible demonstrated the urgency of Brian Mitchell's understanding that unchained, Elizabeth Smart would have fled because it was wrong for her to be there and she was being held against her will.
- ◆ According to Elizabeth, Brian told her that if she spoke up when searchers were audible that he would kill her or her family. She recounted that the defendant instructed her to turn away from the voices calling her name. A threat of this nature demonstrates that Mr. Mitchell appreciated that were they to be discovered by those obviously searching for Elizabeth, she would be liberated, for his actions toward Elizabeth were wrong.
- ◆ While the search was ongoing, Brian Mitchell took it upon himself to bring Elizabeth newspapers and other paraphernalia to impress upon her that he had the power to keep her from being found, in order to demoralize her hopes to return to her family. The defendant's initiative to degrade Elizabeth's hopes and attachments to her identity and those searching for her demonstrate his awareness that he knew she was unwilling, captive, and that society and Elizabeth believed her having been taken to be wrong.

- ◆ After taking her into his custody, Brian, joined by Wanda, quickly initiated a program of breaking down and reeducating Elizabeth, essentially a brainwashing, that enabled Brian to control her, direct her, and to sexually exploit her. Wanda wrote in *Journey Through the Land* that Elizabeth was compelled, that “she had to obey.” This scheme demonstrates that Brian Mitchell appreciated the wrong of his taking Elizabeth away from her family, of erasing her previous life, and of directing her to physical and sexual servitude, and the necessity of brainwashing to facilitate and to maintain the psychological as well as physical control he exerted over her in the months to follow.
- ◆ Brian Mitchell employed alcohol and drugs to disinhibit Elizabeth Smart when he wanted her to begin performing oral sex on him. Brian’s plying Elizabeth Smart with mind-altering drugs in order to pleasure himself reflects his appreciation that she would not consent to giving him the sexual gratification he sought, because the sexual activity was wrong.
- ◆ Mr. Mitchell enlisted Wanda to demonstrate how to please him, according to Elizabeth. On at least one occasion, he prompted Elizabeth to look at pornography. She disclosed that he would demand that she walk around the campsite naked. Sex with Wanda was open to her – as it was to [REDACTED] years earlier in their home. According to Elizabeth, Brian told her he was doing this to remove her false pride and to bring her low to the dust. This technique of mind control of hypersexualizing the environment specifically aimed to bring Elizabeth low, to submit to him continually. Brian’s utilization of these grooming techniques⁴ that eliminated customary moral barriers demonstrated Brian’s appreciation that Elizabeth regarded the sex between them as wrong and unwelcome.
- ◆ Brian Mitchell attempted to enter [REDACTED] home as well, in July 2002. He employed the same approach as had been successful with Elizabeth the month before. In no subsequent history has he contended that he was commanded by God to kidnap a wife to meet a goal of seven, or seven times seven wives.

⁴ Wolfe, V. V. **Child Sexual Abuse**. In. E. Mash & R. A. Barkley. **Treatment of childhood disorders 3rd Edition**. New York: Guilford Press, pp 659, 2006; Russell, D. E. H. & Purcell, N. J. **Exposure to Pornography as a Cause of Child Sexual Victimization**. In. N. E. Dowd, D. G. Singer, R. F. Wilson. *The Handbook of Children, Culture, and Violence*. California: Sage, pp. 79, 2005; Craven, S., Brown S. and Gilchrist. E. **Sexual grooming of children: Review of literature and theoretical considerations**. *Journal of Sexual Aggression*, Vol.12:3, pp. 287-299, 2006

The defendant knocked over items when attempting entry through a window, rousing ██████'s father to the room. Brian immediately fled, and did not again attempt to approach or take in ██████ by any means. Brian Mitchell's abandonment of his plan to take ██████ reflects his appreciation of its wrong of both burglarizing the home and of seizing her. Brian's flight from the scene manifests his appreciation of the wrong of the very same modus operandi he had employed in taking Elizabeth one month earlier.

- ◆ According to FBI Special Agent Dougherty, who interviewed Brian Mitchell in the days after his arrest, the defendant told him that the three "hid" in the mountains until they "believed it was safe" to go into Salt Lake City. Brian's enduring active concealment of Elizabeth demonstrated his appreciation of the wrong of his taking her.

Furthermore, gauging the "safety" of entering the city reflects Brian's calculation of whether he could bring Elizabeth into Salt Lake City without their being detected and others liberating her, also demonstrated his appreciation of the wrong of seizing her and that he recognized he was keeping her captive.

- ◆ When Mr. and Mrs. Mitchell allowed Elizabeth to leave the camp, they did so, according to Elizabeth, with Brian walking in front and Wanda in back of her. This alignment safeguarded against her escape. Brian thus demonstrated his appreciation that Elizabeth experienced her being with them as wrong, that she was a captive, and was therefore an escape risk.
- ◆ Brian Mitchell insisted on dressing Elizabeth in a veil when she did go into Salt Lake City, so that she would not be recognized. This extreme disguise demonstrated Brian's appreciation that it was widely regarded as wrong for him to have seized Elizabeth and kept her, and that if anyone recognized her, that person would alert authorities.
- ◆ According to Elizabeth, Brian threatened her to silence when taking her into Salt Lake City. This reflects his appreciation that were she to reveal her identity, a listener would intervene because that person would invariably associate Elizabeth as a person declared missing and in need of liberation, and that it was wrong for Brian to be holding her away from her family.
- ◆ Queried in the Salt Lake City library about who his companion was, Brian Mitchell lied to a detective, and said she was his daughter. This subterfuge demonstrated his appreciation that it was wrong to have taken Elizabeth, that it was wrong for him to have declared himself married to her and to have carried on as a husband with a 14 year-old.

Brian, in that encounter, attributed a false name to Elizabeth. This lie demonstrated his appreciation that a police officer would regard Elizabeth Smart as the victim of a crime.

- ◆ Subsequent to that August 2002 encounter with the detective, Brian Mitchell no longer brought Elizabeth Smart into Salt Lake City. This avoidance demonstrated Mr. Mitchell's appreciation that others seeing them together might again alert police, because it was wrong for him to have seized Elizabeth and to maintain her in his custody.
- ◆ As soon as Brian Mitchell could save enough money, according to Elizabeth, he then took Wanda and her to the San Diego area by bus. The defendant's departure from Salt Lake City showed Brian Mitchell's mission to keep Elizabeth without being discovered, and his appreciation of the wrong of keeping her captive.
- ◆ When the defendant, his wife, and Elizabeth left Salt Lake City for California, Brian directed Elizabeth to wear an even more concealing veil, one which actually covered her eyes. This scrupulous attention to conceal any identifying detail demonstrated Mr. Mitchell's recognition that it was wrong to take Elizabeth away from her family, and that were she not to be completely hidden, she might be recognized by someone would alert authorities. Concealment to such a degree respects the high likelihood that the public had a common belief of her as a crime victim and the public would feel it was wrong to have removed her and to have kept her away from her family.
- ◆ The defendant also told Special Agent Dougherty upon his capture that he knew that were they to be caught, that he and Wanda would be going to jail and Elizabeth Smart would be returned to her family. This also demonstrates the defendant's appreciation of the wrong of his actions.
- ◆ Brian and Wanda kept Elizabeth in the San Diego for nearly five months, continuing to restrict her communication with others and her movements. After a police officer approached them, he reportedly further curtailed Elizabeth's movements. This control demonstrates the defendant maintained an appreciation of the wrong of taking Elizabeth and keeping her under his domination, and recognized that police curiosity might expose this wrong arrangement.
- ◆ In San Diego, the defendant cased the LDS community, assuming plain attire rather than robes, for another young female to take control of. Brian talked his way into the company of Virl and Peggy Kemp, lying about his background to them (saying he was alone), and lying about having no history in the LDS. Brian

Mitchell's use of the alias "Peter" and his changing his personal narrative masked his true identity. He had committed a crime under another name – and was planning to seize another underage female teen and was eliminating traces of himself to stymie an investigation to follow. This conduct demonstrated Brian's appreciation of the wrong of his actions.

- ◆ Brian Mitchell changed his appearance when he went to the LDS Church and assumed a different manner when he visited the Kemp residence after church in December 2008. Brian was quiet, not preaching; curious and stated that he was yet unexposed to the Mormon religion, he was neatly groomed and clean. This manner engendered the comfort and inspired the hospitality of people like the Kemps to open their doors to him and hosted him for a relaxed and long dinner. Brian exploited this access to identify a future target to seize [REDACTED]. The defendant's assuming a false persona of someone innocuous, non-argumentative, gracious and with no peculiarities (even to the end of this vegan downing two helpings of pork chops) in order to have inside access to scout a potential target demonstrates Brian's appreciation of the wrong of breaking into people's houses and making off with their daughters. Families who protect their vulnerable children would not otherwise afford that proximity to a stranger in town – particularly because they appreciate it as wrong for their children to be abducted or taken and sexually assaulted.
- ◆ Brian Mitchell helped to conjure a false account and false identity for Elizabeth to reference if ever they interacted with others. According to Elizabeth, Brian and Wanda drilled "Augustine" on the details before they embarked. Taking additional steps to solidify this false narrative and identity demonstrated Brian's appreciation of the wrong of seizing her, of maintaining her in captivity, and his appreciation that Elizabeth Smart was widely recognized as a crime victim.
- ◆ In this narrative, Elizabeth Smart was to refer to him as her father; this demonstrated the defendant's appreciation of the illegality of polygamy. Elizabeth was to refer to herself as 18 years of age. The age and characterization of Elizabeth as his daughter concealed the notion that he was having sex with an underage person, and demonstrate his appreciation that this was wrong. Representing her as a relative buried the fact that he had brought her into his world as a stranger and attached an artificial familiarity. This too demonstrated his appreciation of the wrong of taking her from her life and her family.
- ◆ Brian directed Elizabeth to wear a wig and glasses during their trip out of San Diego. Disguising her appearance in order to prevent others from recognizing Elizabeth demonstrated Mr. Mitchell's appreciation that Elizabeth was widely recognized as a crime victim. Articles which aged her appearance would obscure

others from recognizing that this man was traveling with someone underage. This demonstrated his appreciation of the wrong of their relationship.

- ◆ The defendant indicated to Special Agent Dougherty that he was “frightened” on each of the occasions they were approached by law enforcement. This heightened response demonstrated Brian’s appreciation that he had done wrong.
- ◆ In the videotaped interview right after his arrest, Brian Mitchell initially denied that he had married Elizabeth. That denial demonstrated his appreciation that to concede marriage would be to establish that sex had occurred. He recognized that as Elizabeth was recovered in his custody having been seized from the Smart home, that disclosure of their marriage would convey that she was taken and they had sex, and he appreciated the wrong of this.
- ◆ In his early interviews with law enforcement, one of which videotaped, Brian Mitchell did not credit God with commanding him to seize Elizabeth, to plunder her sexually. Even as he dodged responsibility by minimizing his actions, Brian Mitchell did not cite the very detailed explanation that he was to write in the weeks ahead and to promulgate through the BIDI. This reflects that Officer Parks and Agent Ross essentially cornered him before he could conjure a defense. Adding to God’s conspicuous absence from the very opportune time of Brian’s interrogation, the defendant asserted to the same questioners, “God never told me to have sex with her.”

Brian Mitchell’s accounting of his actions in the BIDI *thereafter* precisely approximated all areas of accountability, reflecting his appreciation of the wrong of his actions and the need to mitigate his culpability. The narrative as a basis for a mental health defense was modified after his arrest

That narrative, however, was inoperative when the defendant was making his decisions for entering the Smart home, taking Elizabeth Smart at knifepoint and under threat, absconding with her to the hills, forcing sex on her, chaining her against her will and under threat, brainwashing her and disintegrating her identity, grooming her into sexual and physical servitude, and otherwise planning on seizing others to be her sister wives.

- ◆ In that same interview with Officer Parks and Agent Ross, the defendant said Elizabeth was 18; Wanda, in her contemporaneous interview, indicated that Brian knew Elizabeth was 14 when he took her. Representing Elizabeth as 18 years old fashioned her as “of age,” especially important as Brian also falsely represented that she was a willing participant in the relationship. These misrepresentations reflected

his awareness of the wrong of having taken her by force and of his having had sex with her.

- ◆ FBI Special Agent George Dougherty also interviewed the defendant, and reported that the defendant said he knew the world would view him as a “monster” or “child predator” or a “sexual deviant.” This insight reflects his appreciation of the wrong of his having taken a child in particular and moreover having taken her with the design of being intimate with her in the manner that he carried on for nine months.

Supporting the notion of an insanity defense were three points:

- ◆ Challenged by Elizabeth Smart as they were leaving the property with “Don’t you know you’ll get caught,” as she relates, Brian replied, “I know this is dangerous, but the Lord is with me.”
- ◆ The defendant’s calling to the Lord that “if this work be true, let the police drive by and not find us,” according to Elizabeth Smart.
- ◆ According to Elizabeth Smart, the defendant “always told me that they did not want to take me, but the Lord commanded me.”

Yet each of these latter points has its limitations.

The first item is intertwined with the defendant’s clear appreciation that he was breaking the law.

The second item cannot escape the retort that if Brian’s belief was delusional, he would have continued to lead Elizabeth away, convinced that God would enable their clear path into the mountains. He dove behind a bush. The affirmation the defendant may assert for the police car that drove by without spying them does not account for no affirmation needed for him to break into the home, seize Elizabeth at knifepoint and under threat, and to lead her away in the first place.

Brian did not advance the third idea until Elizabeth Smart was secured and bemoaning her fate, rather than when they were scrambling up the mountain, or when Brian Mitchell was shoving his penis into her while she was screaming and crying, or when he told her “if you don’t stop screaming, I will tape your mouth shut.” For someone who “did not want to take” Elizabeth, Brian Mitchell’s indulgence in bringing her low to the dust, well beyond whatever he attributed to God, was so unbridled as to represent the greatest threat by far to the cohesion of the sect he was building.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 101 of 206

The defense asserts that Mr. Mitchell objects to an insanity defense because he does not recognize his illness, he has anosognosia. The available record reflects that to ignore the deep wounds to an insanity defense effort in this case is denial, but not by the defendant.

He has demonstrated an attention to the fine points of his case, has demonstrated impressive success to date in restoring his freedom by his own hands, and an ongoing ability and desire to consult to his advocates.

***3) Does Mr. Mitchell have the capacity and ability to assist in his defense?
What evidence speaks to this issue?***

Yes.

Brian Mitchell has exhibited and has seasoned an exceptional capacity to assist in his defense. His abilities contributed to keeping Brian at large and since his arrest, have manifested all through his incarceration.

First, he gave an alias and a false story. But it was one in which he used secular names and downplayed any special status for himself – referring to the group only as messengers of the Lord Jesus Christ. He knew that to refer to the others as his wives would have invited his arrest, because polygamy is illegal. To reference himself as a prophet would have made him more conspicuous to officers, as would be characterizing himself as unusually pious.

Brian insisted on speaking for the females under his control, as he had on other encounters with law enforcement. And at those times, he was not only rational, but persuasive, and controlled a situation to act in his own interest. Brian's promoting Elizabeth's concealing her history, silence in the face of questions from authority, and to be a more effective liar speaks also to the same rational capabilities to advance his interests in this case.

When Brian Mitchell confronted the first test to his defense, in a videotaped interrogation, he defended himself gamely and strategically. Brian completely neutralized two experienced, aggressive questioners - **without advance preparation of his own and having been trekking and poorly maintained** - making rational decisions about responses, lines of defense, disarming his interrogators with vigilance to shifts in their tactics, and shutting the interview down when he needed to. The interview demonstrates Brian Mitchell exceptional capacity and ability to defend himself and a strength of motivation that remains undimmed.

Brian Mitchell writes and edits with precise attention to content. After successfully thwarting questioning, Brian Mitchell produced a defense in the Book of Immanuel David Isaiah -- **after** meeting with several attorneys -- that engaged every one of the areas in

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 102 of 206

which he was accused. He then protected himself from missteps and inconsistencies in his story by directing others to read the BIDI in the same way corporate communications direct predatory news media to their press release to ensure impression management and message control.

Brian Mitchell's interviews with law enforcement after his arrest, and the rebuttal Brian subsequently penned, demonstrate that he has a very detailed recollection of the events and pertinent facts at issue. Utah State Hospital staff also reported Brian to have related details of the kidnapping to Joseph Vane, a psychiatric technician.

The defendant's communication abilities are exceptional. Psychiatric technician Cam McGarry, who spoke at length to the defendant about literature, relates that the defendant never needed to be oriented to previous discussions and their content, and could vividly pull excellent insights and nuance from layered stories, adding, "(Brian) was always aware of what was going on around him." Consistent with this, Brian Mitchell has spoken of mistakes in Dr. Skeem's opinion, demonstrating his critical digestion for the details presented to the case.

Brian Mitchell's capacity and ability to act as a historian should not be confused with his willingness to provide accurate history. Review of the history Brian provided prior to this evaluation, as well as the input of many others encountering him in different settings, reveal the defendant to be a person to calibrate what he has to say in all of his encounters of importance, and to say what he wants to be heard, whether it is accurate or not. Therefore, the defendant is capable of providing exceptional textured detail.

If his details are self-serving and contradicted by facts, Brian Mitchell is merely demonstrating his motivation to defend himself as best he can, under the circumstances. Recalling facts includes recalling facts which reflect on one's guilt. A person who is withholding or evasive precisely where the facts are incriminating demonstrates an ability to recall pertinent details and facts. The strategy to selectively avoid or distort a particular topic area reflects the ability to recall facts.

However, Brian makes rational decisions to supply whatever detail that will advance his agenda. In the adversarial system, this is often adaptive, though the relevance of his being under oath is unclear. Brian's skill at appearing earnest when he is being brazenly dishonest, as noted (by multiple Utah State Hospital staff) and overlooked (by a Salt Lake City detective, whose inquisitiveness was no match for Brian's smooth talk – when all the detective had to do was lift Elizabeth's veil) by acquaintances closer and distant, does pose the added challenge of corroborating his input whenever possible.

This quality has always served Brian Mitchell as a survival skill, has brought him opportunity, second chances, three wives, has extricated him from accountability, and more

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 103 of 206

relevantly has contributed to a host of reports from experienced mental health professionals asserting his incompetency and even more admirably, spanning several years.

When he argued to police that Elizabeth Smart was 18, Wanda Mitchell noted quite clearly in her interrogation that the Brian knew Elizabeth was 14. Brian was not demonstrating the irrational thinking of a psychotic, but was tailoring his answers in recognition of the criminal responsibility attached to sexual relations with a fourteen (and not an 18) year-old. Investigators knew he was being untruthful, and why. When Brian Mitchell was telling Dr. DeMier that he had never talked to his attorneys, however, discerning an agenda is not so obvious without a clear factual record available. But Brian has been and continues to be appreciated as convincing.

The defendant's courtroom behavior in the San Diego hearing in February 2003, with a condition that is described as unchanged from today, demonstrated his ability to participate in court proceedings, and displayed the aforementioned skills. It is easy to believe this plaintive appeal of "this was the worst night of my life," "I haven't had a drink in 22 years," coming from a "traveling preacher" who says he is traveling with his wife and daughter and has family to stay with, all wrapped up in a pseudonym called, "Michael Jenson." And so the Michael Jenson character Brian Mitchell was playing pleaded guilty and was out the door.

After the defendant was arrested in San Diego for breaking into a church, according to Elizabeth Smart, he stopped "plundering," because, as he said, "I can't get caught again, too much stress." The stress is notable because that stress did not derail his composure when he knew what he needed to say and how he needed to say it in order to gain his release. That level of self-possessed competence parallels some of the qualities seen in the interrogation after his arrest.

For months, Brian Mitchell behaved uneventfully in court – as he had in San Diego. Only after the defendant's plea negotiations collapsed and he did not get the deal for which he aimed did Brian begin to sing in court to the end of forcing his removal. The defendant nevertheless has maintained the capability of appropriate courtroom behavior – for Brian Mitchell has carried himself appropriately and without even need for redirection away from court.

When Brian Mitchell began singing nearly eighty minutes into his interview with law enforcement on March 12, he stopped and followed instructions for the photographer who entered the room. Likewise, when he was concealing himself from the scrutiny of staff, Mr. Mitchell would occasionally stop conversing with peers and begin to sing when staff approached. This latter tactic further demonstrated his aim of directing scrutiny away from him at a time of his competency being in question.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 104 of 206

For all of the above reasons, it is my professional opinion, to a reasonable degree of psychiatric certainty, that Mr. Mitchell has the capacity to conduct his behavior appropriately because he has typically done so. What Brian Mitchell chooses to do in strategic situations speaks to his goal of preventing his prosecution, and further demonstrates his comprehension of the legal system and his capacity to navigate it.

Even in singing in a disruptive way, this is a purposeful tactic, and it accomplishes his goal. When Brian was working at OC Tanner and he wished to silence what he did not want to hear but could not walk away from, be it crosstalk of employees that teased him or locker room humor that offended him, Brian Mitchell would sing until the offending subsided. Singing hymns is a way that Brian Mitchell cleverly takes over a situation in which he feels powerless.

In our interview, which the defendant was so determined to foil that he entered the room with his eyes closed before we even said hello, Mr. Mitchell sang a couple of hymns, then stopped when this performance failed to get a response and I did not stop the meeting. When it was clear that I would not be infuriated by his singing or yelling, he sang only once or twice more, then remained quiet and composed for the rest of the meeting. Again, because it is a performance – it is directed to affect the listener, in its loudness, its intonation at the very least.

In his videotaped interview with interrogators, Brian Mitchell was focused and maintained a polite composure in the face of stresses, including physical, that he would never encounter in court. Performing so impressively under those circumstances, appropriate courtroom behavior and relevant testimony are well within Brian's capabilities.

In the proceedings on this matter in 2003 and 2004, Brian Mitchell actively and uneventfully participated in defending his case. His attorneys conceded to his competency in September 2004, at a time that he was on no medicines; he has not required medicines since.

Brian Mitchell's case presents a daunting defense challenge. The victim survived, and is a compelling personality. The defendant was identified by her sister in the room at the time Elizabeth was seized. Worst of all for Brian, he was arrested with Elizabeth – saying she was his daughter. And then, Elizabeth communicated to police in a dialect that demonstrated the depths to which she had been brainwashed.

The defendant has already told Dr. DeMier that given the substantial evidence against him, he would "obviously" be convicted at trial.

Brian Mitchell's strategy -- to the end that he realizes that his dominance in the Mitchell marriage was obvious -- has been to emphasize the influence of God on him, to essentially

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 105 of 206

externalize responsibility to God. Since God cannot be interviewed, and since no doubt exists as to Brian Mitchell's passionate expression on religion, this defense path has been the rational one for him to take at a point of urgency. He told agents questioning him that he knew he was viewed as a monster and a sex predator. God was a pretty powerful card to play.

Mr. Mitchell's adaptation – in the form of his official statement via the BIDI and then supplemented through the scripture of defense retained psychologist's interpretation of selectively disclosed history -- has contributed to the impression that Brian is delusional. At the same time, even the defendant's long hair, robed dress, biblical name, scripture, and estrangement from the LDS cannot douse the aftertaste and more enduring history of prolific pedophilia, drug abuse, manipulation, brainwashing, parasitism, confrontation to authority, longstanding irresponsibility and perhaps most importantly, his well-recognized reputation for deception and other qualities unbecoming a holy man, especially a history supportive of sadism and the absence of a history of psychosis when studied.

Growing out of the audacity of the crime, the clarity of the identification evidence, the self-serving narrative manipulated through a woman he dominated, examiner passivity in the face of Brian's contradictions and active avoidance is the presumption that Brian Mitchell's outlandishness (all the more affected in front of examiners) must be delusional and he is therefore incompetent.

Even if one views the case most favorably to the defense, and assesses him to be delusional, the presence of delusions does not per se establish that his reasoning about his case is irrational.

This is especially true when one considers the mountain of evidence demonstrating that **whatever his psychiatric diagnosis**, Brian Mitchell appreciated the nature and quality of the act and the wrong of his actions.

This would render an insanity defense a useless formality that reflects a more pro forma approach to a case where the identification evidence is clear.

Mr. Mitchell's options have been:

- 1) **Negotiate an acceptable plea** - which Brian rationally attempted to do (also see below)
- 2) **Work toward being found incompetent** – also see below. While he does not want to be deemed ill and is deeply offended and hurt by this characterization, he has embraced the finding of incompetence for its advantages. 1) He does not have to proceed to trial 2) He

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 106 of 206

does not have to accept responsibility for his actions toward Elizabeth 3) If he is found permanently incompetent, there is the realistic possibility that these charges will evaporate

3) **Assert an insanity defense** - This strategy necessarily forces Brian to admit that he raped Elizabeth and kidnapped her – but that he is not punishable by prison because his religious ideas are irrational, that he is not a prophet or the Davidic King, that he defiled a vulnerable and popular girl rather than having attempted to save her, and that his lifelong journey of humbling experiences and marginalization in spite of his confidence in his talent indeed reflected a dysfunctional failure rather than a humbling before the ascent of his spirit. It ends his religious aspirations and establishes that everything he has worked for over the past 14 years was meaningless, and to the end of ensuring he gets to live in a hospital and be ridiculed by all of the people whose approval he needs, from his family, to his former Church, to his former coworkers.

Given the above might have been a more rational idea for him to consider if the available evidence in his case did not leave him appreciating that were he to go trial, he would be convicted.

4) **Employ a creative defense or refute the inculpatory claims.** - If Brian asserts through whatever means that he was driven by faith, Mr. Mitchell then brings his case to a jury that may be quite devout to decide on the truth of his message and mission. If he wins, then he advances his religious sect a more well known entity that attracts others who share his religious ideals, as did Doug Larson, his naturopathic leanings, and his disdain for intrusive government.

If Brian Mitchell loses, he would continue to challenge the system, which he believes to be corrupt. Brian would still have his fundamentalist ministry, and the capacity to pray that he be released.

There is no evidence that a creative approach would be any less likely successful than an insanity defense. However, defending himself without asserting that he is insane enables him to maintain his spiritual standing no matter what happens to him.

While resolving his defense strategy can wait until the trial stage, Brian Mitchell has already arrived at other rational decisions about his case that many defendants would not have recognized. For example, the defendant elected not to speak to the press about his case, reasoning that if they don't have any information, they can't hurt his case. Mr. Mitchell chose this media strategy despite the unusual advantages of media attention for promulgating the BIDI and the attention seeking qualities of his personality. Such decision making in spite of Brian's sensitivities reflects on the rational assistance Brian is injecting into his defense effort.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 107 of 206

The defendant wisely dispensed with his grandiosity when accounting for the consequences of his disclosures to his criminal case. This contradicts, of course, the notion advanced that he is passive and either is martyring himself or yielding to God's plan for him. He quite rationally opts for the tactical over the ideological, judgment that is superior to many in the same position who have not been diagnosed with psychiatric disease.

Plea Negotiations

Brian Mitchell's 2004 plea demands speak to how exceptionally rational his decision making capacity truly is. While some agreements would speak only to the potential term of confinement, Mr. Mitchell additionally negotiated placement in a safe facility. Attention to his eventual destination is in line with the defendant's documented questioning of others about the conditions of prison. Were Brian to lack an intelligent or knowing awareness that there is a life after the plea, or were Brian to be guided by irrational ideas of his destiny to be liberated to fight the Antichrist, housing would have been unimportant to the defendant. If God is doing the liberating, he can get you out of maximum security.

Mr. Mitchell's concerns for his labeling are quite rationally represented in his offer – to plead guilty to kidnapping and to burglary but not to sex assault. Rational judgment would remind Brian that there is more stigma and consequence to pleading guilty to a sex offense than even murder.

Just as accusations against him, earlier in life, faded with negotiated euphemism – the exploitation of the four year old when he was a teenager, for example – Brian Mitchell is quite rational to opt to be known as the convicted kidnapper five years from now when he is more anonymous, rather than as a convicted sex offender. Anonymity will be that much harder to come by if Mr. Mitchell and the actions attributed to him by his victim come out at trial.

Plea negotiations are the rational undertaking of a man who wants "Elizabeth Smart" to be as forgotten a name as "Brian Mitchell."

When Brian Mitchell was [REDACTED], he rendered her forgotten by brainwashing Wanda Mitchell into cutting her and others out, and by disappearing. If he weren't in custody, Brian Mitchell would just do what he has always done – move.

That is unfortunately not possible now. No one will forget what Brian Mitchell wants them to forget until the world forgets Elizabeth Smart.

For a person who has quite successfully shielded his past indiscretion – either by projecting blame, changing the story, changing his home, changing his city, or changing his name, revising the history away from a sex offense is a rational aim.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 108 of 206

Moreover, Mr. Mitchell attempted to negotiate that Elizabeth Smart should not testify at his sentencing proceeding. This specific demand demonstrates the sound reasoning that as a compelling victim, Elizabeth Smart's presence in court would present a seismic counterweight to his effort to gain leniency.

The strategy to preclude Ms. Smart has nothing to do with any stated intentions that Mr. Mitchell might have of restoring Elizabeth Smart as his celestial wife. For if she is ordained to be his wife, Elizabeth will be his wife whether she is merely *permitted* to testify or not. Were his belief in the ordaining of their future to be sincere, let alone zealous, Mr. Mitchell would trust in the Lord that Elizabeth Smart would assume the stand and give testimony to his truth, as he compelled her to do when he was brainwashing her for nine months. But he knows, quite rationally, that she will not.

For Mr. Mitchell rationally knows that Elizabeth Smart has been deprogrammed, and Mr. Mitchell rationally knows that the very ideas that he compelled her to regurgitate were no truth at all.

The aim to **preclude** Elizabeth Smart from testifying is no product of Brian's compassionate mindset. For Brian Mitchell quite rationally recognizes that Elizabeth has spoken out repeatedly as a victim's advocate, and has found this community-mindedness constructive. As a person who has kept up with the media reporting of his case, Brian would be aware of how Ms. Smart's outspokenness has offset what she experienced as repeated sexual violation, mind control, physical restraint by a chain to her ankle, enforced silence, erasure of her identity, and loss of her liberty – among other indignities.

Brian Mitchell also has the capacity to demonstrate empathy for Ms. Smart by how he chooses to cross examine her. Thus, if the negotiation to preclude Elizabeth Smart from speaking out is motivated by his compassion, it is Brian's choice to demonstrate such dignity in reacting to her voice when Elizabeth testifies at trial.

No plea negotiations are happening at this time. This distance does not reflect irrational thinking of the defendant to refuse to negotiate. Brian is aware that prosecutors are not willing to offer what he wants.

There is no evidence that Brian Mitchell is impeded from negotiation because of a theorized fixed, false belief that the prosecutors are Satan. If Brian terms prosecutors who did not accede to his plea offer as "Satan," that is no different and no more delusional than any number of characterizations, including the expletives we typically hear from other frustrated defendants. Brian Mitchell's indignation was customary.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 109 of 206

Were this not to be a rational plea negotiation, Brian Mitchell's defense attorney would not have so spiritedly argued for the prosecutors to reconsider the offer even after they turned it down. Were the plea offer to have been irrational, defense attorneys would have asserted their client's incompetence because of the offer itself. But defense attorneys stipulated to Brian's **competence** and continued to appeal to prosecutors to reconsider their offer.

Thwarting trial

After active and extended correspondence, on October 18, 2004, District Attorney David Yocom reacted to Brian Mitchell's rejection of the prosecution plea offer that would carry a sentence of thirty years to life.

Prosecutors had submitted the offer in late September, assigning an October 15 deadline. Mr. Mitchell's rejection letter mailed October 15 asserted a counteroffer, which the district attorney rejected.

Mr. Yocom's letter set a final deadline of 12 noon on October 22, 2004 for Brian Mitchell to accept the original plea offer,

Visitor logs show two members of the defense team to have visited Brian Mitchell on October 20, and three members of the defense team to have visited Brian Mitchell on October 21, 2004 at 1030 AM.

On October 21, 2004, the defense team, which included two attorneys who had seen Brian Mitchell that day, wrote to prosecutors to defend their client's decision making:

“The acceptance or rejection of any plea offer and when it occurs is in the sole discretion of our client. Often times there are legitimate reasons that may appear to frustrate the road to resolution and plea negotiations.”

The same letter, **under the stipulation that Brian Mitchell was competent to plea**, added:

...we acknowledge, as you have stated in your letter, that there are instances in which negotiations need to begin anew. We are certainly willing to open that possibility.”

No members of the defense team visited Brian Mitchell until October 27. Jennifer Skeem, Ph.D, who is based and maintains responsibilities in California, examined Brian in Utah. She concluded he was incompetent on the basis of her meeting with him on October 29.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 110 of 206

So plea negotiations fractured - because prosecutors and the defendant would not agree to defense demands, and not because of the defendant's lack of rational understanding - inability to consult his attorney rationally, and inability to make rational decisions, the defendant morphed into an "incompetent" with extraordinary speed and endorsement from a trained professional despite no clinician documented change in his condition to explain such a dramatic shift.

On November 9, Dr. Skeem (through Ms. Buchi) pronounced Brian Mitchell incompetent because, among other things, she believed he was unable to manifest appropriate courtroom behavior even *before* he manifested the pattern of singing loudly to the end of prompting his removal.

Consider that Brian Mitchell understands the charges against him and their gravity. He has stated that his best and perhaps only defense is the testimony of the BIDI. Brian anticipates a challenge on the admissibility of the BIDI and possibly, the judge excluding it from testimony. He told Dr. DeMier that if he is to be found competent, Brian expects to be "obviously" convicted on the available evidence. Once plea efforts fell short, the defendant had high motivation to forestall his trial and has been exceptionally effective in achieving this.

Brian Mitchell's refusal to communicate with forensic examiners has in that regard been a shrewd tactic, because at least some have been persuaded that this is evidence for his incompetence. If as he has said, he expects repudiation by the criminal justice system at trial, what would be a rational reason for him to cooperate with a forensic examination that he anticipates would expose his competence?

The defendant further maintained long stretches of refusing to speak with staff, even as long as eighteen months. Only in recent interviews did psychiatric technician Tye Jensen reveal that a colleague had boasted one day to patient [REDACTED] (a friend of the defendant's) that staff had identified a person who was malingering because of conversations he had on the unit. The next day, Brian stopped speaking to staff and successfully maintained his discretion for all those months.

Although there were fellow patients and an occasional encounter in which Brian did speak, the defendant otherwise maintained the discipline needed to conceal himself from appraising ears charged with evaluating his competency and otherwise monitoring his behavior. According to psychiatric technician Jill Rafiner, for example, the defendant even taught himself to eliminate facial expressions so staff could not see his reactions to things and be in a position to gauge their appropriateness. As a result, he shown unusual ability to assist his defense with the discipline of his discretion.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 111 of 206

Brian Mitchell, in lulling staff into adapting to his silence and uncooperativeness without contemplating the guile of the manipulation, has cunningly employed the tactic of attributing decisions to religious directive. Although closer scrutiny would demonstrate that religion had far less day to day influence on Brian Mitchell than credited to him.

In communications with forensic examiners in particular, Brian Mitchell has shown a tendency to preach or tether the discussion to religion and loose themes of repentance to the point of strangulation. Meanwhile, the staff who interacted with Brian when his guard is down noted Brian to be relating in a perfectly normal fashion when examiners were elsewhere. Brian recognizes the importance of impression management with people informing the competency examination, and has managed it to perfection. This tactic also manifests in his avoiding participation in competency groups – where if he really wanted to be found competent as the defense had contended, all he had to do was attend.

Psychiatric technician Heather Houghton observed that Brian “used religion as a shield... whenever conversation went somewhere uncomfortable for him, he would switch to preaching.” Yet Mr. Mitchell has demonstrated, with those of his choosing, to be able to relate details, events, and facts in a completely rational and self-serving way – two abilities vital to assist one’s defense.

Religious themes pervade his communication only when Mr. Mitchell wishes to conceal a topic from further scrutiny, or to redirect the discussion from what he chooses not to answer. Staff such as Judith Fuchs specifically have directed Brian not to discuss religious issues, and he has communicated with them and without the influence of religious themes.

Religious beliefs are inscrutable, difficult to make logical. Weighing an interview down as Brian does with *affected* preaching, and not merely preaching, would render the interview, to anyone – even a very religious person who would not discourse in such a contrived (“thou sayest”) manner – unbearable. Staff like social worker Greg Porter had the candor to call it “boring.” And that’s the point. A bored examiner is one that stops probing, which is exactly what Brian Mitchell preferred.

When psychiatric technicians have discussions for hours with the defendant that they characterize as interesting and stimulating, and the unit social worker refers to the defendant as boring, this dichotomy of opinions lends weight to one USH staff member’s impression that “there are two Brian Mitchells.”

As Mr. Mitchell quite rationally assessed the situation in April 2006, he would never leave the hospital, “as I will never acknowledge guilt and they will never parole me nor find me competent as I will not participate in a corrupt system.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 112 of 206

Even as Brian was successfully projecting an incompetent image, the defendant more openly involved himself in discussion of the law of forcible medication, whether his singing in court would be exploited to argue for forced treatment, the progression of his wife's competency and forced medication cases, Utah legislation on forced medication and even ex post facto implications for his own case. Brian exhibited a rational awareness of the issues at that time, worked with counsel, and even acknowledged that he would accept the court's ruling.

Yet, the defendant had the discipline to maintain all apparent trappings of incompetence such that clinical staff did not rethink their earlier presumptions about Brian Mitchell and the shallowness of his repudiation of court being above God. This unusual talent for hiding in plain sight, apart from its disturbing association with keeping Elizabeth Smart captive amongst the community of keenly concerned citizens, speaks to how honed and sophisticated Brian's abilities have been in aiding his case.

It is therefore my professional opinion that Brian Mitchell's success in perpetuating court findings of incompetence, given his stated awareness of the difficulty of his case, demonstrates his exceptional abilities and distinct talents for aiding his defense.

So attentive to fine points in his case is Brian Mitchell protected his capacity to use the BIDI in his defense when he set boundaries for how he was to discuss the BIDI with Dr. DeMier. The defendant would **not** allow the discussion to embrace the BIDI as it related to his criminal case, even though this is, as Brian said, testimony for his defense." Brian displayed the presence of mind to conceal his trial-relevant insight.

After the psychologist took him up on his offer to appreciate his predicament by reading the BIDI (reflecting his appreciation of the charges as noted above), Brian then opted not to speak to him, challenging what was in the doctor's heart. The defendant demanded, as he would with Wanda and Elizabeth, that Dr. DeMier would bear testimony to the truth of the BIDI. Once that would be accomplished, he would have enlisted the psychologist as an ally. In short, the defendant cleverly set boundaries for engaging the BIDI by requiring affirmation of it, rather than dialogue about it. This is a safe and clever strategy for keeping a well-meaning examiner at bay.

Furthermore, it speaks to the depth of Brian's conviction that he anticipates that Dr. DeMier would reject the BIDI without having even probed the psychologist.

There is no evidence for Brian Mitchell's attempting to martyr himself or to be punished in order to fulfill some role. When Dr. Berge asked him, for example, if he wanted to dispute the finding of his incompetency, Mr. Mitchell declined. But of course. Brian even responded to staff to "get me out of here," when they asked what they could do to help

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 113 of 206

him. In a more recent clarification on the martyr issue to Dr. DeMier, he noted, “I must rejoice in what I suffer for the Lord. Not that I seek persecution.”

There is no evidence to suggest that Brian Mitchell conveys details that are an irrational interpretation of reality, rather than self-serving cognitive distortions.⁵ Those cognitive distortions conveyed in the police interrogation and then, in the BIDI gave way to other defenses, reflecting the defendant’s quite understandable sampling of arguments that might resonate. This does not demonstrate delusional or irrational interpretation of reality, but the casting about of a person test-marketing his strategy as well-resourced attorneys might do with focus groups.

Brian Mitchell is a glib and very bright man. The hospital records and interviews convey that he speaks and writes about what he wishes to speak about, and communicates with depth, clarity, and occasionally a sharp sense of humor.

By virtue of his intellect, verbal, and agility skills, it is my professional opinion that Mr. Mitchell has exceptional capacity to testify relevantly. If he chooses to communicate cognitive distortions when asserting his defense, he is rationally expressing himself in a self-serving a way as possible. The alternative, embracing guilt, is not acceptable to him.

To suggest that someone who communicates with cognitive distortions is not able to testify relevantly would mean that a huge percentage of sex offenders would be per se incompetent to stand trial since many sex offenders communicate using cognitive distortions. In Mitchell’s case, he elects to communicate with cognitive distortions or with a religious frame of reference, but he has a well-developed capacity to communicate relevantly and to tailor that communication to suit what he is after.

4) *Does Mr. Mitchell meet criteria for a psychiatric diagnosis? What is that diagnosis(es)?*

Pedophilia, Nonexclusive Type
Antisocial Personality Disorder
Narcissistic Personality Disorder
Malingering
Alcohol Abuse, in Controlled Environment

⁵ Gannon, T. A., Ward, T. and Collie, R. **Cognitive distortions in child molesters: Theoretical and research developments over the past two decades.** *Aggression and Violent Behavior*, Vol. 12, 402-416, 2007
Blumenthal, S., Gudjonsson, G. and Burns, J. **Cognitive distortions and blame attribution in sex offenders against adults and children.** *Child Abuse and Neglect*, Vol. 23, pp. 129-143, 1999

Pedophilia, Nonexclusive Type

Although Brian Mitchell has a history of sexual relations with adults, the defendant meets criteria for pedophilia.

Specifically, that for a period of over six months, Brian Mitchell engaged in sexual behaviors and activity with a prepubescent child. A person with pedophilia has urges, has acted on these urges, and with consequences to him.⁶

Elizabeth Smart was 14 when Brian Mitchell reportedly took her and forced sex on her, then continued to have sex with her over many months before his arrest. Brian's relatedness to her, per Mrs. Mitchell and Elizabeth, was principally and distinctly sexual. Wanda's lament was Brian's lack of interest in her, while according to Elizabeth, Brian wanted sex with her as much as four times a day. This is all the more remarkable when one considers that Brian spent most days, most of the day, away from them and from their camp.

While Elizabeth stated that Brian conveyed ambivalence on occasion when discussing having taken her, he sought sex from her with relish, even in the face of instigating quarrels with Wanda.

Brian Mitchell's sexual initiative with much younger girls did not limit itself to the period in which he was attempting to build his sect. In his mid-teenage years, Brian was charged with sexually exploiting a four year old he compelled to touch his privates, according to the girl's father.

Years later, according to [REDACTED] Brian molested her repeatedly within weeks of being married to her mother [REDACTED], and continued from when she was eight years old until she was twelve. According to [REDACTED] tried to intervene and Brian's response was to victimize them both. [REDACTED] recalled that Brian told her not to tell anyone, that no one would believe her if she did.

[REDACTED] Mitchell charged that the defendant molested [REDACTED] [REDACTED], and that all [REDACTED] The family filed a complaint, but authorities did not pursue charges. All of those who offered input on this from the Church contrasted [REDACTED]'s agitation to Brian's cool, apparently righteous and straight-laced demeanor, his standing within the church as a Mechizedek priest and concede that until the inconsistencies of Brian's manner became more readily obvious over time, church authorities believed Brian.

⁶ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 571, 2000

[REDACTED] also charged that she found photos of [REDACTED], in sexually compromising positions. The pictures were undated but they appeared according to [REDACTED], to reflect when they were much younger. Brian charged that [REDACTED] was making vindictive charges as a woman scorned in a failing marriage, and was strongly supported by his family, who declared [REDACTED] crazy. [REDACTED] already had antagonistic relationships with Brian and [REDACTED] especially, and denied that anything improper took place.

However, according to Evelyn Camp, when she helped Wanda and Brian clean out the Mitchell’s trailer after they moved to Heber City, Wanda gave her a box to sort that was full of pictures of those Evelyn only recognized as [REDACTED], naked and in sexualized positions she found deeply disturbing. Evelyn reported that she strongly pressed Wanda to confront Brian about this conduct. Wanda, who at that point was already increasingly submissive to Brian, told Evelyn that Brian responded by laughing it off and said it was not a big deal.

[REDACTED]

[REDACTED]

[REDACTED] Thus Brian Mitchell began having sex with Elizabeth Smart when she was prepubescent. The defendant has a history of sexual interactions with prepubescent females. As he sought sex with Elizabeth Smart while having sex with his wife, the defendant has interest in both pre and post pubescent females. Even still, the defendant’s glazed fixation on Elizabeth when viewing the videotaped interview of her post-liberation is eerily reminiscent of Utah State Hospital accounts of how enraptured he was with the females of “Charmed” and Judy Fuchs’ depiction of how close he sat to the television to watch the program “like he was in love with the girls.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 116 of 206

Taryn Nielson, a psychiatric technician on the Utah State Hospital, also drew Mr. Mitchell's interest. The defendant reportedly observed to nursing supervisor Leslie Miles that Ms. Nielsen "looked prepubescent." Perhaps Brian Mitchell is a hebephile, one who is sexually drawn to those in the 15-19 year age group.⁷ A proclivity for pedophilia may coexist with hebephilia.⁸

The defendant was known to have stalked [REDACTED], twelve years old, in February 2003, breaking into her home without having alerted her parents.

According to Elizabeth, the defendant told her of others girls he had stalked as well. The record reflects that Brian Mitchell was targeting girls ranging in age from 10-14.

Julie Adkison was of legal age when Brian was wooing her. She was open to religious dialogue with him. She was also happily engaged.

Ultimately, Brian Mitchell is a man against whom many charges of inappropriate sexual contact have been levied, involving numerous girls and even at least one [REDACTED]. Allegations of similar quality have originated in numerous quarters that had no awareness of the other.

The proportion of children in Brian's custody to whom he is alleged to have been inappropriate is extremely high. He is not merely a recidivistic pedophile with a history of many years of offending, but a highly recidivistic pedophile who has offended incestuously and outside the home as well, and who is now charged with sexual assault.

As a man in his fifties, and a man who has drifted in and out of many communities, Brian Mitchell has many years and many stops along the way that no one knows of. It is remarkable that someone with:

- ◆ the exceptional discipline to exercise four hours a day
- ◆ the exceptional discipline to lose weight despite extra portions of institutional food
- ◆ the exceptional discipline to conceal his verbal discussions so effectively
- ◆ a man with a diverse fund of knowledge
- ◆ a man so self-directed
- ◆ a man with exceptional communication agility
- ◆ a man regarded as very intelligent
- ◆ a man with standing in the LDS
- ◆ sophisticated enough to be polite when he chooses

⁷ Blanchard, R., Lykins, A. D., Wherrett, D., Kuban, M. E., Cantor, J. M., Blak, T., Dickey, R., & Klassen, P. E. **Pedophilia, hebephilia, and the DSM-V.** *Archives of Sexual Behavior*, Vol. 38, pp. 335-350, 2008

⁸ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 571, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 117 of 206

- ◆ a man so effective that he could successfully brainwash Elizabeth Smart in the middle of the wilderness without nearly the support mechanisms or other personnel available to cults
- ◆ a man who has the verbal fluency and research patience to compose and edit a document like the Book of Immanuel David Isaiah
- ◆ A man who has long presented as a voracious reader

could not hold down more than one seven year job in his life, given the prevailing understanding that he was not abusing drugs since his twenties.

Some positions reportedly lasted very short duration. One of these jobs, the Montessori school in Salt Lake City, elicited several complaints about Brian, according to [REDACTED] [REDACTED] recalled how her child had to be reassured that Brian was let go before he would return, though at the time she had not considered what would have prompted his dismissal. 1980 was a different time in the public consciousness, wherein now parents would be far more sensitive to an abrupt change in a child's enthusiasm for school and concern about one staff member in particular.

Whether other incidents of pedophilia or sexual boundary problems caused Brian Mitchell to lose jobs he was otherwise qualified for remains to be seen. He does meet criteria for antisocial personality disorder and psychopathy, both of which would interfere with his work success.

The defendant solicited Julie Adkison, who was of age, for marriage. Subsequent to this, Brian did not solicit, he kidnapped. And he attempted to kidnap at least two other girls. The underage girls we know about were victimized in a consistent modus operandi. To that end, Mr. Mitchell's choice of the underaged, which persisted beyond his aborted kidnapping of [REDACTED] settled into a patterned predation.

Brian also was planning to attack a girl's hike with machetes, according to Elizabeth; this would also specifically targeted the very young, whom he would then expect to "marry."

Research has probed what conditions most frequently co-occur with pedophilia. In one outpatient sample of 45 men, multiple additional diagnoses were the norm rather than the exception. Lifetime incidence of an alcohol-related disorder was 51%; of depression 56%; of antisocial personality 22 %; of schizophrenia, delusional disorder, and any other psychotic disorder **combined** – 2.2%, or only one person in the sample.⁹

⁹ Raymond, N., Coleman, E. **Psychiatric Comorbidity in Pedophilic Sex Offenders** *Am J Psychiatry*, 156, pp. 786–788, 1999

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 118 of 206

In discussing the prospect of Elizabeth testifying at trial, Brian Mitchell has made statements that create the impression that he has concern for Elizabeth in that he regards her as his wife.

There is nothing in the very extensive documentation of this case that establishes a continuing connection from Brian Mitchell towards Elizabeth, to the end of someone who relates to her as a significant other, let alone as his wife. No comments about her progress, no prayers for her comfort or spiritual growth, no missives in the Book of Immanuel David Isaiah, no requests for information of staff or others.

It was Elizabeth's conclusion that the entirety of his relatedness to her was as a sex object and a source of free labor and potential children for the sect he wished to establish.

Sex as the foundation of Brian Mitchell's connection to Elizabeth Smart is borne out vividly in the memoirs of Wanda Mitchell, chronicling the distinctions between herself as a spiritual connection and Elizabeth as the carnal attachment (of a man with an established penchant for pedophilia).

Dr. Skeem, in her first report, wrote, "I do not believe that Mr. Mitchell's revelation to take young women by force is merely a justification for a desire to have sex with children." (The expression "*merely*" allows for Mr. Mitchell's plundering young girls to build a sect with malleable women and also to indulge his preference for sex with the underaged). The psychologist explained that Brian and Wanda "made several failed attempts" to execute a plural marriage with consenting women.

There is evidence only for one woman (Julie Adkison) to have been solicited to the budding sect, and a very young (though not underaged) woman at that. Whoever is the "Kellie" who Wanda and Elizabeth spoke of has not been established, and the link of Brian's involvement with her to any discussion of polygamy is non-existent. Elizabeth's account of Brian's depiction of his interaction with Kellie was more reminiscent of a sexual fling with a woman who had the same wanderlust he had.

Given Brian Mitchell's headstrong tenacity, he shifted from soliciting females of age to kidnapping children with exceptional speed. The capability he has shown attracting vulnerable adult women certainly worked with malleating Wanda Mitchell into his most devoted adherent. Wanda proved to the very end that age does not necessarily equate with the malleability of a woman.

Dr. Skeem also asserted that Brian Mitchell as one who "required considerable prodding": to act on the inclination to kidnap Elizabeth Smart. Yet there is no evidence for whatever prodding was done or could be done to the dominant Mr. Mitchell. His displaced blame on Wanda for "severely chastising" him that he was "not to disobey the commandment of

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 119 of 206

God” cannot be taken seriously when one appreciates that by that time, by available accounts, Mr. Mitchell was essentially leading Wanda with complete domination.

To endorse the claim, regardless of whether the brainwashed Wanda Mitchell asserted it -- that Brian Mitchell would break into a home and kidnap and hold a fourteen year-old girl prisoner because he was “severely chastised” -- strains credible understanding of Brian Mitchell and of his relationship with Wanda Mitchell to the breaking point, for specific reasons.

First of all, Brian Mitchell was notorious for not responding to chastisement. Wanda did more than severely chastise Brian for yielding to the expression of his unquenchable lust for Elizabeth without any consideration for Hephzibah, Mother of Zion. Brian Mitchell’s reaction to the hellfire of Wanda’s pain was to ply and placate her with “blessings” that Elizabeth experienced as manipulative. Yet, the predictable effectiveness of these prayers, even if they were a spiritual placebo, demonstrates how capable Brian was at dousing Wanda when she was “severe,” so much so that he did not refrain from constantly igniting her even as he avoided other “dangerous” activities.

The defendant unfailingly resisted and avoided criticism from family and acquaintances alike. At OC Tanner, as he did later with Agent Ross and Detective Parks, Brian sang hymns to drown out argument and chastising alike. [REDACTED] Mitchell recalled him to become violent when she, as the wife whom he expected would obey, chastised him. When Karl West merely yelled that the Mitchells were defiling the West home by burning incense, Karl reasoned, to cover the aroma of drugs, Brian and Wanda departed his home “like the wind.”

Second, Brian Mitchell did what he wanted to do. Still does. He is a dominant and controlling individual who was appreciated as such by Alyssa Phillips, LouRee Gaylor, Scott Dean, Dick and Evelyn Camp, Derrick & Mark Thompson, [REDACTED], Elizabeth Smart, [REDACTED] Mitchell and others interviewed for this examination. Scott Dean and Phyllis Koch and others described Wanda to be so obedient as to lower her head and to wait permission to speak.

Moreover, is no evidence for Brian Mitchell to have needed any “prodding” to break into the [REDACTED] home to try to kidnap [REDACTED] and no evidence for Brian being “prodded” to break into the Kemp home to kidnap [REDACTED]

Any suggestion that Mr. Mitchell’s plying Elizabeth with marijuana and alcohol, compelling her to oral sex, ordering her to walk around naked, and introducing her to pornography are

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 120 of 206

indicative of anything beyond frank exploitation is ludicrous and ignores the literature of the tactics of sex offenders¹⁰ and for successful brainwashing.¹¹

If one lovingly seeks to bring another low to the dust, there are many alternatives to oral sex and defilement. One might, for example, compel his prideful wife to stand in the hot sun for hours on end washing the clothes of those searching for a missing person. Or, serving the many needs of the homeless with whom Brian and Wanda interacted. Or, were Mr. Mitchell's own expression to be extended to a sect, following him as he preaches the need to repent. After all, Mr. Mitchell needed only to rid himself of worldly possessions, to preach, to carry a handcart, and to dispense with traditions deemed false to transform himself. It is likely that were Elizabeth to have been given a choice of a pathway to piety, she would have opted away from servicing Brian Mitchell.

It is also my professional opinion that were Brian Mitchell to have been guided to shake off false traditions by submitting sexually to a husband, he might have experienced the prospect of being brought low to the dust as a less than cleansing experience. A Brian Mitchell who would opt for such a course on his own would then be more reflecting delusional thinking than scheming manipulation.

Brian Mitchell's assertion of bringing Elizabeth low to the dust, to the very rational end of placating the continually spurned Wanda Mitchell, is the distortion synonymous with those who sexually exploit.¹² It is also the published and practiced method to erode a woman's moral framework in the course of a mind control agenda.¹³

Antisocial Personality Disorder

Brian Mitchell has reflected a pervasive pattern of disregard for and violation of the rights of others since age fifteen, as indicated by:¹⁴

¹⁰ Wolfe, V. V. **Child Sexual Abuse**. In. E. Mash & R. A. Barkley (Eds). *Treatment of childhood disorders 3rd Edition*. New York: Guilford Press, pp. 659, 2006

Craven, S., Brown S. and Gilchrist. E. **Sexual grooming of children: Review of literature and theoretical considerations**. *Journal of Sexual Aggression*, Vol.12:3, pp. 287-299, 2006

¹¹ Walsh, Y. **Deconstructing 'brainwashing' within cults as an aid to counseling psychologists**. *Counselling Psychology Quarterly*, Vol. 14:2, pp. 119-128, 2001

¹² Gannon, T. A., Ward, T. and Collie, R. **Cognitive distortions in child molesters: Theoretical and research developments over the past two decades**. *Aggression and Violent Behavior*, Vol. 12, 402-416, 2007
Blumenthal, S., Gudjonsson, G. and Burns, J. **Cognitive distortions and blame attribution in sex offenders against adults and children**. *Child Abuse and Neglect*, Vol. 23, pp. 129-143, 1999

¹³ Bugliosi, V. **Helter Skelter: The True Story of the Manson Murders**. New York: W.W. Norton & Co, 2001

¹⁴ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision**. Washington, DC, *American Psychiatric Association*, pp. 706, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 121 of 206

1. **Failure to conform to social norms of lawful behaviors by repeatedly performing acts that are grounds for arrest**
2. **Deceitfulness, as indicated by repeated use of aliases**
3. **Reckless disregard for the safety of self or others** (living out of shelter, no provisions for his wife when he is locked up, exposed children to precocious sexuality, molesting children)
4. **Consistent irresponsibility, as indicated by failure to honor financial obligations** (child support, debt) **and to sustain consistent work behavior.**
5. **Lack of remorse**, as indicated by indifferent or having rationalized having hurt, mistreated, or stolen from another (“indifferent to suffering caused Elizabeth Smart; treatment of Wanda and his other wives, indifferent to earlier molestation of others, referring to repeated theft and shoplifting as “plundering”)¹⁵

In addition, **prior to age 15**, Brian Mitchell was noted to have demonstrated a pattern of behavior in which the basic rights of others were violated, as evidenced by – at the least:

Bullying his sister and brother, poor frustration tolerance and initiating fights; threatening his mother, physical cruelty to others; and forcing a four year old neighbor into sexual activity. He incurred repeated detention and eventually dropped out of high school. These qualities contributed to impairing his functioning, to the end that he became alienated from his family, was arrested and referred for counseling.¹⁶

Psychological testing conducted by Dr. Thomas demonstrated Mr. Mitchell to be, by her account, “very antisocial.” As antisocial personality disorder is a diagnosis based upon the span of adulthood. Testing results from age seventeen do fully inform diagnostic thinking, unless history bears out such antisocial personality characteristics in subsequent years. Brian Mitchell has exhibited just that adult life history.

Brian Mitchell was working for OC Tanner spanning 1985-1994, and more closely attached to the LDS church during the early years of his marriage to Wanda Mitchell. Institutional affiliation and other aspects of structure can be constructive to an individual with antisocial personality disorder in the same way prison is.¹⁷

¹⁵ Ibid.

¹⁶ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 98-99, 2000

¹⁷ Cloninger, C. R. **Antisocial personality disorder: A review.** In M. Maj, H. S. Akiskal, J. E. Mezzich & A. Okasha. *Personality Disorders*, New Jersey: John Wiley and Sons, pp. 159, 2005

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 122 of 206

However, given the persistence of personality disorder, what may appear to be maturation may be short-lived. For the personality disorder itself – an individual's irresponsibility and other qualities may disrupt and degrade opportunities and stability. Brian was actively seeking to evade child support and taxes and left work for this reason. Scott Dean, who tried to reunite Brian with his longing and oldest son, met with broken promises and no meaningful initiative from Brian to take responsibility for [REDACTED] – or any of his other children, for that matter.

The defendant, notwithstanding how avid a reader he is and his demonstrated capacity to sit for hours digesting books from a range of writers, did not develop himself scholastically, even when he had the full support of his family to find a course for himself. Even after he abandoned his children, his family, and took to spending time in the library, he did not take such initiative.

All three of Brian's wives described eerily similar antisocial expression, although none of them communicated with the other – in part because Brian so deftly erased his past at each stop, typically with demonizing the reputation he once married. All three, for example recalled Brian as one to venture off with no notice to them, and to be gone for days – or more – at a time. [REDACTED]
The two also volunteered Brian as an incorrigibly neglectful and uninvolved father who was completely absent when their second child was born.

According to [REDACTED], three days after the birth he came home; [REDACTED] locked him out, and he entered through a window. Two friends who were staying with her at the time became frightened and left. She recounted that she tried to stop him by hitting him over the head with a broom, but he made it inside, strangled her, and [REDACTED] [REDACTED]

Long before the “plundering” of Elizabeth Smart drew intense police response, Brian Mitchell had kidnapped [REDACTED] two children and kept them from her for several years, with impunity.

Attachment to the LDS slowly yielded to a belief in which tax evasion and the book of Mormon could co-exist, the love of nature with shooting a dog in the head, prayer with pornography under LouRee's bed, and the beer-drinking, marijuana-smoking lymphology adherent.

Psychopathy is a diagnostic construct that differs in criteria from antisocial personality disorder, although some of the criteria of psychopathy – specifically pathological lying, impulsivity, lack of remorse, poor behavioral controls, lack of realistic long-term goals, impulsivity, irresponsibility, lack of remorse, criminal versatility, juvenile delinquency, and

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 123 of 206

early behavior problems¹⁸ – are found in antisocial personality, and although antisocial personality has, in the past, been sometimes referred to as psychopathy.¹⁹

Psychopathy also has certain qualities in common with narcissistic personality disorder, namely aspects of grandiosity, lack of empathy, and exploitativeness.²⁰ However, even with both antisocial and narcissistic personality disorders, there are still aspects of history unique to psychopathy. Brian Mitchell meets criteria for psychopathy based upon historical and personality features.

The PCL-R is a twenty item inventory for the assessment of psychopathy in clinical and forensic settings.²¹ The standard administration of the PCL-R involves the collection of history from interview in combination with collateral history. In certain instances, if interview is impossible, research has demonstrated that a valid PCL-R can be administered if the collateral information is of sufficiently high quality.²² For the assessment of Brian Mitchell, I relied upon behavioral observations and history available through a range of sources spanning his adult years.

Mr. Mitchell demonstrated the presence of the following symptoms of psychopathy (score in parenthesis):

Glibness - Mr. Mitchell exhibits this quality in part because of how effectively he can communicate yet say as little about himself as possible. Family such as Evelyn Camp, even his wife ██████ remarked how mysterious he was about his past. Scott Dean observed that Brian would guide a discussion in a way to suit his agenda, just that it was not clear to the listener what that agenda was.

His control over the dialogue and mastery of maneuvering the discussion enabled the peculiar threesome to nevertheless avoid discovery.

After his arrest, Brian's interview with interrogating agents demonstrates a man who was in control of the interview, yet calmly parried efforts by officers to provoke him. He employed humility when it served him, stating, "I never said I was a prophet, I said I was a servant." Under immense pressure, he organized his thoughts and conveyed details without disclosing damaging points. The defendant even had the presence of mind to contradict

¹⁸ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition**: Technical Manual. New York: Multi-Health Systems Inc, pp. 36, 40-43, 2007

¹⁹ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision**. Washington, DC, *American Psychiatric Association*, pp. 702-706, 2000

²⁰ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition**: Technical Manual. New York: Multi-Health Systems Inc, pp. 36-39, 2007

²¹ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition**: Technical Manual. New York: Multi-Health Systems Inc, 2007

²² Ibid

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 124 of 206

the BIDI to say that he did not marry her, because Brian was well aware that polygamy is illegal, and smoothly redirected the discussion away from specific and sticky details to theology – without the interrogators being able to contain him.

Brian disarmed interrogators by pointing out their insincerity, how inappropriate physical contact was, and confronting them matter-of-factly about changes in their tactics. The defendant's agility was remarkable in his response to belittling comments with parsed words, composed, sometimes clever retorts and even comic timing:

Agent Ross: I don't even know how to say She'erjeshub!
Brian Mitchell: You just did.

Alyssa Phillips recalls Mr. Mitchell as a person who always knew what to say and chose his words carefully. "Brian could talk himself out of anything," recalled Wanda's mother Dora. "And he did – he was a temple worker., he got his recommend."

Part of the corpus of evidence to Mr. Mitchell's glibness has to be his use of preaching in interviews with responsible examiners -- even as he was conducting perfectly rational discussions with others – in which he ground the interview to mush by proselytizing and maintaining the focus on religious themes. The defendant was clever enough to exploit the unspoken reality that examiners knew that if they pushed him too hard, he could simply shut down.

Mr. Mitchell therefore controlled these interviews in a way that he could not control law enforcement who encountered him in the Salt lake City library and would have slapped handcuffs on him if he responded to their queries with BIDI dogma. He is a communicator who is keenly aware of his time and place, and manages it in a variety of ways. (2)

Grandiosity – Mr. Mitchell has characterized himself as a prophet and has written his own spiritual scripture, envisioning a divinely ordained destiny of great importance. Fundamentalist LDS sects are typically led by individuals with such inflated ideas of their being the "one mighty and strong" and the "Davidic King," and may give themselves biblical names as well, they too are still distinguished for their grandiosity – unless, of course, their identity is exactly that.

Earlier in life, Mr. Mitchell was noted by Dr. Thomas to relate "with an air of intellectual superiority." Tracy Hurd Killpack, psychiatric technician at Utah State Hospital, also observed that the defendant "had his nose in the air," with a manner of relating that was not at all what she might expect from a prophet. (2)

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 125 of 206

Pathological Lying – Multiple witnesses interviewed for this examination found Brian Mitchell especially gifted at presenting a variety of facades. His wife [REDACTED] and President Meacham, among others who promoted him within the LDS church, were certain that he was a clean cut, “right-living” man who walked the talk of his priesthood. He was not.

To LouRee Gaylor, Brian carried a persona in church of a man who crowed about his blessings and love of family, even as he ignored responsibilities to some of his family and [REDACTED]. Each of the witnesses he encountered in passing reported, he presented as someone he was not. Viril Kemp learned he was from back east, and that he was alone and his family had left. Joan Fox thought he was in business, and that the couple was leaving to travel east and gain Wanda recital experience.

Brian’s propensity to conceal truth and fabricate otherwise is entirely consistent with Mr. Mitchell’s planned decision to disappear “off the grid,” and to maintain a lifestyle under which he would incur no liabilities.

His history is also consistent with his reflecting in a 1977 letter, (while he was on the run with his kidnapped children) to his mother, “As for my beard and long hair, I think I’m more handsome (sic) without them as well, however, that is not the image I am after at the moment. Maybe I want to look like a serious fellow and there are other reasons as well, as you know I like acting, my hair and beard is part of an act.”

In San Diego and testifying on video, the fairly regularly intoxicated Brian Mitchell pleaded to a criminal court judge, “for the first time in 22 years I got drunk that night. And the whole night was just a nightmare.” To that he added that he had family he could stay with.

Beyond lying about his background, Mr. Mitchell has made many assertions that are contradictory, some more readily exposed than others.

He declined to speak to one about Elizabeth, he said, because he planned to be reunited with her one day. This was interpreted as evidence for a delusion. However, he spoke to investigators about her after his arrest. Furthermore, Brian speaking about Elizabeth has nothing to do with their being reunited, for he was quite open about her in the BIDI.

The defendant’s additional observation that he did not want to harm Elizabeth “any further” contradicts his portrayal of their “glorious” relationship. More to the point, speaking about Elizabeth Smart to a critical examiner would confront Brian with how irretrievably contradictory her account is to his.

The defendant has periodically engaged in what he called “word fasting,” implying a religion-inspired choice. Yet Brian would be seen talking to a number of patients and even selected staff, especially those he was more attracted to. What is characterized as a “vow of

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 126 of 206

silence” implies some solemnity or spiritual connotation. A more accurate and less misleading characterization would be a “consistent, active, and creative avoidance of talking to staff charged with documenting aspects of his behavior.”

Brian explained that he spoke to Dr. Skeem “because she was more open to receiving his message.” Even Dr. Skeem noted that he sang hymns when they engaged topics he wished to avoid. And there is no evidence for Brian having articulated to the psychologist the fine points of how he brainwashed Elizabeth Smart or his divine inspiration for allowing her to fall asleep in her own vomit. Those who observed Mr. Mitchell’s pattern of whom he would communicate with offer that Dr. Skeem was more than likely an attractive female than her having exhibited openness to his message. Once upon a time, Brian depicted Elizabeth Smart to be open to his message as well, just as he deemed Dr. Richard DeMier to be closed to it.

The defendant has represented that his pursuit of plural marriage was inspired by divine revelation, even pinpointing the date to November 23, 2000. However, according to Alyssa Phillips, he was attempting to persuade Dr. West to institute plural marriage as a mechanism for growing the IAL as early as late 1997. November 23, 2000 was smack in the middle of the period that he was enjoying respectful interactions with Julie Adkison. And when Brian and Wanda solicited Julie in January 2001 for plural marriage, there was no mention of divine revelation – even though Brian felt comfortable enough to have told her he was Christ, and to ask her to hock her engagement ring. Julie recalled that Brian Mitchell presented polygamy as something he and Wanda had contemplated, that meeting her inspired them to now move forward with.

Dr. Skeem diagnosed Mr. Mitchell with Paranoid Personality Disorder. The basis for her conclusions included the assertion that Mr. Mitchell has a long pattern of secrecy. Yet Mr. Mitchell’s secrecy is also completely consistent with the secrecy of the psychopath²³ who conceals his history as well. What also distinguished this secrecy as **not** paranoid personality disorder is Brian’s propensity to give misleading or altogether false history, not merely decline to reveal for pathological suspicion. Lying is a symptom of psychopathy, not paranoid personality disorder.²⁴

Large swaths of Brian Mitchell’s adult life, for example 1976-1980, 1995-1997 are empty gaps, and other periods document afford an incomplete account of his movements. Wanda is not available for this interview, for example, and she is the only every day witness to Brian from the recent years before their hospitalization. Even with this mystery, history

²³ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition**: Technical Manual. New York: Multi-Health Systems Inc, 2007

²⁴ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision**. Washington, DC, *American Psychiatric Association*, pp. 693 & 706, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 127 of 206

reflects that the defendant employed numerous aliases over the years, from Peter Marshall to Michael Janson, and the pseudonyms David Shirlson, and David Immanuel before Immanuel David Isaiah. (2)

Manipulative – Elizabeth Smart was systematically brainwashed. Whatever Brian Mitchell's socioeconomic standing, he brainwashed Elizabeth Smart in accordance with the polished techniques of practiced cult leaders.²⁵

Procedural features of intense indoctrination include a progression of social isolation, physical distress, fear or guilt manipulations, regimented daily activity schedules, alteration in appearance, carefully orchestrated social pressure, public self-criticism or confession, repetitive mental activity, presence of strong authority figures, a messianic group purpose, stereotypical depiction of nonmembers as evil or misguided, escalation of commitment, and censorship of information.²⁶

The American Psychological Association task force report on techniques of persuasion and control added the qualities: active promotion of dependency, debilitation, physical restraint.²⁷ Also described in brainwashing literature is the “ritualized rehearsals of taboo activities meant to desensitize the subject to their actual importance.”²⁸

According to his stepdaughter LouRee Gaylor, Brian Mitchell was reading books on hypnosis and mind control when she lived with him in the late 1980's. His actions exhibit his sophistication for methods of mind control.

Brian Mitchell isolated Elizabeth, rendered her physically dependent upon him for her food, water, and safety, and even shelter. He dismantled the components of Elizabeth's identity – from her clothes, to her name, to her attachment to “mom” and “dad,” to her religious ideas, to her likes and preferences, to her self-determination. In the vacuum created by his (and Wanda's) pulverizing of her identity, Brian filled Elizabeth with an alternative ideology that dictated who she was, who she had been, what she did, when she did it, what she said and whom she could say it to.

²⁵ Walsh, Y. **Deconstructing 'brainwashing' within cults as an aid to counseling psychologists.**

Counselling Psychology Quarterly, Vol. 14:2, pp. 119-128, 2001

Baron, R. S. **Arousal, capacity and intense indoctrination.** *Personality and Social Psychology Review*. Vol. 4:3, pp. 238-254, 2000

²⁶ Baron, R. S. **Arousal, capacity, and intense indoctrination.** *Personality and Social Psychology Review*, 4, 238-254, 2000

²⁷ Singer, M.T., Goldstein, H. Langone, M.D., Miller, J.S., Temerlin, M.K. & West, L.J. **Report of the APA task force on deceptive and indirect techniques of persuasion and control.** 1986 American Psychological Association (1986, November).

²⁸ Zablocki, B.D. **Exit cost analysis: A new approach to the scientific study of brainwashing.** *Nova Religio*, 1, 216-249, 1998

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 128 of 206

The defendant reinforced the success of this mission by enlisting Wanda as an adjunct agent of control of Elizabeth Smart. The history of Elizabeth's accompanying them to a party, and to other places in their travels, with no risk to foiling Brian's agenda by saving herself is a stark testament to how Mr. Mitchell's knew his brainwashing tactics were successful.

Their public movements did not reflect irrational thinking on Brian Mitchell's part; for brazen as they were, he knew she would obey. And she did. It was not Elizabeth Smart who revealed herself, even at the end. It was the alertness of bystanders who recognized Brian from America's Most Wanted, and only then the persistence of police officers who recognized inconsistencies in her story where others did not.

Elizabeth's background may have facilitated the level of her obedience, but it was Brian Mitchell who scouted for LDS girls and who successfully implemented his brainwashing protocol.

The use of "God" and religious directive is a necessary feature of spiritual cults and their brainwashing.²⁹ A person of faith must be recruited in order to brainwash – because the message reinforces eternal reward from the creator, and damnation for disobedience. A person who does not believe in God will be indifferent to such incentives and threats. Elizabeth was specifically recruited from an LDS home, and Brian Mitchell infiltrated the Kemp's home with his feigned curiosity, again very calculated and successfully so.

The Smart history and Brian Mitchell also recall recollections of the cultivating of the Manson family. Sex was a common denominator in controlling the Manson female recruits, according to a doctor who treated the Mansons at the free Haight Ashbury clinic. "A new girl in Charlie's Family would bring with her a certain middle-class morality. The first thing Charlie did was to see that all this was worn down. That way he was able to eliminate the controls that normally govern our lives."³⁰

Manson, according to the extensive case account *Helter Skelter*, "used repetition. By constantly preaching and lecturing to his subjects on an almost daily basis, he gradually and systematically erased many of their inhibitions. Manson himself once remarked in court: 'You can convince anybody of anything if you just push it at them all the time. They may

²⁹ Walsh, Y. **Deconstructing 'brainwashing' within cults as an aid to counseling psychologists.** *Counselling Psychology Quarterly*, Vol. 14:2, pp. 119-128, 2001

Baron, R. S. **Arousal, capacity and intense indoctrination.** *Personality and Social Psychology Review*. Vol. 4:3, pp. 238-254, 2000

³⁰ Emmons N **Manson in his own words: The shocking confessions of 'the most dangerous man alive.'** New York: Grove Press Inc. 1986; Bugliosi, V *Helter Skelter* p 222-23

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 129 of 206

not believe it 100 percent, but they will still draw opinions from it, especially if they have no other information to draw their opinions from.”³¹

In short, Brian Mitchell’s manipulateness is additionally manifest in targeting victims who would be all the more vulnerable:

- 1) Age 10-14 (emotionally vulnerable and less able to physically resist)
- 2) LDS background (raised with obedience to elders and familiar with giving testimony, familiar with the notion of latter day prophets)
- 3) Religious background (responsive to promises of divine reward and fearful of threats of divine retribution)

In an earlier exchange with the late Dr. West’s son Karl, Brian Mitchell reportedly made allowances for the scenarios under which it might be understandable to kidnap someone. According to Brian Mitchell, he offered, what if she were older, and came from an abusive home? Elizabeth Smart did not. But identifying an additional quality that might make a prospect even more vulnerable to embedding in the Mitchell sect illustrates the depth to which Brian contemplated the profile of additional “wives.” More pertinent to the inconsistency of Brian’s later narrative, he did not suggest to the fundamentalist West, “what if the Lord commanded it?”

One has to appraise Wanda’s involvement in this case in the broader scheme of Brian Mitchell’s manipulateness. Both Brian and Wanda have contended that it was she who pushed him to obey commandments to plunder the 14 year-old wife.

From the time they met, Brian knew Wanda’s vulnerabilities. After all, they were acquainted in a support group oriented around the disappointments of their previous relationships. Records reflect Wanda to have dependent personality disorder. Diagnostically, that is as “malleable” as they come. Long before Brian Mitchell ever set eyes on Elizabeth, Wanda Mitchell was completely submissive and valued in herself her absolute obedience to her husband. She was malleable for her devoted faith, as well. This is a woman whose dedicated musicianship was genuinely in the pursuit of playing well enough that it would bring glory to God, as a deeply personal and mystical religious communication.

Such is the essence of brainwashing and the dependence engendered in cults. A manipulative leader who dismantles the identity of a vulnerable person, and in so doing

³¹ Bugliosi, V. **Helter Skelter: The True Story of the Manson Murders**. New York: W.W. Norton & Co, pp. 654-55, 2001

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 130 of 206

establishes dependence upon him to hold a disintegrated identity together.³² And so, Wanda was Eladah when Brian said so, and became Hephzibah when Brian said so. It would require brainwashing for a wife to experience Brian in the latter years as anything more than a pedophile (rather than a loving stepfather), thief (as opposed to a plunderer), irresponsible deadbeat (rather than a person who gave up his earthly connections to his children), or philanderer (as opposed to fulfilling the Lord's commandment).

Brian Mitchell did not merely manipulate the malleable. He prevailed on Dora Corbett, for example, to make her home available for his meetings, attempting to gain her support by suggesting that Wanda could play for the group.

Rejected by the LDS and his family, his designating himself as a prophet enabled Brian Mitchell to express his anger as righteousness. And, it empowered him to licentiousness.

Wanda represented that Brian received a revelation about polygamy in November 2000. Based upon the history from Alyssa Phillips and Karl West, Brian Mitchell was urging plural marriage from at least late 1997, and needed no divine urging to argue the point with C. Samuel West. Given also the previous history about their approach to Julie, Wanda is complicit to a false narrative that proposes the plural marriage idea hatched as a revelation.

The truth is that neither is the case, for Mr. Mitchell was trying get his sect off the ground as early as 1997. Even earlier in the 1990's, according to Gary Shaw, who knew Brian from church, the defendant talked of becoming a "prophet" for the homeless because the LDS Church was not doing enough for them. This contemplation was not a byproduct of revelation, but of ambition to a niche.

If Wanda scribed historical revisionism, and was the same person Elizabeth remembered to have been prompting her to give the false account that she was Augustine Marshall who had had eye surgery and had been living in Miami, Wanda could certainly have assumed the responsibility for "pressuring" Mr. Mitchell to kidnap a fourteen year-old he was lusting after so he could particularly enjoy sex with her while accumulating other absolutely obedient female sex partners as "followers."

As brazen as this sounds, recall that Wanda already had a history of having been confronted with a Brian Mitchell extramarital relationship. She knew her husband to be lustful. She also knew herself, however, to have been brought down to the dust after years of living with no possessions, estranged from her children, her family, her music, even her name. So in the same vein that a dismantled and bewildered Elizabeth Smart came to go along with the ministrations of Brian Mitchell, so did Wanda come to be invested that she

³² Walsh, Y. **Deconstructing 'brainwashing' within cults as an aid to counseling psychologists.** *Counselling Psychology Quarterly*, Vol. 14:2, pp. 119-128, 2000; Baron, R. S. **Arousal, capacity and intense indoctrination.** *Personality and Social Psychology Review*. Vol. 4:3, pp. 238-254, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 131 of 206

must subscribe to all of the revelations, blessings, and other spiritual coupons Mr. Mitchell was touting – for these were the only ideas that lifted her above the dust. This underscores how frightening a trauma Wanda Mitchell, Elizabeth Smart and others have endured under such a misogynistic deconstruction.

Brian Mitchell's use of alcohol to disinhibit a sexually naïve woman into providing for his gratification was not in the BIDI, not a revelation, not a teaching of lymphology, nor LDS. Alcohol, along with the targeted use of marijuana, was a tactic to manipulate Elizabeth Smart's compliance over and above the religious directive woven into the brainwashing of Elizabeth Smart.

Mr. Mitchell's choice to target girls 10-14 years old because they are malleable was persuasive to Wanda's support for building a religious sect. But as Ms. Phillips recounted, the IAL (West) sect, to which Mr. Mitchell belonged, valued the malleable as well. Like many fundamentalist groups sensitive to the suspicion of non-believers, that sect specifically did not claim the necessity to target early teens.

Brian's decision to target the underage did not arrive by revelation; it was not in the BIDI. It was, however, in Mr. Mitchell's history to molest the physically vulnerable youth, even while carrying on adult sexual relationships. What he sold to Wanda – [REDACTED] -- as a religious calling was Brian's ingenious way of giving holiness to his lust as a directive of a "prophet" or even of God. Orchestrating this scheme within the marriage further demonstrates the defendant as manipulative.

Given the pain that Brian's open sex with Elizabeth eventually brought Wanda, it is my professional opinion that Mr. Mitchell devoted considerable energy to manipulating Wanda for her full support of his venture into plural marriage. The defendant's manipulateness thus did not limit itself to the brainwashing of Elizabeth Smart.

When the asserted "revelation" of polygamy was chronicled, it was accompanied by the directive that Wanda must accept the law or suffer eternal damnation. At the same time, the now-infertile Wanda was promised by the prophet in whom she believed that her womb would again open and bear fruit. The manipulation of reward and punishment is common to religion cult dynamics,³³ exquisitely illustrated by these examples.

Elizabeth Smart, reflecting on her experiences in traveling with Brian and Wanda, observed this spiritual reward-punishment manipulation as well. Despite the anguish that Wanda conveyed, Brian continued to openly have sex with Elizabeth and to exhibit a lust and

³³ Walsh, Y. **Deconstructing 'brainwashing' within cults as an aid to counseling psychologists.** *Counselling Psychology Quarterly*, Vol. 14:2, pp. 119-128, 2001

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 132 of 206

excitement for her that marginalized his wife. When Wanda's sadness erupted, according to Elizabeth Smart, Mr. Mitchell would recite elaborate blessings, even as revelations. The devout Wanda would calm with these blessings and delight in the platitudes about her obedience, knowing her place, enduring the humbling for greater later reward, etc.

Despite being brainwashed and subject to her own psychological dismantling and assault, Elizabeth still experienced this display toward Ms. Mitchell as contrived and insincere. She marveled at how quickly Mr. Mitchell could conjure these elaborate missives of claimed religious calling.

The expression of Brian Mitchell's manipulateness did not even achieve the peak of its intended expression. For according to Elizabeth Smart, the defendant was enlisting her and Wanda Mitchell to carry machetes to attack a girl's camp to get more wives.

“He was going to get three machetes this summer and he was going to take Wanda and I through the mountains to frighten this girl's camp. When the girls were on an Above and Beyond hike he was going to take six of them. He was like, you guys have to come with me. You have to carry a machete.”

The outlandishness of such a plan, apart from being devoid of divine order, speak to the level of control Brian Mitchell knew he had over the women, and is eerily reminiscent of the exploits of the Manson women.

Furthermore, the brazenness of the idea demonstrates the lack of limits with which Mr. Mitchell felt obliged to. Were taking wives to have been a fulfillment of divine right, however, Brian Mitchell would not have unfaithfully concocted schemes which invariably involved seizing people without permission, while they were sleeping late at night, or while they were in the wilderness and unfamiliar with their surroundings. The commonality of all of these incidents was predator stalking prey, with stealth and ultimately, with the help of others under his control.

According to Elizabeth, Brian would say that “we would come out of hiding, people would arrest him and throw him in prison for taking their daughters, but the sister wives would plead on his behalf.” The defendant knew how much he was capable of manipulating others, especially in line with brainwashing them to make the exploitation voluntary. After their capture, Wanda adamantly stood by Brian Mitchell, even if Elizabeth Smart did not.

This history underscores the recognition, from Dr. Thomas' earlier assessments of Brian Mitchell the teenager, as one to use his intellect to “exploit vulnerabilities of his siblings.”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 133 of 206

Post-incarceration, Brian Mitchell manifested manipulateness in a variety of ways. He sang in court, by his account, to intentionally disrupt the proceedings. Singing and silence were also his tactics to thwart interviewing by examiners and assessment by paraprofessional staff.

The defendant was generous with his advice, a fraction of which was taken in by Utah State staff. David Jones, psychiatric technician, heard him advise another patient, “Do not talk to judges. They can’t condemn you if you don’t speak.”

Numerous staff at Utah State gave examples of how he would manipulate. According to Judith Fuchs, who referred to the defendant as a “master manipulator,” “he would stare at the younger staff to try to spook them out.” Leslie Miles, an experienced nursing supervisor, acknowledged this tactic would make her uncomfortable. Dustin Salisbury, a psychiatric technician at Utah State, was impressed by Mr. Mitchell’s capacity to manipulate without even speaking.

After his transfer to the Bureau of Prisons facility in late 2008, Brian continued his modus operandi of brandishing religious explanations to explain away his uncooperativeness. He rendered Dr. DeMier handicapped by repeatedly refusing to speak, citing religious “command.” Meanwhile, the psychologist had encountered him on at least one occasion as he walked with a peer, so Brian was not isolated from communicating.

When Dr. DeMier asked for a clarification, Mr. Mitchell suggested that the psychologist’s spirit was in some way lacking, and that Dr. DeMier needed to change his heart. Yet it was well established at Utah State Hospital that the defendant would speak to people regardless of their faith or their willingness to see him as a prophet – especially if he needed something from them.

Dr. DeMier, like Dr. Whitehead before him, charted with restrained lack of skepticism for the contradictions and obfuscations in front of him. This, in my professional opinion, was precisely what Brian Mitchell had in mind when he would challenge the doctors as instruments of his destruction. Like any caregiving and therapeutic professional, they responded by avoiding feeding into these challenges, refraining from engaging him with the incisiveness that their training affords and shackled without realizing it. Brian is disarming because he means to be, and the effect was one in which the Utah State Hospital and federal facility record make no consideration of malingering, manipulation, and what was behind Brian Mitchell’s mask month after month. (2)

Lack of Remorse or Guilt – Brian Mitchell systematically dismantled Elizabeth and [REDACTED] Notwithstanding his sense of entitlement as a “prophet,” or operating under divine “revelation,” he has shown no remorse for removing her from her family and the consequences of her ordeal.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 134 of 206

On numerous occasions, Brian has stolen from others, including those he knows. There is no evidence for his regrets for the debts that he has saddled on others. He has expressed no regret about delinquent child support, molesting stepchildren and sexual domestic violence.

From even the evaluations of his adolescence, Brian Mitchell distinguished himself for lack of guilt from an early age, according to his father. Shirl Mitchell once observed that the two of them shared this trait, unlike his other siblings. (2)

Shallow Affect – Other than cynicism, there is no manifest depth of emotion to Brian Mitchell. Only sporadically does he reference his ex-wife of nineteen years – though she is housed in a sister facility and other prisoners encounter her, and she was his principal adherent and his Mother of Zion and recipient of all of those blessings. There is no depth to his connection with his family.

This is the man who placed two of his own children up for adoption, and maintains little connection to any of the four.

Brian has his curiosities, such as science fiction books and *Charmed*, but there is little affect otherwise. He is noted on the unit to be less concerned with what happens to others around him. (2)

Callous/Lack of Empathy – The defendant exhibits a profound lack of empathy for the feelings of others. [REDACTED]

[REDACTED]. Rather than work through some more thoughtful alternative arrangement, Brian provided her “blessings” to placate Wanda.

For all of Brian Mitchell’s waxing baroque while Wanda was distraught in their camp, no such blessing has been recorded or written for mailing to Wanda since she was locked up on account of his scheme. Yet the defendant is quite aware that Wanda has now lost her freedom to go along with her loss of dignity. The man who laid claim to having rid Wanda of psychotropics though lymphology is now responsible for Wanda being forcibly medicated with stronger tonics than she had ever been before prescribed. Not even one “How are you feeling?”

This is not a new development; liquidating their belongings so that they could live an itinerant lifestyle, the defendant sold her wedding ring to pay for their dental work.

Brian Mitchell’s writings from the early 1980’s spoke to his tendency to become cold-hearted and distant and this quality being an aspect of him for his whole life.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 135 of 206

He distinguished himself from other patients, according to staff, by his indifference to the suffering of other patients when they needed restraint. The defendant preferred to eat alone, although Brian was not endangered.

Brian's history also includes other examples of his emotionally sadistic treatment of others, from his family to his ex-wife [REDACTED] to his mother. Angry with Irene over her disapproval of their marriage, he placed his two children in foster care but took the additional initiative of seeking to block her visitation, let alone her custody.

Sadism is generally accepted among the community of psychology and psychodynamic psychiatry³⁴ and demonstrates construct validity among practicing forensic psychiatrists,³⁵ who assert in great proportion that the construct of sadism is useful to describe an individual pattern of behavior.

In the Psychodynamic Diagnostic Manual (PDM), sadism is **organized around the theme of domination**.³⁶ The PDM specifically distinguishes sadistic personality from sexual sadism, in which sexual fantasy is a preferred experience of sexuality.

[REDACTED] recalled Brian being so controlling as to grab a cinnamon roll she was eating while pregnant and discard it. Ironically, the Brian Mitchell who was railing about sugary foods and snacks was the same man who was drinking and using drugs.

[REDACTED] also experienced him as controlling and dominating; Brian would tell certain friends of hers, by their recollection, to cease contact with her. He wrote of forcing prolonged prayer and fasting to resolve a discipline issue with his children.

The level of control described by Derrick and Mark Thompson contributed to their eventually leaving Brian and Wanda's home. LouRee experienced the same severely restricted environment, along with imposed isolation, with demand of hours of prayer and a variety of day to day demands.

When Brian and Wanda were living with Irene, Scott and Tom felt Brian was intimidating her and that she was too passive and gentle to resist. The two stepsons and other family explored having Brian evicted through legal means even before the 2002 incident in which Brian and Wanda grabbed Irene as they demanded that she accept the truth of the BIDI.

Brian used physical cruelty or violence for the purpose of establishing dominance in relationship. The defendant threatened Elizabeth at knifepoint earlier in her captivity. In

³⁴ Alliance of Psychodynamic Organizations **Psychodynamic Diagnostic Manual** © 2006

³⁵ Spitzer, R; Feister, S et al. **Results of a Survey of Forensic Psychiatrists on the Validity of the Sadistic Personality Disorder Diagnosis** *The American Journal of Psychiatry*; Jul 1991; 148, 7 pp 875-879

³⁶ Alliance of Psychodynamic Organizations **Psychodynamic Diagnostic Manual**, pp 40-41, 2006

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 136 of 206

earlier years, he was physically violent to his first two wives. [REDACTED] was afraid of him physically, and she reported that he [REDACTED] when she tried to get some physical space between them. Alyssa reported that she heard Brian [REDACTED]
[REDACTED]

Sadistic individuals characteristically target those who are subordinate, weaker, and powerless.³⁷ Brian Mitchell presented a law-abiding, straight-laced, strictly religious outer face to Ed and Lois Smart, Phyllis Koch, Virl and Peggy Kemp, Karl West and his family, Doug Larsen and many others who had one thing in common – they were not subordinate, weaker, or powerless.

[REDACTED] and [REDACTED] were weaker and powerless. Wanda, Elizabeth Smart, [REDACTED] and [REDACTED]'s other children obviously were quite subordinate, weaker, and powerless. Or, the recognizable term to this defendant, malleable. So were [REDACTED]
[REDACTED] and [REDACTED], whom Brian targeted.

Derrick and Mark Thompson and LouRee Gaylor lived under one roof. The boys could defend themselves and Mark once took a baseball bat to Brian. LouRee could not.

Pain is inflicted by sadists with a detached calm rather than a fit of rage, and may include the systematic preparation of a sadistic scenario³⁸ Brian Mitchell had a history of inflicting psychological pain, touching on the deep sensitivities in different victims, and did so with a detached calm.

Even earlier in life, psychologist Dr. Thomas, who was examining and treating Brian before he began responding to difficult questions with hymns and religious riffs, observed that Brian was “emotionally cool...knows psychological vulnerabilities of others and derives pleasure from exploiting them.” At that time, his own family was depicting Brian as sadistic. Nothing irrational was at that time denoted as to have inspired Brian Mitchell’s earliest penchant to bring others “low to the dust.”

Dr. Thomas’ impressions proved to be correct only a few years later, Brian kidnapped [REDACTED] The defendant prevented their contact with [REDACTED] for several years. Yet [REDACTED] never had abused them, that they had to be protected from her.

The defendant’s second wife, [REDACTED], told Mitchell about her fear of mice; he reportedly arrived home one night bearing a live mouse in a jar with no lid. On another occasion, related [REDACTED], she found many dead mice neatly laid out on cookie sheet in an oven that she moved to clean. On yet another occasion, according to [REDACTED], Brian awakened and

³⁷ Ibid.

³⁸ Ibid.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 137 of 206

told her that he had a dream that there would be roaches in the house. She remembers that she scoffed at this, and he affirmed that “whenever I dream about something, it happens.” Sure enough, a couple of nights later, relates ██████, she made her way into the kitchen and turned on the light, only to see scores of roaches scurrying about. His emotional cruelty to her included exposing her to what his relatives believed to be private criticism of her.

Later still, in Brian’s rejoinder to what he believed to be his mother Irene’s harm to his marriage, he actively fought his children’s contact with her when he offered them for adoption. These were the same children earlier amputated from their mother, never to fully reattach.

Wanda’s daughter, LouRee, ate her pet bunny at the kitchen table, thinking it was chicken, as Brian impassively looked on. Not all of Brian Mitchell’s cruelty was directed at female children, or those he sexually violated. Mark Thompson, Wanda Mitchell’s son, recounted in 2003 that Mr. Mitchell came to him one day and told him he had shot young Thompson’s pet dog in the head.

Animal abuse by adults is uncommon relative to its expression in adolescents.³⁹ However, animal abuse is a well-established phenomenon among domestic batterers and child abusers.⁴⁰ Research among the domestically violent has shown pet abusers to use controlling behaviors more than those who do not.⁴¹

The defendant maintained no boundaries to his sex with Elizabeth. Wanda ██████ ██████. She came to appreciate his sexual preference for Elizabeth, and according to her daughter, was a very sexually sensitive person. The defendant’s seeming indifference to how painful this would be to his wife was only outpaced by his persistence in this behavior.

And then, there was Elizabeth. She was humiliated in the sexual activity forced onto her and then, compelled to drink and smoke and then defiled while under the influence.

Sadistic expression has the effect of dehumanizing the object of that sadism⁴² The transition from Wanda Mitchell to Hephzibah Eladah Isaiah and the lifestyle she assumed

³⁹ DeGue S & DiLillo D **Is Animal Cruelty a "Red Flag" for Family Violence?: Investigating Co-Occurring Violence Toward Children, Partners, and Pets** *J Interpers Violence* 2009; 24; 1036

⁴⁰ Flynn, C. P. **Woman’s best friend: Pet abuse and the role of companion animals in the lives of battered women.** *Violence Against Women*, 6, 162-177 2000

⁴¹ Simmons C & Lehmann P **Exploring the Link Between Pet Abuse and Controlling Behaviors in Violent Relationships** *J Interpers Violence* 2007; 22; 1211

⁴² Ibid.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 139 of 206

Mitchell has not formed any meaningful therapeutic alliance. His relatedness to caregivers has involved silence, singing, putting them on the defensive, using them as if their purpose is to cater to him, and toying with them about when he might speak to them with no direction as to when or under what circumstances.

Brian abandoned silence by making disparaging comments to staff when he knew they could hear him. On other occasions, he would assume a dismissive posture to staff soliciting contact with him with simple pleasantries. The defendant would likewise engage the staff in gesticulation that forced them to have to guess what he wished to communicate, and thus toyed with them when he was engaging even mundane areas.

His undermining of staff efforts included, for a time, advising patients not to try to please the staff, but to please God. The defendant would return his food tray late, even after knowing that this forced staff to make special allowances to put his used tray away.

The pleasure in sadistic acts reinforces its expression and makes the behavior more difficult to extinguish.⁴⁵ This quality is difficult to assess without Brian's actual participation. Nevertheless, Scott Dean and from Garth Rosenlund recalled Brian to be provocative to get a rise out of others. Rather than extinguish the behavior because of how unpleasant it was to coworkers, he persisted. (2)

Parasitic Lifestyle – Living off the kindness of others, Brian Mitchell more recently wandered from one property to the next, be it his mother, Dora Corbett, or the Wests. He and Wanda would approach others with hand out, sometimes preaching but always looking for aid.

In material as well as sexual ways, Brian Mitchell exploited opportunity and the passive. He took to living off his mother's home rent-free without maintaining it or simply helping the elderly woman manage. So it was with Dora Corbett, his mother-in-law, who observed that he would take but would never pay for anything. He made purchases and then absconded without regard for the debt left behind.

Staff at Utah State Hospital experienced him as one to relate to others only in order to have his needs met, not for any feeling or intimacy. Judith Fuchs, whose groups were among the only structured activities that the defendant would attend, believed he participated and communicated with her only so he could gain her assistance to secure books for him from the library.

⁴⁵ **Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised.** Washington, DC, American Psychiatric Association, pp. 371, 1987; Livesley, W. J. **The DSM-IV personality disorders.** New York: Guilford Press, pp. 333, 1995

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 140 of 206

The defendant was known to routinely steal from others, terming it “plundering.” Apart from a sense that he was entitled to others whom Brian characterized as “apostate” relative to himself, he targeted the vulnerable. When he broke into an establishment in California, it was a church – the type of institution that would be forgiving. When arrested for the church break in, he returned to the camp complaining that ‘plundering’ was stressful – but if he was truly entitled to plunder the apostates, why should it be? Because he did not expect to be held accountable.

When Brian left the West compound, where he had been extended the grace to stay, he reportedly stole food and clothes. Elizabeth recounts their discussion about Brian’s relationship with Dr. West, and the impression that he knew he could get away with taking advantage of Dr. West’s kindness. According to Ms. Phillips, who was living in the home when Mr. Mitchell stole even one of the West sons’ shoes, the family’s reaction was to shrug and to take it in stride. It is Brian Mitchell’s recognition in third party conversation that he was taking advantage of others’ goodness that reveals his parasitism.

The defendant’s sexual indulgence, exploiting children under his care and a child whom he kidnapped, was also parasitic insofar as it destroyed others to serve his material needs. (2)

Poor Behavioral Controls – A person who has been accused of violating all four of his stepdaughters, and two to four of his children has poor behavioral controls. Brian Mitchell was so aggressive in demanding that his mother accept his Book of Immanuel David Isaiah that he prompted her to obtain an order of protection. When police came to escort him away, he burned belongings in her yard.

Not all of Brian Mitchell’s violations of others are impulsive. Some are, as noted above, quite calculated if impulsive and others premeditated. He is capable of maintaining very composed behavior in a controlled environment, and has, especially with the prospect of forced medication. In the community, Brian Mitchell is just as capable of maintaining his behavior well-controlled, but in my professional opinion, sometimes he chooses not to. (2)

Promiscuous Sexual Behavior – The defendant is charged with sexual assault and has coerced other vulnerable individuals into having sexual contact with him. The relationship he had with Kellie, which Wanda objected to, was principally sexual. Even with so much about how Brian Mitchell spent many of the days he wandered off concealed, he exhibits sufficient criteria for this item (2).

Early Behavioral Problems - Shirl Mitchell recalls significant enough problems with Brian from an early age that his father took him to another area and left him there to try to teach him a lesson. In a letter the elder Mr. Mitchell wrote to CBS News’ Harry Smith two weeks after the arrest, Shirl recounted, “He had been plunging reflexively/reactively into trouble all his life.” (2)

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 141 of 206

Lack of Realistic, Long Term Goals – Aiming to start New Zion is not a realistic goal. There is no evidence that prior to this, Brian Mitchell established any realistic long term goals, either.

Even before the quest of his own sect, the defendant was drifting with Wanda for several years around the United States. In so doing, they abandoned their respective families and vocations, and even the church that brought them together and was the organizing point for activities in which they participated.

A high school dropout, Brian is literate and keen enough about learning to develop a skill and to get education at available institutions. LouRee recalled his being at the library “24-7.” Yet the defendant opted out of a university program and did not continue with community college, either. Certainly he had parenting responsibilities, and these may interfere. However, in his marriage with [REDACTED], his absence from the marriage gave him ample opportunity to develop a plan, academic or not.

“Things were always changing with him, he was always on the move,” observed Wanda’s mother Dora. (2)

Impulsivity – Mr. Mitchell left a job, left residences, left Utah with his children, joined Hare Krishna (not an offshoot of LDS), came back to Utah from the East, with little advance plan. When he was more religiously influenced, he would refer to revelations guiding his movements and actions, but still these were lurches to Miami, to Los Angeles, to Hawaii.

Brian’s abrupt departures from his stays at his hosts were impulsive. The extent to which these reflected poorly on him, included his move to Idaho at a time that he had reportedly committed to work with Dr. West.

Spouses described his violence as impulsive as well. (2)

Irresponsibility – Brian Mitchell, one of several siblings, was not known to be helpful to his parents or siblings, or to his own children. Married to [REDACTED], with five small children in the home, he would reportedly disappear for days on end.

He abandoned debt and loans, and went long stretches without obtaining gainful employment, content to support himself as a panhandler. He stopped working such that he would not have his wages garnished to pay that child support. (2)

Failure to Accept Responsibility for His Own Actions – So avoidant of critical scrutiny is Brian Mitchell that he told his doctor that he did not even want to know what his father

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 142 of 206

said about him. The Book of Immanuel David Isaiah completely divests his responsibility for the kidnapping, brainwashing, and repeated sex assault of Elizabeth Smart, and the attempted kidnapping of two others. Mr. Mitchell even deflects responsibility for his charges to Wanda, contending that she compelled him to commit the break-in to the Smart home and to orchestrate the kidnapping.

Long before this book, he blamed [REDACTED] for being controlling in their relationship when his own writing points to his being hypercritical and pitting her against his family even as they were engaged. Not once did he take responsibility for molesting his stepchildren or children.

According to Elizabeth Smart, Brian told her of not having to answer for a number of charges across his life by simply not appearing in court or skipping hearings. Most recent to the case was the hearing on his excommunication from the LDS. (2)

Many short term relationships – He has been married three times (1)

Juvenile Delinquency – Brian has a history of serious antisocial behavior from age 17 and below. He was arrested for the sexual exploitation of a four year old, was truant, was using drugs heavily, and was menacing to his family, enough that he was referred into a treatment program (2)

Criminal Versatility – He has been arrested for kidnapping, sex assault, burglary, trespassing, DUI, Leaving the scene of an accident, and drug possession (2)

Brian Mitchell's score of 35 represents evidence well beyond the cutoff (30) to establish the presence of psychopathy.

Narcissistic Personality Disorder

The essential feature of Narcissistic Personality Disorder is a pervasive grandiosity, need for admiration, and lack of empathy.⁴⁶ The defendant is diagnosed with this condition because he meets the following criteria:

1. Grandiose self importance –

Characterizing self as Immanuel David Isaiah the Prophet and Davidic King
Wrote the “Book of Immanuel David Isaiah” as a scripture
Long history of assuming a standing, over and above his LDS calling

⁴⁶ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 714 & 715, 2000

Planning for seven times seven wives

2. Belief that he is special and can only associate with special people –

Wrote the “Book of Immanuel David Isaiah” as a scripture

Immanuel David Isaiah was in the mountains with Elizabeth railing about damnation to those who do not testify to Brian’s truth

Brian and Wanda were known to be very absorbed in one another, with family experiencing them as aloof. When they were around others in the family, they did not relate, projecting that they were holy and different.

Brian gained a reputation at OC Tanner for being unwilling to associate with others who believed differently from him. It is not surprising that the closest friend Brian had at the workplace was someone who described himself as “just as dogmatic and inflexible as Brian.”

When not grandiose, his sense of superiority and aloofness has alienated others – especially when not wearing robes and therefore unable to inspire the first impression that he is a person of unusual spirituality.

3. Sense of entitlement –

Brian (and Wanda) stayed rent-free at his mother’s home as well as her mothers, and the Wests. They would come and go, take as they felt they needed, without any sense of obligation to the household otherwise.

Brian would “plunder,” as he put it, essentially steal because he felt he was entitled to take from the “apostate” world.

At Utah State Hospital, when his needs were not met, or when staff set limits with him, he would stare them down with a glare, a response identical to what his boss at OC Tanner described when he would redirect him to work.

The defendant expressed outrage that staff was monitoring him at Utah State Hospital, as he felt he did not need to be checked on.

He reacted angrily when not conveyed special privileges like the ability to eat alone, even to the point of throwing his food at the psychiatric technician’s feet.

Psychiatric technician Dan Brady spoke of how Brian would not eat unless his food was brought to him.

Notwithstanding his use of dietary services to craft special allowances for himself, Brian was always asking for extra food items.

Brian would regularly come late to meals, then returned his tray late, forcing staff to make special allowances to put the used tray away.

4. Lacks empathy –

An inability for Mitchell to identify with the feelings and needs of his wives undermined Brian Mitchell’s marriages.

In spite of a son’s need to reinvigorate their relationship at a time of his vulnerability, the defendant ignored him.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 144 of 206

When his sister died of cancer, he ignored her family at the time of passing
Despite his mother's advanced age, he did not assist her in keeping her home.
According to [REDACTED], he did not pay title (though he had position in the LDS).

5. Exploitative –

Brian took advantage of his mother Irene when he was staying with her to the end
that the other son-in-laws took steps to evict him from the property

When he was in debt, according to Scott Dean, he would skip out on paying rent
after a few months and move to a new address

The defendant consigned Elizabeth to sexual and physical servitude

The defendant molested children under his roof

6. Arrogant, haughty behaviors or attitudes –

Even as he and Wanda might stay on Irene's property, Brian never felt obliged to
say whether they were coming or going.

The defendant's condescending manner toward Dr. DeMier, criticizing "what is in
his heart" was fairly pervasive in his relatedness to others at Utah State Hospital, many of
whom specifically characterized him as arrogant. Christy Daum, recreational therapist,
experienced him as demeaning, nurse Jane Jakeman and psychiatric technicians Melissa
King and Rodney Jay characterized him as "arrogant," psychiatric technician Tracy
Killpack volunteered him as "haughty," for example.

_

More information about Brian's past, particularly from others who have encountered him
at different points of his elusive journey, will continue to be sought. As a result, it is
possible that Brian may meet other criteria for narcissistic personality disorder which are
not now credited (because my suspicion does not rise to the level of certainty), or other
personality disorders as well.

Over and above these qualities, Brian Mitchell is remembered from earlier in life as
attention-seeking and rejection sensitive. These qualities are reflective of his otherwise
present narcissistic personality and relate importantly to him, his presentation even before
incarceration, and how Brian reacts and relates to his environment.

The defendant is known to react angrily and abruptly to a sense of rejection, and with
occasional counterattack. [REDACTED] his first wife, recalled Brian Mitchell as an absent father.
When they divorced, he assumed custody briefly, but lived with his parents. Irene, his
mother, was very interested and attached to their children [REDACTED]. When [REDACTED]
won a rearrangement of the custody decision, Brian kidnapped the children and kept them
from her for years, irretrievably affecting her attachment to the children and theirs to her.
This spiteful initiative hurt Brian insofar as it drove him away from his family and his

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 145 of 206

community, extended his absence from University to something more permanent, and destabilized his growing children. Only 3-4 years after Brian returned to Utah, the defendant demonstrated his devotion to the children by placing them up for adoption. The dynamic of injury/counterattack is characteristic of Narcissistic Personality Disorder.

When Dora did not afford him her home to use as a gathering place for spiritual meetings, Brian angrily left her. When family confronted him about not taking responsibility, he would withdraw.

The sequence of the offense speaks to Narcissistic Personality Disorder dynamics. When Irene Mitchell rejected adopting the BIDI, he expressed vehement anger and physically restrained her from moving, then destroyed property of hers. Other family did not respond to the BIDI, either, and Brian pronounced that they, their houses and their possessions would be destroyed. When the LDS Church rejected his BIDI, in the form of Stake President Schweitzer serving Brian with notice of an excommunication hearing, Brian seized Elizabeth Smart very soon afterward.

The timing of a dramatic crime following a demeaning rejection is consistent with the counterattack⁴⁷ of the angry narcissist empowered to have the last word. Brian clearly had hostility for the LDS. Although an obedient victim facilitated his capacity to brainwash, and an LDS victim would be familiar with some of the defendant's rhetoric, the timing and history contribute to my professional opinion that animosity for the LDS and its dominion motivated this crime as well. Brian is interpersonally attuned; he could have found any number of vulnerable people in his travels. He sought those from LDS families, even as he denounced the church.

_

One of the ongoing mysteries of Brian Mitchell is to what degree he takes on the trappings of Jesus to "be more like Jesus" as opposed to "look more like Jesus." There are points to be made for both. Brian specifically took on attire which separated him from others. He adopted a biblical dialect (at times), and grew his hair long. He built conspicuous handcarts. He wrote his own scripture to refer to, and shouted "Repent!" with full-throated apocalyptic fervor.

On the other hand, Brian Mitchell did not parallel the change in his appearance with deeper study of scripture, or deeper development of his own ideology. Scott Dean noticed a lack of depth in their discussions about spirituality. Professor Peterson experienced the BIDI as largely grafted and edited from other scriptures, though well written. There was

⁴⁷ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 714 & 715, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

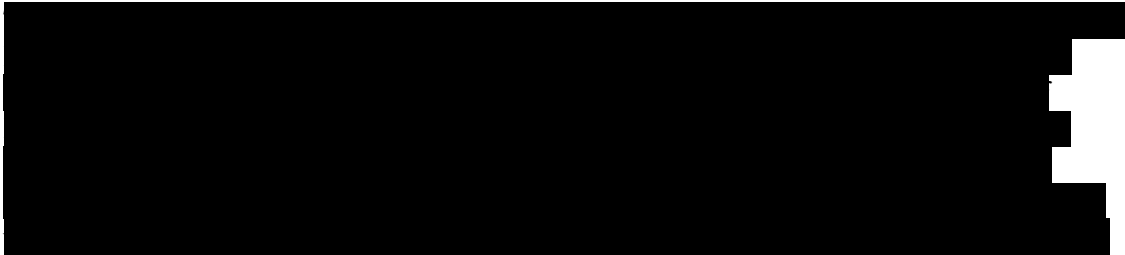
Page 146 of 206

surprisingly little original content, according to Professor Peterson, to formulate a distinct ideology beyond vague apocalyptic thinking.

Brian's days were not occupied with attempting to perform miracles, or even acts of kindness. Locals at stores like Albertson's knew him to be the "beer-drinking Jesus." His antisocial and pedophile history, as above, are clear. His prosocial qualities were far more manifest in the period in which he was closer to the church, and without all the trappings of Immanuel David Isaiah. He turned from challenge and did not undertake the arduous work of being his own missionary - rather a traveling servant of God, or a traveling preacher.

There was no ignoring Brian's mercenary and enterprising side. Subsequent to 9/11, he and Wanda reverted to regular clothes, as the Israelite-wear associating with a decline of donations. When he enlisted Julie Adkison and proposed marriage, his boldness in doing do was actually overtaken by his suggestion that she take her beautiful engagement ring and sell it so that they could all live off the proceeds in the mountains for a few months. This was even before she said yes!

Then there is the "plundering." So routine was this plundering, this shoplifting and theft, that one becomes tone deaf to Brian Mitchell having treated his surroundings with complete entitlement. This plundering did not serve the interest of glory to God; it met his material needs. And so it was with Elizabeth.



Furthermore, Elizabeth was not involved in sect building activities. She attended to Wanda and Brian's domestic needs, and functioned as a sex slave for Brian. So much energy in Wanda's writings was organized around scheduling who would have sex with Brian and on what days of the month. Rather than a sect, the manner in which Brian related to Elizabeth for this nine month period was more reminiscent of a concubine.

Brian Mitchell was chronically underemployed and had alienated his supports, including the church that to which he assumed a provocative posture as he embraced "fundamentalism" (in discussion and theory only, as residents of his household would remind us). Brian had embraced a lifestyle, one which he had lived earlier, of no taxes, no child support, no obligations, and no responsibilities. For a man who could not even stick around the house

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 147 of 206

long enough to build a family when he was the husband and father, it is difficult to imagine the peripatetic Brian Mitchell traipsing around the United States with people he was responsible for when he was already so unwilling to settle in one place for too long.

Derived from faith, he cultivated faith, did believe in God and in himself. While Brian is an actor, he does believe in God. The nature and depth of Brian's commitment is the subject of later sections. It is, however, my professional opinion that Brian Mitchell's self-merchandising as a holy man for whom "the Lord will provide (per his representations with Dick Camp)" related primarily to endowing himself material and ultimately, sexual needs.

The most familiar quality about Brian Mitchell's persona is not his faith, or spirituality. It is of his panhandling, and in the context of attention-seeking behavior. He was noticed, and he positioned himself and carried on in such a way to be noticed. Julie Adkison described how passersby were taking photographs of them as they sat and talked, as if he were a tourist attraction.

There is an entire boutique world of people, actors, who take to the streets every day in the world. For hours, they position themselves in areas of high traffic of people with disposable income. There's the person dressed up in silver paint who looks exactly like the Statue of Liberty. For years, a man walked the streets of Philadelphia, who dressed and looked as if he were Ben Franklin reincarnate. The possibilities are endless; travel to New Orleans, and you will see another person covered in metallic paint who makes sounds and moves like a robot. Or another who dresses like a boom box. People come up to them, give them money, and feel like they are supporting a poor person. The money is tax free, and these street performers go on their way at day's end, anonymous.

When in Salt Lake City, being Jesus is good business for a street performer. Being Jesus has more commercial potential when you are thin and diminutive and the locals remember Joseph Smith to be a strapping presence. Being Jesus is easier for a man who, from much earlier in life, was writing his mother and speaking of wearing a beard and long hair for a role, reminding her that he likes "to act." And act Brian did, in the Temple, as part of his ordinance duties. As a person who respected religion and who believed in Christ, playing a holy man came natural to him.

This lifestyle ultimately carried with it all of the privileges (tax-free, tithing-free, child-support free) available to the mime in Paris or the musician in San Francisco. Apart from that, people like Phyllis Koch will give 25 dollars, people like Doug Larsen will give 5 dollars to an impoverished "Jesus" who knows how to tug on the heartstrings of mankind's mercy a lot more readily than they would to a simple beggar, children playing garbage cans, or the old lady reading palms.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 148 of 206

And so, “Immanuel David Isaiah” was destined to be Brian Mitchell’s longest running employment when he was arrested.

Two qualities advance beyond this vocation, however:

- 1) Brian envisioned himself to be spiritually greater, special, that his opinions and his ideas were more important even than the LDS prophets, and they had earned their own platform. Those who knew him and had conversed about religion with him from as far back as the late 1980s were never surprised that he developed his own sect
- 2) Brian is a pedophile whose sexuality is a preoccupation

_

That Brian has alienated others close to him does not mean that he is unable to connect because of psychosis. A lack of friends may also reflect maladaptive social consequences noted in personality disorders.⁴⁸ The way to resolve this question is to study what frays the ties to others to whom one would expect him to be attached.

Brian’s Utah State Hospital experience provided evidence that can conform what appear to be friendships, but chooses to do so only with people he identifies with as special, like [REDACTED] or people he can exploit to do favors for him – regardless of their spirituality. He has not alienated others with his bizarreness, paranoia, jealousy, or Immanuel identity.

A review of Brian’s history as a son, son-in-law, thrice married father of four and stepfather of at least six that he has met, employee, coworker, LDS member, and even victimizer informs well that Brian’s interpersonal relationships have dissolved, aborted, fractured, or been handicapped by features of Brian’s:

- ◆ antisocial personality
- ◆ narcissistic personality
- ◆ psychopathy
- ◆ the incestuous expression of his pedophilia
- ◆ sadism

– alone and in combination, and not necessarily in that order of importance. There are some overlapping features of several of these conditions, but each diagnosis or construct

⁴⁸ Skodol, A., Oldham, J. Bender, D. S., Dyck, I. R., Stout, R. L., Morey, L. C., Shea, M. T., Zanarini, M. C., Sanislow, C. A., Grilo, C. M., McGlashan, T. H. and Gunderson, J. G. **Dimensional representations of DSM-IV personality disorders: Relationships to functional impairment.** *American Journal of Psychiatry*, Vol. 162, pp. 1919-1925, 2005; Paris, J. **Personality disorders over time: Precursors, course and outcome.** *Journal of Personality Disorders*, Vol 17(6), pp. 479-488, 2003

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 149 of 206

has distinct features that are very much alive in Brian Mitchell. Since all are present, it would be scientifically inaccurate to ignore them in a diagnostic assessment.

Alcohol Abuse, in Controlled Environment

Brian Mitchell has a history of particularly heavy drug and alcohol use. In his late teen years, this included the use of hallucinogens and coincided (at uncertain duration) with significant behavioral problems, referral for mental health services, and even a trip to the emergency room on one occasion with acute anxiety after using LSD. He had a DUI arrest as well. Available history suggests that Mr. Mitchell had refrained from drug use since returning to Utah around 1980.

In the period preceding the defendant's incarceration, there is less of a record of drug abuse. While he was known to have occasionally used pills, and to have smoked marijuana and to have directed Elizabeth Smart to smoke it, the substance most clinically significant to Brian Mitchell was alcohol.

The essential feature of alcohol abuse is a problematic pattern of alcohol use manifested by recurrent and significant adverse consequences from the alcohol over the course of a one year period.⁴⁹ Mr. Mitchell's drunkenness led to his arrest in San Diego. While the amount of alcohol he consumed is impossible to corroborate, Mr. Mitchell did divert resources from the three in his group in order to indulge. Given the scarcity of monies, this had to have created difficulties for him.

For Brian Mitchell, alcohol was a sexual lubricant with which he manipulated Elizabeth Smart. It was also a vehicle for her debauchery and bringing her "low to the dust," as he would put it. Yet he had little regret for this; the defendant's instrumental use of alcohol to control others does not speak to the significance of his alcohol abuse.

There is no evidence for Mr. Mitchell having manifested a withdrawal syndrome. His use of alcohol did not cause in him sufficient recurrent consequences to warrant a diagnosis of alcohol dependence.

Malingering

The essential feature of malingering is the intentional production of false or grossly exaggerated psychological symptoms, motivated by external incentives such as evading

⁴⁹ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 198, 2000

criminal prosecution. Under some circumstances, malingering may represent adaptive behavior.⁵⁰

According to the psychiatric diagnostic manual DSM IV-TR, Malingering should be strongly suspected if any combination of the following is noted:⁵¹

1. **Medicolegal context of presentation.** This is the case with Mr. Mitchell.
2. **Marked discrepancy between the defendant's claimed stress or level of distress and the objective findings.**
 - a. Brian claimed to have experienced substantial distress in connection with the zealous religious beliefs attributed to him. No substantial distress was noted in his presentation in custody over and above his reaction to being unable to watch his favorite television program.
 - b. Mr. Mitchell sings and yells loudly in court, does not respond to redirection, yet does not present this way out of court, even when confronting stressful situations in custody, including in our meeting.
 - c. The defendant presents to examiners with a stilted, Olde English way of relating, replete with vague homilies about the need to repent and other religious content. Around others when his guard is down, he relates in a completely normal manner.
3. **Lack of cooperation during the diagnostic evaluation and in complying with the prescribed treatment regimen.**
 - a. Brian Mitchell has a legacy of throttling diagnostic interviewing over the course of the years of his incarceration. Most recently, when interviewing with Dr. DeMier, he refused to even paraphrase for Dr. DeMier what constitutes competency.
 - b. Furthermore, this defendant, in whom clinical staff has identified no pathological paranoia, withheld participation in interviews with Dr. DeMier because of videotaping, additional evidence for his evasiveness
 - c. He repeatedly declined later interviews with the psychologist, as he did with me. On other occasions with multiple examiners, he simply declined to answer questions or assumes control of the interview by saying, "it mattereth not."
 - d. He refused to attend any competency education and restoration groups. He specifically did not speak to the recreational therapist, Jeffrey Smith, who ran the competency restoration groups – thus preventing him from even being indirectly evaluated for his competency by those with limited access to information otherwise.

⁵⁰ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 739, 2000

⁵¹ *Ibid.*

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 151 of 206

- e. With social work integral to documenting his progress, Mr. Mitchell refused to attend Mr. Porter's goals group. As there were groups that he did attend, covering movies and geography, the defendant's uncooperativeness was tactical.

4. The presence of Antisocial Personality Disorder. Present, per above.

Brian Mitchell has strong incentive for avoiding criminal prosecution. He is accused of a sex crime against a child involving brainwashing and prolonged sexual servitude.

For a defendant who has already expressed concern for his safety (notwithstanding a notation or three about pronouncements that God would liberate him), the prospect of such public exposure while he is confined near potentially threatening inmates would be rationally frightening. Under such circumstances, malingering is rational and adaptive.

Notwithstanding Brian's *expressed* disdain for having been characterized as mentally ill, he negates any opportunity to demonstrate his competency through full participation in an examination.

A psychiatric technician, Taryn Nielson at Utah State Hospital observed Brian Mitchell convey to another inmate at Utah State Hospital, "if people think you're crazy, you can get away with more."

The defendant is not willing to participate in any testing to demonstrate his sanity, even with an examiner who tells him she is going to find him psychotic and incompetent. At the same time, he is anything but apathetic, having asked the same Dr. DeMier he had actively avoided what the psychologist's impressions were about his competency.

Moreover, Mr. Mitchell has demonstrated no discomfort for extended confinement in a hospital setting amongst the mentally ill. As a homeless person with no attachment to his responsibilities, and no responsibility to his attachments, the arrangement conspicuously draws no protest Brian's from grandiosity and resistance to a mental health defense.

The defendant avoids goals group and efforts to work toward the future.

In thwarting examining staff and forensic examiners, Mr. Mitchell chose complete silence, and told others he would not cooperate. When he did participate in an interview of clinical consequence, he adapted to redirect questions to the need to repent and related quasi-apocalyptic superficialities sprinkled with pidgin prophet-speak and coolly stymie the interview to uselessness. Were the examiner not to study the chart from close to that time, or to communicate with staff he let his guard down with, they would not be aware that a short time later, he would be sharing impressions, completely intact, on the latest episode of *Charmed* or some sort of book.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 152 of 206

Some forensic examiners attributed psychotic motivation for silence when he was quite open that he simply refused to cooperate. The role of any God or revelation interfering with the examinee's lack of cooperation was as much a creation of examiners' presumption. For no revelation would get in the way of him presenting completely rational in chatting up the cute younger female staff member or person he was friendly with. How fixed an idea, how influential a revelation is one that is quickly dispensed for Brian Mitchell's attractions on the unit?

Dr. DeMier reasoned, "he would not speak as he believed he had been commanded to be silent." There is no evidence for how the examiner resolved the possibility of whether Mitchell simply did not feel like talking, and comfortably externalizes this and other burdens to "whatever God wishes," which effectively shuts down the examiner. Or, whether that command to be silent originated from [REDACTED], a fellow patient and friend at Utah State Hospital who had heard staff brag that they had determined an uncooperative patient's fitness by conversations (Brian Mitchell's silence began the day after this discussion reportedly took place, according to Tye Jensen).

Brian Mitchell stated that he would never take medicines; reminded that he had said he would take them if directed by God, the defendant said he had changed his mind. That being the case he is not passive, and Brian exercises control even over the influence that he attributes to God.

The defendant's uncooperativeness was not religiously driven – for Mr. Mitchell refused to provide a social history to staff, even though he knew he had already provided background information. This avoidance demonstrates his reticence for the potential of his disclosing any information above what he had already provided.

The defendant's embellishment of his presentation is most vivid in how he has been known to react to the court's direction for him to stop singing, or to at least sing more softly. His tactic is to sing louder.

Malingering is to be distinguished from being an inaccurate historian. A person can distort his personal narrative without faking or embellishing a psychiatric condition, and vice versa. There is ample evidence for Mr. Mitchell malingering and also for providing misleading history to examiners.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 153 of 206

5) How do the above diagnoses speak to Mr. Mitchell's decision-making in these proceedings, and in his relatedness to others?

Brian Mitchell meets criteria for a number of diagnoses. It is impossible to attribute all of his behavior and choices spanning these legal proceedings to one diagnosis per se. Furthermore, there are certain behaviors and choices the defendant has made which reflect symptoms that may be present in more than one diagnosis. For example, lying is a symptom of antisocial personality disorder,⁵² psychopathy;⁵³ and malingering,⁵⁴ grandiosity is a symptom of narcissistic personality disorder⁵⁵ and psychopathy.⁵⁶

Brian Mitchell's responses to the day to day are **tactical** and **manipulative**; adaptive to the predicament of his case, they are sharpened in their effectiveness by experience and his **psychopathy**.

When virtually dared at the point of his arrest by Agent Ross and Detective Parks to invoke a religious explanation, Brian Mitchell did not and would not credit the influence of his Lord, or a revelation, for his actions.

And why not? To prevent God from being arrested? In later interviews, the defendant had religious explanations at the ready. The videotaped exchange thus demonstrates that in the first hours of his arrest, Brian had not yet had the opportunity to create an account (including the BIDI) that incorporated all of the elements of the charges against him. The BIDI-embedded narrative we speak of below therefore, in my professional opinion, partly or wholly sprouted after the arrest, not before the taking of Elizabeth Smart.

Once Brian wrote his defense to the charges and attached it to the BIDI, he directed others to read it. The defendant thus ensured he could promulgate a rebuttal that neatly addressed each of the elements of the charges, and consistently.

In a later interview with Dr. DeMier, the defendant acknowledged that he “previously made the mistake of talking in a limited way,” adding that he now bears testimony by singing hymns. Brian views his speaking as a tactical error, not a sin. Since the BIDI

⁵² **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 706, 2000

⁵³ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition:** Technical Manual. New York: Multi-Health Systems Inc, pp. 36-39, 2007

⁵⁴ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 739, 2000

⁵⁵ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 714 & 715, 2000

⁵⁶ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition:** Technical Manual. New York: Multi-Health Systems Inc, pp. 36-39, 2007

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 154 of 206

addendum on seizing Elizabeth Smart, participating in an interview – as he had done with Agent Dougherty as well – would now expose and undercut the BIDI as a tool for his defense. Brian Mitchell tactically protects the BIDI by not interacting with examiners – akin to how a suspect invokes his Miranda rights. Diagnostically, that is normal - the thinking of a shrewd, tactical mind running circles around doctors.

As evidence for this, when the respectful Dr. DeMier professionally took Brian up on his offer to appreciate his case by reading the BIDI, Brian then opted not to speak, challenging what was in the doctor's heart. The defendant demanded -- as he would with Wanda and Elizabeth -- that Dr. DeMier bear testimony to the truth of the BIDI. Once that would be accomplished, he would have enlisted the psychologist as an ally or at least compromised his neutrality. In short, the defendant cleverly manipulated boundaries for engaging the BIDI by requiring affirmation of it, rather than dialogue about it. This is a safe and manipulative negotiation for keeping a well-meaning examiner at bay, but well illustrates how Brian Mitchell the sadist toys with interviewers and exerts his domination even under the guise of his powerlessness.

So reliant has Brian Mitchell been upon invoking God specifically when probed that some staff and examiners came to explain any aspect of his decision-making as relating to his religious beliefs. This presupposes that Brian would always be sincere when invoking his faith. However, there is ample evidence to show that Brian citing God has been a familiar escape vehicle for unwanted verbal encounters, just as it was when Wanda would become unglued over Brian in heat over Elizabeth.

For example, pressed by interrogating agents into a corner on Elizabeth Smart, her age and the sequence of her disappearance and thereafter, the defendant finally replied, "I can't say more than what God tells me to say – I can't talk about things that are sacred and holy." Yet Brian Mitchell spoke of the case the very next day to Special Agent Dougherty, and afterward to others such as [REDACTED]

Caught in an implausible statement that Elizabeth Smart was "18," the defendant then scrambled glibly to elaborate, "in God's eyes she was 18, she willingly chose to be my wife." This mental agility enabled Mr. Mitchell to cover not only the issue of Elizabeth's adolescence, but of accusations of sexual assault and kidnapping.

That exchange in the videotaped interrogation recalled the progression of Brian's encounter with Las Vegas police one day earlier – in which Brian Mitchell succeeded in fending off two police officers who responded to complaints that the three looked suspicious. Asked for ID, Mr. Mitchell replied, "I serve the Lord, I don't need identification." Asked for a Social Security Card, Brian answered that he did not need one, that he had not worked in nine years. Asked where the three were going, the defendant responded, "where ever God tells (me) to go and God is going to lead the way." The

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 155 of 206

defendant knew quite well at that point that the three were headed to Salt Lake City. And so the three did – even after officers confronted Elizabeth Smart about why she was wearing a wig, which was quite clearly disguising her. Brian Mitchell's flair for employing "God" in a manner that was digestible without being alarming again became his stay out of jail passport, and the three were released on their way. The audacity and aplomb -- and success -- of Brian Mitchell's lying capabilities are diagnostically only accounted for in **psychopathy**.

When arrested in 2002 for shoplifting at Albertson's, the defendant provided the name Brian David Mitchell when it was clear that he could be released by just telling the truth. Thus, he was Immanuel David Isaiah until it became legally detrimental. Likewise, when Mr. Mitchell was arrested with Elizabeth Smart, he neither gave biblical names nor used biblical aliases, and did not preach the BIDI. Brian offered only that the three were messengers of the Lord Jesus Christ. Pragmatism prevailed over ideology, as aliases shielded him from being identified. Brian's response also exhibited his recognition that too holy a presentation would arouse suspicions of polygamy in officers who know the plural marriage aroma, and one arrest in San Diego was enough.

Dr. Golding spoke to Brian being delusional in that "his fanatic faith would carry him through the court process in the same way that Jesus did not fight crucifixion." Yet Dustin Salisbury, a psychiatric technician at Utah State Hospital, recalled the defendant's query of new prisoners if they thought he would make it in prison. Furthermore, Mr. Mitchell's active disruption of the court proceedings, and his open desire to avoid enabling the process to continue to judge him, contradict any notion of his passively submitting himself to God's plan. Brian's success in maintaining silence, for so many months, speaks to an active process that withstood coaxing by trained mental health professionals. It is not that Brian Mitchell is not actively participating in therapy; it is that he is actively not participating in therapy. This reflects **malingering**.

Brian Mitchell's apocalyptic patina is punctured and is not fixed, inconsistent with delusional thinking. This shallowness has been chronicled by the occasional off hand remark the defendant makes about his own manipulations of the system. As Brian disclosed to David Talley, psychiatric technician at Utah State Hospital, "I sing to disrupt the system so that I can come back to the hospital." Brian Mitchell is where he has orchestrated himself to be. His singing is reflective of **psychopathy** for his manipulating religion as an explanation, and convincingly despite dramatic contradiction to his behavior elsewhere. It is to a lesser degree malingering – for Brian Mitchell does not say he is sick, he is merely rejecting the court and open about it.

The thinness of Brian's religious crust is further left to be exposed by the simple confrontations of his peers; for example, [REDACTED] questioning, "why are you telling me to repent when you raped a little girl?" This was enough to extinguish the defendant's

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 156 of 206

continuing challenges to others to repent. Or Nurse Miles' suggestion early in the hospitalization that were Mr. Mitchell to continue to indulge loud singing without regard for others, "the really sick patients will beat the crap out of you." Again, this loud singing subsequently extinguished through the defendant's own rational decision-making.

Some have interpreted Brian Mitchell's refusal to meet examiners during the competency assessment stage as evidence of Brian's psychosis. Yet there is no evidence that his beliefs involved mental health professionals and a particular fear of them. The only discernable reason for Brian to refuse to meet, given his expressed intentions about disrupting the process, would therefore be that he does not want to reveal anything that would reflect on him as competent, and change the impression of psychologists that he has already been blessed to have misled while playing his most convincing Jesus.

Nurse Jakeman was one of those who linked Brian Mitchell's affectations to his real problems, in her words "a front to justify his **pedophilia** to others and maybe even himself." Away from examining psychologists, Brian Mitchell's varying accounts of the inspiration for his behavior speak to his impression management.

Sex offenders' shaping of their account to achieve social desirability and impression management interfere with information gathering, even in research settings where criminal responsibility and punishment does not impact the climate of the encounter with the examiner.⁵⁷

Central to Brian's impression on examiners has been Mr. Mitchell's contention that he was compelled to comply with revelation to kidnap and sexually assault Elizabeth Smart. Yet in communications recorded on the Utah State Hospital unit, the defendant rationalized his behavior far from the command of the Lord. Chronicled psychiatric technician Joseph Liddle, "I took her and taught her the truth...her mind was filled with false beliefs...sometimes you need to do that because their mind is just full of false beliefs."

Brian's BIDI rebuttals to the accusations against him sharply contradict available evidence and the statements of Elizabeth Smart and at times, even Wanda Mitchell.

Contradiction or difference of perspective is native to the adversarial process. (sex offender research, for example, accounts for the adversarial system in constructing protocols, recruiting subjects who are beyond legal proceedings in order to elicit reliable rather than merely defense-driven content.⁵⁸) A defendant is not delusional simply because he makes

⁵⁷ Gannon T, Ward T, Collie R **Cognitive distortions in child molesters: Theoretical and research developments over the past two decades** *Aggression and Violent Behavior* 12, 402–416, 2007

⁵⁸ Hartley, C. **How incest offenders overcome internal inhibitions through the use of cognitions and cognitive distortions.** *Journal of Interpersonal Violence.* 13 25(15). Feb 1998

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 157 of 206

an assertion that is contradicted by the evidence. He may be 1) challenging the prosecution to prove its case 2) mistaken 3) lying, but with little choice.

Brian advanced his positions in the face of all contradictions to fact with the audacity that inspires some to say that to advance such ideas must be crazy. But for years, Brian Mitchell was recognized for his rational boldness and the ability and inclination to say anything convincingly and to carry it off. Brazenness is a quality of **psychopathy**, especially when it emerges unnoticed as Brian's defense ploy was.

Long before anyone was questioning Brian Mitchell's sanity, he was molesting children in his home and out in the community. There is no record of his embracing responsibility for any of these molestation incidents, and he talked and acted circles around his bishop and stake President. What Brian Mitchell did with his explanations in the BIDI was to offer a denial and an explanation, as he had in the past.

This response is completely consistent with medical literature and research that has long recognized the explaining away for sex offending behavior. Brian Mitchell's statements demonstrate that his response is no different from that long attributed to pedophiles and other sex offenders – **cognitive distortion**.⁵⁹

Coined by senior researchers and clinicians over twenty years ago, cognitive distortion was originally defined as "cognitions and belief systems"⁶⁰ has matured to learned assumptions, sets of beliefs,⁶¹ that sex offenders use as statements to deny, minimize, justify, and rationalize their deviant sexual behaviors,⁶² such as child molestation.

⁵⁹ Burn M and Brown S. **A review of the cognitive distortions in child sex offenders: An examination of the motivations and mechanisms that underlie the justification for abuse.** *Aggression and Violent Behavior*, Vol. 11, pp. 225-236, 2006; Wright, R. and Schneider, S. **Motivated self-deception in child molesters.** *Journal of Child Sexual Abuse*, Vol. 8, pp. 89-111, 1999; Gannon, T. A., Ward, T. and Collie, R. **Cognitive distortions in child molesters: Theoretical and research developments over the past two decades.** *Aggression and Violent Behavior*, Vol. 12, 402-416, 2007; Blumenthal, S., Gudjonsson, G. and Burns, J. **Cognitive distortions and blame attribution in sex offenders against adults and children.** *Child Abuse and Neglect*, Vol. 23, pp. 129-143, 1999

⁶⁰ Abel, G. G., Becker, J. V., & Cunningham-Rathner, J. (1984). **Complications, consent and cognitions in sex between children and adults.** *International Journal of Law and Psychiatry*, 7,89 103

⁶¹ Bumby, K. M. (1996). **Assessing the cognitive distortions of child molesters and rapists: Developments and validation of the MOLEST and RAPE scales.** *Sexual Abuse: A Journal of Research and Treatment*, 8, 37–54 1996

⁶² Murphy W **Assessment and Modification of Cognitive Distortions in Sex Offenders.** In Marshall WL, Laws DR, Barbaree HE **Handbook of sexual assault** New York Plenum pp 331-342 1990

Cognitive distortions may foster beliefs that maintain patterns of sexual offending over time.⁶³ Self-protecting mechanisms like impression management, if repeated often enough, may feed into and help form offense-supportive beliefs. A sex offender in this way may come to believe his own previously not believed self-protective statements.⁶⁴

A variety of cognitive distortions have been identified in research. One study of 101 child offenders yielded 38 different cognitive distortions, twenty of which were found in five or less of the respondents.⁶⁵ A more recent study identified 2260 cognitive distortions from the narratives of 22 child molesters.⁶⁶ We appreciate from this that sex offenders may express many beliefs about their offending behavior, depending on the individual.

Other research has identified different cognitive distortions drawn from different subpopulations of sex offenders,⁶⁷ and distinguishes cognitive distortions in those who have not been in treatment.⁶⁸ The latter category reconciles how shame and the legal consequences impede sex offenders' full disclosure, including their sincere revelation of cognitions in the first place.

Cognitive distortion's offense-supporting beliefs are the product of implicit theories that sex offenders use to engage their world. Research has focused, as well, on five implicit theories revealed in child molesters' cognition:

- ◆ **Children as sexual beings**
- ◆ **The nature of harm (sex as ordinary act, minimized harm)**
- ◆ **The dangerous world (socially hostile and rejecting, Children hostile and need to be put in their place)**
- ◆ **Entitlement (the offender's needs are paramount, whomever the target)**

⁶³ Abel, G. G., Gore, D. K., Holland, C. L., Camps, N. Becker, J. V. & Rathner, J. **The measurement of the cognitive distortions of child molesters.** *Sexual Abuse: A Journal of Research and Treatment*, Vol. 2:2, pp. 135-152, 1980

⁶⁴ Ward, T., Gannon, T. A., & Keown, K **Beliefs, values, and action: The judgment model of cognitive distortions.** *Aggression and Violent Behavior: A Review Journal*, 11, 323-340, 2006

⁶⁵ Neidigh L, Krop H **Cognitive Distortions Among Child Sexual Offenders** *Jl of Sex Education and Therapy* 18 (3) pp 208-215, 1992

⁶⁶ Marziano, V., Beech, T., & Pattison, A. R. **Identification of five fundamental implicit theories underlying cognitive distortions in child abusers: A preliminary study.** *Psychology, Crime, and Law*, 12, 97-105, 2005

⁶⁷ Pollock N, Hashmall J **The Excuses of Child Molesters** *Behavioral Sciences and the Law*, Vol, 9, 53-59, 1991

⁶⁸ Hayashino, D. S., Wurtele, S. K., & Klebe, K. J. **Child molesters: An examination of cognitive factors.** *Journal of Interpersonal Violence*, 10, 106-116, 1995

- ◆ **Uncontrollability (humans are out of control and unable to exert their own influence in the face of more powerful urges and emotions, be they drive, alcohol, distress, or euphoria).⁶⁹**

The use of divine inspiration, even direction, may move some to conclude that Mr. Mitchell is delusional. However, research on admitted pedophile clergy, for example, demonstrates that clergy offenders **routinely** used their religious role and relationship with God within their distorted beliefs – and are **not** deemed psychotic.⁷⁰ Brian Mitchell was not clergy in the sense of acting under a formal umbrella, but he most certainly represented himself as a person of religious calling.

Researchers who interviewed and catalogued fourteen such religious abusers noted such accounts divided into “justifications” and “excuses,” both of which serve to shift the responsibility from the offender. A justification, as articulated by the members of this group, was an admission of full responsibility for the act in question, coupled with a denial that it is wrongful.⁷¹

These religious offenders use religion-related beliefs prior to the sexual acts to enable them to overcome inhibitions to offend and also after they have offended to minimize the effects of their offending,⁷² to reduce any guilt associated with these offenses, and to maintain a positive self-image. The researchers determined that religious beliefs actually facilitated offending behavior rather than inhibited it.⁷³

The cycle of offending proceeded thusly:

1. **Motivations to offend** - Offenders’ perceptions of needs met by the sexual offenses
2. **Beliefs justifying sexual acts with children** - Beliefs about sexual acts that predispose the perpetrators to commit sexual offenses; beliefs that make sexual acts with children

⁶⁹ Ward, T. **Sexual offenders' cognitive distortions as implicit theories.** *Aggression and Violent Behaviour*, 5, 491–507 2000

⁷⁰ Saradjian A Nobus D **Cognitive Distortions of Religious Professionals Who Sexually Abuse Children** *J Interpers Viol* 2003 18 905

⁷¹ Saradjian A. and Nobus D. **Cognitive Distortions of Religious Professionals Who Sexually Abuse Children.** *Journal of Interpersonal Violence*, Vol. 18, pp. 905-932, 2003

⁷² Abel, G. G., Gore, D. K., Holland, C. L., Camps, N. Becker, J. V. & Rathner, J. **The measurement of the cognitive distortions of child molesters.** *Sexual Abuse: A Journal of Research and Treatment*, Vol. 2:2, pp. 135-152, 1980; Hayashino, D. S., Wurtele, S. K. & Klebe, K. J. **Child Molesters.** *Journal of Interpersonal Violence*, Vol 10:1, pp. 106-116, 1995; Stermac, L.E. & Sengal, Z. V. **Adult sexual contact with children: An examination of cognitive factors.** *Behavior Therapy*, Vol. 20:4, 573-584. 1989

⁷³ Saradjian A. and Nobus D. **Cognitive Distortions of Religious Professionals Who Sexually Abuse Children.** *Journal of Interpersonal Violence*, Vol. 18, pp. 905-932, 2003

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 160 of 206

socially and morally acceptable; religious, cultural, and/or moral values that support/justify sexual acts with children

3. **Inhibition-reducing beliefs** - Beliefs related to reducing inhibitions against initiating a sexual act with a child; beliefs related to the denial of likelihood that a child would tell or be believed
4. **“Permission-granting” beliefs** - Beliefs related to giving self “permission” to engage in sexual acts with children
5. **Denial of harm in planning and fantasy** - Beliefs related to denial of any potential harm
6. **Facilitating beliefs regarding the target children** - Beliefs about the target children that facilitate the choice of a particular child and the offending behavior against her; beliefs related to the target children; beliefs developed as a result of abusers’ manipulations of their target children that facilitate the offending
7. **Offense-minimizing beliefs** - Beliefs that minimize the seriousness of the actual offenses
8. **Guilt-reducing beliefs** - Beliefs that minimize the perpetrator’s self-image as a culprit; reduction of responsibility due to external forces; post-abuse denial/minimization of harm to victim
9. **Regaining and maintaining a positive sense of self** - Beliefs that reassert a positive self-image and enhance self-esteem
10. **Attributions increasing the likelihood of reoffending** - Attributions made to not being caught that increase the likelihood of offending again

Brian Mitchell advanced defenses in the BIDI that represent a multitude of examples of the above categories of cognitive distortion. Reviewing the statements, with the category of cognitive distortion in parentheses:

“Immanuel is accused ofcoming as a thief in the night and so I will come as a thief in the night....He is accused of taking by force a virgin daughter of Zion...is accused of humbling a virgin daughter of Zion and bringing her low in the dust and binding her to him with a cord that could not be broken....accused of subjecting her to his will and to all his ways...it is I Jesus Christ that has done by my righteous rights all that has been truly done to Shearjeshub...”

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 161 of 206

(8): Externalizing responsibility to Jesus Christ

and this I did that it might be a sign and for a portent unto all of the world...

(2) Religious values that support/justify the acts, though no evidence available from before the seizing of Elizabeth Smart that Brian Mitchell anticipated its impact on “all the world”

the only force that was used was the force and power of my spirit

(7) Minimizing the seriousness of the offense, when accused of taking her at knifepoint and threat, contending that there was no force involved

and the only weapon was my words in his mouth, saith the Lord

(7, 8) Minimizing the seriousness of the offense, accused of happening at knifepoint, externalizing responsibility to Jesus Christ as the weapon, rather than Mr. Mitchell wielding it

and my words in Immanuel’s mouth

(8) Externalizing responsibility to Jesus Christ

are sharper than a two edged sword...

(7) Minimizing the significance of an accused kidnapping at knifepoint

“The spirit did work upon Shearjeshub’s heart...”

(8) Reduction of responsibility due to external forces; it was not his forcing himself onto her, but rather a spirit that worked on Elizabeth

and she did open the window for Immanuel to enter her home just before she retired to bed on the night she was taken...

(4) Giving self “permission,” because she opened the window, rather than he entered by cutting a screen, uninvited.

The holy spirit did work on the hearts of Shearjeshub’s earthly parents

(8) Reduction of responsibility due to external forces, because rather than his kidnapping her from her parents by invading their home, it was Elizabeth’s parents who...

and they did invite Immanuel into their home...

(4, 8) Giving self “permission,” because he was invited in, rather than he entered the home by stealthily coming in through a window, unanticipated. No guilt, because he was invited into the home by the parents.

for in their spirits they knew Shearjeshub would be taken by the hand of the Lord for a glorious purpose

(5) She wasn't harmed, but rather taken for a glorious purpose. If taken for a glorious purpose, how could that constitute an assault?

yea, shortly before she was taken, her earthly parents removed the lock from Shearjeshub's bedroom door and turned the security alarm off to the back door of the house...

(4) Permission granted by parents who in so doing, made it easier for him to enter the house, so he really did not forcibly enter.

Shearjeshub got out of her bed and came forth upon hearing the Lord's command...

(2, 3, 8) He did not kidnap her, at knifepoint, she came voluntarily and as a result of God's command. If the Lord commands it, then it must be justifiable and OK. Yet, according to Elizabeth Smart, he told her that he was taking her for ransom specifically because he knew she would resist if he told her he was going to make her his wife

...because in her heart, she knew that to disobey would cause the loss of great and eternal blessings for herself and for her family."

(2, 6, 8) She had to participate because otherwise, she would lose blessings...though he had threatened to kill her; how "celestial" a wife would Elizabeth Smart have been had she been slain in the Smart home? How did a claimed divine commandment encompass killing a desired wife and/or her family?

Shearjeshub followed Immanuel to the camp

(5, 7, 8) actually, she was forced in terror by knifepoint and threat

fell into the arms of (Wanda) in great joy and peace and exultation. Both recognized each other as the dearest and choicest friends for all eternity,

(5, 6, 7) Rather than being bewildered and terrified, she was joyous. Rather than being kidnapped, she was going to see a familiar friend. A special friendship that unusually bound Elizabeth to Wanda – though Wanda noted in her own statement that she did not recognize Elizabeth

and behold was Shearjeshub's wedding day!

(7) She wasn't kidnapped and sexually assaulted that night, it was her wedding day

Shearjeshub humbled herself before the Lord

(7, 8) He did not sexually assault her, she humbled herself before the Lord

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 163 of 206

and in great faith and courage

(6) It was an act of her great faith and her courage to...

she gave herself

(4, 7, 8) He did not sexually assault her, she gave herself, how could he be guilty if she gave herself

unto her husband Immanuel

(7, 8) He did not rape her, he was her husband, how could he be guilty as her husband

Yea, and in truth, the only way that Shearjeshub was bound was by the power of the holy spirit, confirming the truth of the words of God in her heart

(7, 8) Rather than with a cord tied to her ankle by Brian Mitchell, she was bound by a religious tie

Shearjeshub wore the key to unlock herself around her neck

(5, 7, 8) He did not restrain her, she had control over her situation

next to her heart

(6) Her bond was one of love, rather than coercion

...False traditions were truly the only bonds she wore,

(7, 8) He did not restrain her, she was not kidnapped

and these bonds fell away in grace and truth in a most miraculous way and she was free!

(2, 3, 7, 8) A miracle rid her of that which interfered with her being free, rather than his coercion of her

On the third day when Shearjeshub's earthly family

(5) She was, after all, with her spiritual family

came up into the mountains searching for her and they called out to her, Shearjeshub sat still

(6) It is because she sat still when she had the chance to run that she was exploited. But she was restrained by the ankle and threatened, she did not merely sit still

with tears in her eyes, not because of any threat from Immanuel and Hephzibah, for there was none,

(5, 7, 8) They had not coerced her or restrained her

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 164 of 206

and Shearjeshub knew she could have called out and she would have been found, but...she knew the great sacrifice that I the Lord God Almighty had called upon her to make

(2, 6, 10) She was not silent because she was frightened, but because she had been called to sacrifice. It was because someone he had taken remained silent when she could have spoken that enabled him to continue to look for wives, rather than his desire to reoffend

and she in great faith and courage remained silent

(6, 7, 8) It was not them who frightened her into silence, it was she who chose silence for her faith

Behold, thus saith your Lord and Savior Jesus Christ,

(2, 8) God said so

Shearjeshub's earthly parents knew in their hearts that Shearjeshub was alright after she was taken...

(5, 6, 7, 8) She was all right and the parents knew she was all right, even after she had been kidnapped and sexually assaulted. If the parent's don't experience her as harmed, how can it be wrong?

in their terrible weakness and great sorrow and grief, they gave into the tremendous weight of fear and doubt that the whole world pressed upon them and they began to suspect and accuse

(8) It was only because of their weakness, rather than his guilt

my true servant Immanuel

(9) He's no criminal, he is Jesus Christ's true servant

Yea, I will strengthen thee in all those things which ye suffer for me, yea even in thy terrible weakness.

(2, 8) Brian Mitchell had sex with a child for Jesus Christ, or alternatively, will be strengthened from his weak moments of sexual assault and pedophilia

Wherefore, Immanuel and Hephzibah and Shearjeshub, when you were in the wilderness,

(7) It was because you were in the wilderness

I commanded you to partake of those things

(2, 3, 8) This happened because of a divine commandment to all

and to do those things which were abhorrent to you and which were an abomination in thy sight.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 165 of 206

(3, 8) In contrast to his legacy, Brian would have otherwise have been inhibited, he would normally find these unacceptable

...in great faith did obey all my commandments unto thee

(2, 3, 6) It was a matter of faith, and of their all obeying what came from God, that caused this to happen

and which were an abomination in thy sight.

(8) Brian would normally have found this wrong, but then God stepped in

Wherefore, I purified your thy souls in the fiery furnace of affliction

(5, 9) Her soul is purified as well, she has been chastened by the Lord, and his soul is purified as well

I the Lord did reveal, and bring to light, and did destroy and did put to death the carnal man within each of you.

(9) He is all better now, no longer a sex predator

I blessed thee with great courage and faith and hope and charity, and ye were delivered mightily by my grace from all jealousy and pride and all the hurtful lusts of the flesh.

(9) He is no longer suffering from the hurtful lusts

Whatsoever thing I the Lord have commanded Immanuel so to do, call not that thing unclean,

(2, 7, 8) I have commanded it, so it is not wrong

for it is sanctified unto him.

(7, 8, 9) He not only did not do something illegal, or immoral, but sanctified

Beyond the defenses offered in the Book of Immanuel David Isaiah, and in his videotaped interview with law enforcement after his arrest, Brian Mitchell has offered a number of additional cognitive distortions from custody. Those documented in Utah State Hospital record and noted by staff included:

“He was not a rapist because he was taking Elizabeth Smart to be his wife”

(2, 7, 8) Marriage makes it right.

Note: This does not parallel his earlier attribution “***Whatsoever thing I the Lord have commanded Immanuel so to do, call not that thing unclean, for it is sanctified unto him.***” Rather than justify this for its adherence to divine directive, Mr. Mitchell is guiltless because he took Elizabeth to marry

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 166 of 206

“akin to biblical societies who were to take virgin daughters out of the wicked lands”

(2, 7, 8) He was continuing a practice in which he was taking her from the wicked, not raping and brainwashing her. That this was biblical and she was a virgin distinguished this as more a ritual and holy practice than a sexual proclivity.

Bring them down to the very dust and then build them back up

(5, 7, 8, 9) This presupposes that the defendant actually built Elizabeth Smart back up when he dismantled her identity in the course of brainwashing her. In so doing, Brian Mitchell asserts that he did not offend at all, he actually was helping her and this reflects on how constructive he is.

I took her and taught her the truth...her mind was filled with false beliefs...sometimes you need to do that because their mind is just full of false beliefs

(2, 6, 7, 8, 9) Brian was not raping and brainwashing her, he was teaching her the truth. It was her doing, because her mind was full of false beliefs. Again, Brian was doing virtue, in bringing her “truth,” and in so doing this would justify what he did with her sexually, such as the truth he taught her about performing oral sex.

“the prophets of old would take young wives”

(2, 7, 8) Again, this is a defense but not one that was reflected in the Book of Immanuel David Isaiah. Rather, he attaches his practices to the prophets of old as a justification for his choices and for minimizing the significance of those choices.

“once a female is given to you from God, you have the right to do what you please with her and the state and the law is below them in this area”

(2, 4, 7, 8) It was God who delivered her, and she was given to Brian – not kidnapped by him – and therefore there is no offense to this and the law is irrelevant

Accusations against him were false, and that Elizabeth Smart was his wife and would say so except for the pressure from her family and church leaders

(2, 7, 8) That Brian did not kidnap her, sexually assault her, or brainwash her – but he was married to her anyway...

“They had laid together as man and wife At first, it wasn’t consensual but it grew in willfulness and intensity”

(4, 5, 7, 8, 9) At least after awhile, she gave him permission. And it grew more positive, and therefore was less repugnant to Elizabeth over time, and she actually wanted him. This comment directly contradicts the Book of Immanuel David Isaiah, which contorts itself to convey the impression of Elizabeth Smart’s consent from even before her being confronted in her home. Specifically:

Re: Brian Mitchell
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 167 of 206

- ◆ *“The spirit did work upon Shearjeshub’s heart... and she did open the window for Immanuel to enter her home just before she retired to bed on the night she was taken...”*
- ◆ *“Shearjeshub got out of her bed and came forth upon hearing the Lord’s command.....because in her heart, she knew that to disobey would cause the loss of great and eternal blessings for herself and for her family.”*
- ◆ *“Shearjeshub followed Immanuel to the camp fell into the arms of (Wanda) in great joy and peace and exultation. Both recognized each other as the dearest and choicest friends for all eternity and behold was Shearjeshub’s wedding day!”*
- ◆ *“Shearjeshub humbled herself before the Lord and in great faith and courage*
- ◆ *and in great faith and courage she gave herself unto her husband Immanuel”*

The stark differences between the Book of Immanuel David Isaiah and Mr. Mitchell’s later observations demonstrate that either his beliefs were not fixed, or his representations were not sincere in the first place and were simply included to be self-serving.

In Dr. Skeem’s evaluation, such inconsistencies were notable within the very same evaluation. The psychologist elaborated in her opinion that Brian Mitchell responded to circumstances if they were proof that God “opened the way” for him to take Elizabeth Smart. Yet Dr. Skeem allows, “less proof was sought for later revelations that involved drinking, smoking, and frequent sex.”

Actually, there is no evidence that **any** proof was sought. No evidence exists, for example, for Mr. Mitchell’s introducing Elizabeth Smart to oral sex as a matter of fulfillment of divine plan. No evidence exists that he sought proof for divine revelation to inspire him to declare “tonight I’m going to fuck (Elizabeth’s) eyes out tonight!”

Pertinent to the proceedings of the competency hearing, at this point there is no evidence for “proof” being sought to guide Mr. Mitchell to be disruptive in court, or “proof” sought or obtained to try to orchestrate a legal finding that he is incompetent. That is, of course, because his decisions of obfuscating, disruption, and avoidance are quite rational).

Cognitive distortions are generally accepted in psychiatry and the behavioral sciences to be a non-delusional form of how offenders and sometimes even otherwise morally sensitive individuals exploit and prey upon others. No medical literature characterizes cognitive distortions as delusional.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 168 of 206

Other statements raised in the course of Brian and Wanda's encounters with others reflect even more examples of cognitive distortion:

If this work be true, let them not see us (10)

Have to listen to God's commandment, and this is God's commandment (2, 8)

Wife prompting him to fulfill the aim of celestial marriage – yet he was the dominant partner in the relationship (8)

Denying she was a virgin (8)

Manipulating [REDACTED] address from the person he kidnapped (10)

When he spoke with Elizabeth parents he got the impression that they knew she was supposed to be with him, that this is what God wanted (if so, why enter their home in stealth, remove her under threat and enforced silence) (2, 4, 8)

She was free to go, but she knew she was supposed to be with him (6, 7, 8)

Elizabeth's strong family values would prepare her for her "journey," that's why God chose her (rather than to acknowledge as a predator that this was a person he had access to) (6, 8)

His arrest was God's will to get his book out to the rest of the world (9)

Knew that when they were caught, she would have a great deal of pressure placed upon her by family, police and media and the false traditions surrounding her, to share her true feelings about Mitchell. Even if she could not share what was in her heart today, one day she would come forward with the truth (4, 5, 8, 9)

She was anointed for him (2, 6, 8)

Though it was designated by Brian and Wanda as celestial marriage, the nine months of repeated and continual sexual assaults of Elizabeth Smart reflected, according to both Elizabeth and Wanda, a motivation of lust. Mr. Mitchell acknowledged this in the BIDI in contending the Lord's cure of "all the hurtful lusts of the flesh."

Given that the defendant's thinking parallels the cognitive distortions of admitted offending clergy, it follows that if Mr. Mitchell's thinking is deemed to be delusional, the entire legacy of psychiatric opinion in many thousands of cases involving cognitive distortion and sex offenders needs to be rethought of. If those assessed to have cognitive distortion are now deemed by the law to be delusional instead of as the medical community has assessed them, then many thousands have gone through trial when they should have been routed into hospitals as irretrievably incompetent.

Moreover, cognitive distortions would therefore be legitimized as insanity defenses that these thousands of sex offenders would have been deprived of.

Brian Mitchell has not undertaken psychiatric care for his pedophilia; and there is no evidence Brian ever disclosed his pedophilia to mental health professionals before this case. However, once Elizabeth was seized and the knowledge was available to mental health

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 169 of 206

professionals about his sexual preference for the underaged, the clinical importance of pedophilia became realistic, though less trained professionals already considered pedophilia in the differential diagnosis.

Now that closer consideration reveals that Brian Mitchell repeatedly violated the underaged based on opportunity and entitlement to “plunder,” his term in psychiatric confinement (with years of repeated interviewing, a forensic examination that encompassed many hours of face to face interviewing, and many follow up interviews, without accounting for his pedophilia), concealed beyond a blizzard of religious rhetoric for the appointed examiner, resembles other hospitalizations where predatory clergy have recast themselves to divert attention away from their unsaintly lusts of the flesh.⁷⁴ History then proves they have fooled everyone, and embarrassingly so.⁷⁵

Cognitive distortions reflect upon the competency questions because they speak to his abilities and how it is that Brian so tenaciously avoids taking ownership for multiple sex assaults. Even if he offers an affirmative defense of mental illness, he is still saying that he raped and molested. The cognitive distortions Brian has created from the time of his arrest until today reflect his ability and motivation to defend himself against charges he is very aware of and in proceedings he wishes to derail because of his clear-eyed understanding of them.

Assessment of Brian Mitchell’s mental condition for probing criminal responsibility or even as a pre-sentencing assessment of psychological mental health needs must therefore include a court-mandated penile plethysmograph and visual reaction assessment and a full examination of Mr. Mitchell’s sexual deviance, and its full parameters.

6) What is the relationship of religious zeal of a fundamentalist adherent to Mormon doctrines to the above diagnostic questions?

Mormon Latter Day Saints (LDS) history and theology is the inspiration – if not the full theological basis -- for Brian Mitchell’s assertions about himself. His religious ideas require contextual embedding for a more complete and accurate analysis.

The Mormon Church derived from Joseph Smith and the revelations he published and asserted in the 1830’s and 1840’s.⁷⁶ Distinct to the Mormon faith is an emphasis on a personal dialogue with God and the capacity for receiving revelations. Interpreting events from the everyday as miracles or even messages of reinforcement or direction from God is

⁷⁴ O’Sullivan J **Sin City** *National Review* January 31, 2002

⁷⁵ Werth B **Father’s Helper** *The New Yorker* June 9, 2003

⁷⁶ Bushman, R. **Joseph Smith Rough Stone Rolling: A cultural biography of Mormonism’s founder.** New York: Vintage Books, pp. XX preface, 2005

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 170 of 206

a practice with which many in the LDS identify.⁷⁷ The Church of Latter Day Saints recognizes the capacity for revelations in the present, and is led by a man designated as the Prophet, who serves until his death.⁷⁸

The most controversial revelation abandoned by the church is polygamy, or plural marriage or celestial marriage.⁷⁹ The revelation is believed to have been recorded by Joseph Smith in 1843, but only promulgated in 1852, years after his passing.⁸⁰ Polygamy contributed to contempt for and ultimately, legislation to smother the Mormon church in the late 19th century by harsh economic sanction.⁸¹ Ultimately, the Church hierarchy formally abandoned polygamy in the late 19th century and reaffirmed that position early in the 20th century.⁸² Fundamentalists regarded the LDS choice to abandon plural marriage as apostasy and a sellout.⁸³

A number of sects have split from the LDS Church, characterizing themselves as fundamentalist and more traditionally adherent to the original revelations of Joseph Smith. Fundamentalists interpret the writings of Joseph Smith differently, and assert that they interpret scripture more strictly.

Polygamy is practiced among some fundamentalist LDS splinter groups, although it is officially illegal. Estimates number those living under the banner of fundamentalist LDS, with different prophets as the “one mighty and strong” at the helm, to exceed 200,000 in the United States alone,⁸⁴ with many more in Mexico, Canada, and elsewhere.

Section 85 of the Church’s Book of Modern Revelation, *Doctrine and Covenants* prophecies that “one mighty and strong who will come to set in order the house of God” will rise up⁸⁵ as a prophet to lead the church, and that this prophet will come from outside the conventional church hierarchy. Mainstream Mormon belief is that the “one mighty and strong” refers to the living Prophet presiding over the church, or perhaps the Savior upon his Second Coming.⁸⁶

⁷⁷ Oaks, D. H. **Miracles**. *Ensign*, Vol. 31 :6. Retrieved on June 16, 2009.

⁷⁸ **Prophet**. *Official Web site of The Church of Jesus Christ of Latter-day Saints*. Retrieved on June 16, 2009.

⁷⁹ **Church History in the Fullness of Times: Student Manual**. Salt Lake City, Utah: The Church of Jesus Christ of Latter Day Saints, pp. 424, 2003

⁸⁰ Ibid

⁸¹ **Church History in the Fullness of Times: Student Manual**. Salt Lake City, Utah: The Church of Jesus Christ of Latter Day Saints, pp. 425, 2003

⁸² **Church History in the Fullness of Times: Student Manual**. Salt Lake City, Utah: The Church of Jesus Christ of Latter Day Saints, pp. 440-441, 470, 2003

⁸³ Moore-Emmett, A. **God’s Brothel**. San Francisco: Pince-Nez Press, pp. 21-25, 2004

⁸⁴ Krakauer, J. **Under the Banner of Heaven: A Story of Violent Faith**. New York: Anchor Books, pp. 5, 2003

⁸⁵ **Doctrine and Covenants** 85:7

⁸⁶ Ibid

Among the over two hundred splinter groups⁸⁷ outside the church, there is a belief that the “one mighty and strong,” also known as the Davidic servant, refers to a person outside of the Church oligarchy who will be called prior to the second coming to rescue the church before its leaders blithely steer it right through the gates of hell.⁸⁸

John Taylor, former leader of the LDS, also prophesied that “in the time of the 7th President of this church,” the Church would go into bondage both temporally and spiritually, and in that day the One Mighty and Strong spoken of in the 85th Section would come.⁸⁹ This prophecy reinforces more recent interest among fundamentalist LDS members in the identity of the One Mighty and Strong.

Indeed, over the years there have been numerous fundamentalist LDS members who have declared themselves to be the “One Mighty and Strong,” or other grand but unusual claims. These individuals have been regarded alternatively as spiritual men, prophets, heretics, or sexual perverts, but not mentally ill. Some of them had qualities reminiscent of the facts of this case:

- ◆ Gilbert Clark now calls himself David Asia Israel. Originally a member of the A.U.B., Clark is the leader of Order of the Nazarean Essenes, Sons of Aumen Israel. Mr. Israel believes he was visited by God the Father, God the Son, and Joseph Smith. David Israel claims to receive regular revelations in the form of morning and evening oracles. He publishes a newsletter every month called ***The Stone***. Redemption in the SAI system is therefore essentially through “holy sex” with multiple partners, coupled with eastern meditation, yoga, and magic occult ritual.⁹⁰
- ◆ Allen Harrod began his own church in Salt Lake City. A number of years later, the sect numbered approximately a dozen members. He wrote in his journals that he was the prophet, and had his wife and other partners read and write journals where they wrote about how he was the prophet. In addition, Mr. Harrod had these partners address him as “Lord,” and renamed himself Isaak and his wife Rebekah,

Reportedly Mr. Harrod had sexually assaulted at least five of his twelve children during a period spanning more than 20 years. He sexually enslaved them with considerable and active complicity by their mother. Mr. Harrod married the

⁸⁷ **Do denominations negate the Christian faith?** *Mormon Research Ministry Official Website*. Retrieved on June 16, 2009. <http://www.mrm.org/denominations>

⁸⁸ **Doctrine and Covenants** 85:8-10

⁸⁹ Ibid

⁹⁰ **Sons of Ahman Israel: The Definitive Story Told.** *The Messianic Evangelicals: Home of the End-time Remnant Official Site* Retrieved on June 17, 2009. <http://www.nccg.org/occult/Occult003A-Abstract.html>

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 172 of 206

younger sister of his legal wife, and sexually abused his son. One 19-year-old daughter of a family member told police at the time of the arrest that she was pregnant with his child. She also said that she had been “betrothed” to him for years, but that their sexual relationship began after she turned 18. She characterized him as her husband and “patriarch.”⁹¹

- ◆ James D. Harmston and his wife broke away from the LDS Church in the 1980s, dedicating a special room in their home to carry out priesthood functions Church members reserve for Holy Temples. In response to their prayers, they reported that the heavens were opened and they received visits from divine messengers including the Father and the Son. Specifically, on November 25, 1990, Enoch, Noah, Abraham, and Moses appeared to Mr. Harmston to bestow priesthood keys they had reportedly seized from errant LDS Church leaders. Mr. Harmston and his wife immediately established their own “True and Living Church of Jesus Christ of Saints of the Last Days” (TLC) with Mr. Harmston as president, prophet, seer and revelator.

James Harmston has asserted that he is in fact Joseph Smith, Isaiah, King Arthur and reportedly after viewing the movie *Braveheart*, he suddenly remembered he had also previously lived as William Wallace. He was reported to have 18 wives, and wrote letters to his wives (one 43 years his junior) that they would face fire and brimstone if they refused to sleep with him.. Located at Manti, Utah, they have gathered several hundred followers since the church’s inception.

- ◆ Thomas Green says Jesus came down and named him the elder of the Church of the Firstborn. With seven wives and thirteen children, he legally married his step-daughter pursuant to Utah law, when she was 14 years old. Convicted of charges that included child rape and failure to pay child support, he had accumulated a community of scores of residents before he was incarcerated.⁹²

_

Mormon tradition is one of great respect for legacy and history. In that vein, so is the documentation of history⁹³ Brian Mitchell had a stated agenda for creating his own sect

⁹¹ Garvin, C. **The patriarch, polygamy and power.** *Newsreview.com*. Retrieved on June 17, 2009. <http://www.newsreview.com/sacramento/content?oid=15069>, May 29, 2003

⁹² **Utah polygamist found guilty.** *CNN.com Law Center*. Retrieved on June 17, 2009 <http://archives.cnn.com/2001/LAW/05/19/utah.polygamy/index.html>, May 19, 2001

⁹³ **Church History in the Fullness of Times: Student Manual.** Salt Lake City, Utah: The Church of Jesus Christ of Latter Day Saints, pp. 477, 2003

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 173 of 206

that developed beyond fancy. He had a reading list of “seven plus one” works that testify to Jesus Christ:

- 1) *King James Bible*
- 2) *Book of Mormon*
- 3) *The Inspired Words of LDS Prophets*
- 4) *The Seven Plus One: Anthology of Natural Healing*, by Samuel West
- 5) *The Final Quest*, by Rick Joiner
- 6) *Embraced by the Light*, by Betty Eadie
- 7) *The Literary Message of Isaiah*, by Abraham Gileadi

PLUS ONE – all the sacred music and testimonies of God’s followers

To this, in 2002, the defendant added the *Book of Immanuel David Isaiah*. Perhaps, too, *Journey through the Land*, so caringly assembled and rewritten in calligraphy by Wanda Mitchell.

A number of fundamentalist LDS adherents have written scriptures intended to distinguish themselves and their ideology. Some of these individuals, such as Robert Simons, preached and wrote alone, characterizing himself as a prophet of the Indians.

Other self-styled prophets, found followers only over time. Robert Crossfield, for example, published *The Second Book of Commandments*, distributed 1000 copies, and did not draw any following.⁹⁴ He was excommunicated after challenging his fundamentalist church. Eventually, known as the Prophet Onias, he came to be associated with the Lafferty brothers.⁹⁵

Some who wrote scriptures have and attempt to draw followers. One such self-proclaimed prophet, Ervil LeBaron, was already part of a fundamentalist sect, Church of the Firstborn of the Fullness of Times, when he split from his family to form Church of the Lamb of God. He was described as a sexual carnivore. One of Ervil's beliefs was that the Virgin Mary had become the mother of Christ at age fourteen, and it was therefore acceptable for him to take adolescent girls as wives.⁹⁶

Mr. LeBaron, incarcerated for murder, wrote *The Book of the New Covenants*, (a scripture huge by comparison to the BIDI), that his adherents follow to this day. The Book of the New Covenants includes discourse about those who deserve to die – including

⁹⁴ Crossfield, R. *Second book of commandments*, 24:1 & 137

⁹⁵ Krakauer, J. *Under the Banner of Heaven: A Story of Violent Faith*. New York: Anchor Books, pp. 155, 2003

⁹⁶ Krakauer, J. *Under the Banner of Heaven: A Story of Violent Faith*. New York: Anchor Books, 2003

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 174 of 206

children who could not be controlled, those who did not pay tithing, someone who denied his prophecy and was otherwise a traitor to the church. He had his own brother and daughter killed.

Mr. LeBaron was never deemed to be delusional or psychotic, but according to Dick Forbes, who interviewed him, the polygamist sect leader exhibited intense determination, ruthlessness, and self-absorption. According to Mr. Forbes, LeBaron believed that everything on this earth was his property. The investigator experienced Mr. LeBaron as very controlling, and intolerant of disagreement.

Brian Mitchell's writings on "one mighty and strong" and his characterization of himself as a "Davidic king" and ideas of engaging the Antichrist do not stray from the beliefs and ideas to which many Fundamentalists adhere.

Daniel Peterson, Ph.D., a BYU professor with an expertise in scriptures, has studied the BIDI at the request of prosecutors. Dr. Peterson discerned that the BIDI was compiled and assembled carefully, and over an extended period from a number of sources. Doctrines and Covenants is influential, according to Dr. Peterson, as are other works – attributed and not. Its production reflects cool assembly rather than the pouring forth of the ecstatic and mystical mind.

The writing, per Dr. Peterson, captures the voice of Mormon scripture with rational spirit, although its focus is apocalyptic. The resentful tone and damnation of non-believers has particular precedent in apocalyptic scripture, noted the professor. In short, according to Dr. Peterson, there is nothing in the BIDI that promotes a conclusion of a major or minor psychiatric condition.

This synthesis is compatible with Brian Mitchell's literacy for the LDS theology and history, and of the Bible in general. None of the examiners who have seen him, or who have encountered his religious preaching, have a comparable level of literacy to appraise the BIDI or his pronouncements with the capacity to discern irrational ideas from the leaps required of faith.

Apocalyptic influences on spirituality found their place among many fundamentalist LDS, according to Doug Larsen, Brian Mitchell's closest friend at the workplace. The two used to speak about religion at work, and Mr. Larsen conceded that Brian's thinking was very much like his own. In the aftermath of LDS President Ezra Benson's death, many fundamentalists pondered the coming millennium and its significance in the final struggle between good and evil, noted Mr. Larsen. "People took their concerns in different directions," commented Mr. Larsen.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 175 of 206

Dr. Gardner, the psychiatrist retained by the prosecution in the state trial, reflected on the BIDI from an earlier professional training in divinity. In his professional opinion, Brian Mitchell exhibited impressive creative skills for scripture.

Psychiatry and psychology have otherwise no training particular to our expertise in the analysis of scripture. To that end, there is no qualification to psychiatry assessing the BIDI as the production of a mentally ill mind with any scientific certainty.

More informative as to the content of the BIDI is the LDS response from Stake President Schwietzer. President Schweitzer referred Brian Mitchell -- whom he also reportedly encountered in all Brian's demonstrative defiance -- not to a psychiatrist, but recommended for excommunication. The LDS read the BIDI as an apostate scripture -- not a delusion, and not as a bizarre delusion. Mr. Mitchell's family likewise experienced the BIDI as an apostate work meant to be provocative, confrontational, and rejecting, and addressed it with their church as such.

Shirl Mitchell also wrote what has been described as a scripture, although it is more the philosophy polemic of an atheist. He was enough of an inspiration to Brian that the defendant, even at an early age, was writing down spiritual ideas, according to his first wife
[REDACTED]

There is a tremendous prestige within the bubble of the patriarch or prophet or priest of LDS sects. The social desirability of being so close to the Lord or Joseph Smith is the inspiration of powerful modeling. It is not uncommon for children of fundamentalist LDS prophets to pronounce themselves as prophets as well, or to covet such a distinction.

The most well known of these progeny is Warren Jeffs, son of Rulon. After Rulon Jeffs died, Warren ascended as the President and Prophet, Seer and Revelator of the FLDS, a group that numbers 10,000 members. Mr. Jeffs was arrested for his role in forcing underage marriages, after being listed on the FBI's most wanted list. In January he renounced his role as a prophet of God. He was not diagnosed with a psychotic illness.

Gerald Peterson wrote in his book of *Gerald*, "I the Lord did establish the 'Branch' of my church and I have directed my servant to call it by my name, sayeth the Lord, even: Christ's Church, as it is to be called among men and the members of my house..." (1 Gerald 4:9). With Peterson now deceased, his son runs the polygamous church to this day, with no information available about whether Gerald Jr. is the "son of the Lord."

Ervil LeBaron, as well as his brother Joel, descended from a prophet who ran their church before them. When Joel declared that he was the next prophet in line, Ervil killed him.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 176 of 206

No genetic research can suggest that spiritual claim in the Mitchell family is biological, given the prevalence of successive generations of prophet stature among sects. Therefore, it is my professional opinion, with psychiatric certainty, that Brian Mitchell's linkage with his father, from using the pseudonym David Shirlson, to his methods of recording his ideas reflect his identification with his father Shirl. He derives more than value from being the son of "an elect man of God."

When failure mounted for Brian Mitchell, he found value in a birthright. Brian's assuming a mantle of prophet is a function of psychodynamic factors, in my professional opinion, and not the biological expression of an illness.

Before striking out on his own, Brian Mitchell followed the fundamentalist path of the IAL and Samuel West. Alyssa Phillips, who was living in the West home when Brian and Wanda Mitchell came to live in the home in early 1998, remembered Samuel West and Brian Mitchell were both regarded as prophets. The revelations Brian passed on to the rest in the home were followed with respect of him as a prophet.

Moreover, according to Ms. Phillips, Brian Mitchell and Samuel West spoke often of expanding the International Academy of Lymphology sect with polygamy. One of the reasons for their separation, according to Ms. Phillips, was Mr. Mitchell's desire to do so as soon as possible. No one experienced Brian's plans as delusional or irrational. Dr. West, on the other hand, worried that since polygamy was still illegal, it might be best to wait until laws changed.

Brian Mitchell had exposure to plural relationships in the past. He told social worker Porter that he had lived in a polygamous setting in New York.

All of the West men Alyssa encountered, including her own fiancée at the time, sought young women who were "malleable." This was a matter of practicality, since the woman would have to adapt to the lifestyle within the home. Brian's choice of a malleable female was in no way distinct from the customary practice of fundamentalists aspiring to polygamy or motivated to build sects and communities.

Brian Mitchell has repeatedly referenced prophets in Biblical times in rationalizing the targeting of wives age 10-14. The West approach exemplified how religious sects seek young wives, but are mindful of the law and balance aims of the malleable wife with laws of the land. Brian was aware of these practices as well; marrying an underage woman was not a necessary ingredient for fulfilling the prophecy of celestial marriage.

- ◆ The Kingston clan, or Latter Day Church of Christ, is a polygamy sect known to Brian Mitchell. One of its members was Julie Adkison. Young women are married off at the ages of 14-16. Monthly dances are held to 'spark interest'. If this does

not work, leaders of the group will play matchmaker and make pairs. Married women are expected to produce one baby a year.

- ◆ Luis Alberto Gonzalez founded the Jesus Christ of the United Order in the Sacramento area. Focusing on converting non-English speaking Hispanics to their clan, Gonzalez may have found a malleable target in immigrants, youth, and those he could easily manipulate. Mr. Gonzalez was convicted in a Sacramento Superior Court of bigamy, spousal abuse and molesting a daughter of one of three women he was living with. The daughter was 11 years old.

[REDACTED], there is no large leap between plural marriage and the entitlement of a molester in recidivistic custodial incest. Brian had been closer to polygamy for a long time before 1997.

Brian's commitment to polygamy, and its theological roots, are separate from the seizure, isolation, and successful brainwashing of Elizabeth Smart. Seizing children from outside the sect is extremely rare in American fundamentalist LDS groups.

Brian Mitchell, aiming to brainwash Elizabeth, operated at a disadvantage relative to other cults and fundamentalist sects. Unlike others, he had no separate city with full support resources, like Jonestown or Colorado City; no community of believers like the Allreds who each contribute to the love bombing, isolation, and re-education. Unlike the souls who voluntarily drift in to such sects under a variety of circumstances, Brian Mitchell took Elizabeth against her will and immediately compelled her to have sex with him.

His brainwashing overcame several obstacles that even cults need not concern themselves with: 1) Elizabeth Smart's happiness with her home life 2) Elizabeth Smart came to them involuntarily 3) Brian Mitchell's lack of means to provide for an appealing alternate life setting. Over and above a nominal celestial marriage and even the sexual consummation, Elizabeth Smart's brainwashing demonstrates a systematic, purposeful, and well-planned and studied modus operandi.

The same mechanisms for fostering submission and deification of the leader also can be cultivated to engender affectionate feelings as well.⁹⁷ Brian Mitchell compelled Elizabeth to refer to him and to Wanda as "Mom and Dad." He erased her connection to her parents, ruling that "we're your family now." In so doing, Brian Mitchell revealed that he had no discomfort with the concept of being called "Dad" with someone he was carrying on an

⁹⁷ Baron, R. S. **Arousal, capacity and intense indoctrination.** *Personality and Social Psychology Review.* Vol. 4:3, pp. 238-254, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 178 of 206

ongoing sexual relationship. This extends the routine of the incestuous pedophilia described earlier [REDACTED]

Cult leaders who executed such modus operandi, ranging from Jim Jones and David Koresh, to the less established such as Samuel West were grandiose but not assessed to be psychotic or delusional.

Poverty, which Brian Mitchell embraced, is the predominant socioeconomic strata of fundamentalist LDS sects. Some such sects are known for exploiting the American social service infrastructure through networks of family members drawing entitlements, while others work to support the family in a collectivist atmosphere in which all resources are kept within the sect but conditions range from simple to primitive.

The Kingston family, for example is but one of the polygamist fundamentalist LDS splinter groups for whom women were taught that living under destitute conditions enabled them to refine their souls to be more Christ-like.⁹⁸ Yet the financial holdings of the Kingstons are thought to be between \$150 and 170 million,⁹⁹ and the group has confronted substantial civil litigation relating to charges of underage sex and incest.¹⁰⁰

Fundamentalist LDS sects have invariably been built from the family unit outward.¹⁰¹ Joseph Smith's first adherents, for example, drew from his own family. Smaller fundamentalist LDS sects such as the International Academy of Lymphology (IAL), which had counted Brian Mitchell among its devoted followers, concentrated its most loyal support among C. Samuel West's sons.

Brian Mitchell's devoted follower was his wife, Wanda. If he did not expand his flock within the family, that failure speaks as much to his antagonistic relationships and disreputable history interfering with potential influence among those who know him best. That doesn't make him delusional – only a person who wants to lead a religion who sparks but fails to ignite.

Brian Mitchell is cunning, well read, and resourceful. But those qualities do not equate with charisma. He is not charismatic. Others who build sects styled after their being the “one mighty and strong” are not less delusional, but more charismatic. It was not the

⁹⁸ Moore-Emmett, A. **God's Brothel**. San Francisco, CA: Prince-Nez Press, pp. 144, 2004

⁹⁹ Adams, B. Kingston Inc.: **Polygamy's entrepreneurial empire a company, a clan, a corp. with a plan**. *Salt Lake Observer*, Vol 1:VI, August 14-27, 1998

¹⁰⁰ Ibid

¹⁰¹ Bushman, R. **Joseph Smith Rough Stone Rolling: A cultural biography of Mormonism's founder**. New York: Vintage Books, 2005

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 179 of 206

outlandishness of his claim that drew adherents, and moved them to unspeakable acts at his behest – it was his charisma. A lack of charisma does not render one delusional, but simply less qualified to start a sect without other advantages.

Evidence demonstrates that Brian Mitchell built a sect of two. Through kidnapping, he gained access to another potential adherent. Though threat and brainwashing, he raised his numbers to three, and continued to look for more wives and to attempt to kidnap them.

Consider what would have happened had Mr. Mitchell not been arrested. Elizabeth was already programmed to follow direction and assumed the role of obedient follower. Elizabeth would have eventually become pregnant. Or, Brian Mitchell might have succeeded in “plundering” another wife. At some point, like the Allreds, the Jeffs, and others before them, Brian Mitchell’s sect might have built a critical mass of followers to ensure its long term survival. Even without his charisma.

7) Does Mr. Mitchell have a mental condition in which he does not have a sufficient contact with reality?

No.

Brian Mitchell has no history of hallucinations, no emotional instability, no mental disorganization, manifests no bizarre behavior, and displays linear communication.

Previous competency evaluations have characterized Brian Mitchell as delusional based upon distress, preoccupation, and social estrangement associated with his beliefs. However, evidence spanning the years of Brian’s being monitored demonstrates that he has been neither distressed, preoccupied, nor socially deteriorated from his baseline. Moreover, Mr. Mitchell’s actions are altogether inconsistent with his religious beliefs, whether those stated beliefs are irrational, sincere, contrived, or cognitive distortions.

The Question of “Delusions”

A delusion is a **fixed, false** belief.¹⁰² It is my professional opinion, with a reasonable degree of psychiatric certainty, that Brian Mitchell is not delusional, as evidenced by:

¹⁰² **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 821, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 180 of 206

Fixed ?

Mr. Mitchell's beliefs that are not shared by a number of others are **not fixed**. He has doubted, and referenced himself in a variety of ways and with a range of abilities.

The defendant's first foray into a broader identity as a prophet was to distribute eight copies of the BIDI. He developed essential reading, took control of Wanda's life and molded her into an obedient lieutenant, embarked on a spiritual journey which she chronicled with an eye toward the travelogue's entries being a source of inspiration to others, prepared a written record of what he characterized as his own scripture for a New Zion sect, then seized Elizabeth Smart and brainwashed her to identify with his ideology, in anticipation of seizing more followers and developing them in this fashion. Then he was arrested.

While a person of conviction would continue these sect-building activities from behind bars, as other self-proclaimed prophets such as Ervil LeBaron did from jail (it would be easier to do so in a hospital and with a complement of staff than as a homeless person), Brian Mitchell has abandoned his religious calling. There have been no more entries into the BIDI, no more intense and unrelenting preaching, not even reading scripture from the library. Brian Mitchell asserted he was a prophet earlier in his hospitalization, not later, according to recreational therapist Christy Daum and others.

Were his condition to be delusional, one would not expect Brian's ideas to fizzle out if he were not medicated. Rather the delusions would only become more elaborate, and dominant. So these beliefs have not been fixed. Jill Rafiner, psychiatric technician, offered that the defendant "put forward the persona of his being a prophet early in his hospitalization, and others fed into that."

After spending time with [REDACTED], related Ms. Rafiner, Brian Mitchell became less concerned with engaging others and spent much of his time watching television, and concerned himself more with seeing *Charmed*. Ms. Rafiner experienced his demonstrative gestures early in the hospitalization, such as calls to repent, "were for show."

The impressions of the attending psychiatrist Dr. Paul Whitehead and social worker Greg Porter differed significantly. Dr. Whitehead and Mr. Porter believed him to be delusional, citing him as unchanged from how he had presented to USH.

Nurse Leslie Miles was impressed with how the defendant would conform ideas to boundaries and "turn religious preoccupation on and off," something a delusional person would be unable to accomplish. Jessica Hardy, psychiatric technician, observed that the defendant "acted differently and very normal when his guard was down."

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 181 of 206

Many who are ill -- particularly those who deny illness -- mobilize themselves and display their healthiest side when medical decision-makers are nearby. Those who invest in the sick role, however, underscore or amplify the appearance of sickness under the same circumstances.¹⁰³

Senior psychiatric technician Brigham Andrew commented, “If we had tape recorded his behavior the first week on the unit we wouldn’t be having this conversation because his court case would be over.”

False?

Brian Mitchell’s beliefs that are not shared by a number of others may not be false, and there is no way to prove that they are **false**. How can anyone prove Brian Mitchell is or is not a prophet?

Mr. Mitchell’s distinction of prophecy, that of someone who bears the truth, is subjective and difficult to disprove as false. How does anyone know Brian does not speak God’s truth, with psychiatric certainty? If he says we all should repent, is that delusional?

Apart from how impossible it is to assess whether someone’s characterization of Brian as a prophet is false, how is one to even determine the difference between one who is mistaken but otherwise rational, from one who is delusional? The only way is to present that person with incontrovertible evidence that his is wrong, and watch what happens.¹⁰⁴

A person who is not delusional will adjust his thinking. A delusional person will maintain and fortify the belief. Otherwise, no methodology within psychiatry has been established to address this quandary.

There is no evidence, for example, why any number of self-styled prophets, from Rulon Jeffs to Ervil LeBaron and many others, were not regarded as delusional even if many simply experienced their standing as false and undeserved. Brian Mitchell’s ideas bore numerous ideas advanced by other self-styled prophets inspired by Biblical and LDS scripture. The BIDI borrowed from many other scriptures. Little separates Brian Mitchell from the earlier stages of these and other claimed prophets, except for his lack of charisma and lack of resources at a time of his splitting from his previous church.

_

¹⁰³ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 739, 2000

¹⁰⁴ Rust, J. **Delusions, irrationality and cognitive science.** *Philosophical Psychology*, 3(1), pp. 123, 1990; **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 821, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 182 of 206

A delusion is a fixed, false belief.

More categories speaking to what a delusion is may have guided some clinicians in what helps to distinguish a delusion from a religious belief, but these do not reflect a delusion in Brian Mitchell any more than does the more concise traditional definition of a delusion as a fixed, false belief. For example:

Conviction re: Faith

The fidelity of faith, especially given Brian Mitchell's claims, is a determination to hold steadfast to practice. The defendant's inability to do so is representative of either the limitation (rather than the intensity) of his faith or the insincerity of the claims about that faith and their resemblance to his actual religiosity.

The latter point is not to be taken lightly. Brian Mitchell had Elizabeth Smart address him and Wanda Mitchell as Mom and Dad. That contradicts his representation of his belief that it was a marriage.

Brian Mitchell's contorting of his faith to material comforts, be they marijuana, alcohol, pornography, or stalking little girls, cannot make this debauchery fit into a devout mindset. Brian explained that he needed to be "low to the dust" in order to elevate his spirituality, or that he needed comfort from having to "minister in Babylon" all day. In actuality, Brian Mitchell was living a hedonistic existence of no responsibility. Brian fell so far into indulgences from the days of his service to the church that evidence reflects that Brian did not just leave the LDS – he left a level of faith he was capable of.

Elizabeth recalled an incident in which he listened agreeably to a Seventh Day Adventist preaching in order to gain permission to stay at their home. And in another act of faith in his provider, the defendant shelved his white robes after 9/11 when passersby called him "Osama bin Laden" and donations were drying up. The alternative of faith had not occurred to him.

"Loss of faith" assumes that Mr. Mitchell's faith is sincere. Some history indicates otherwise. LouRee and other family members felt Brian would do what he wished, and obtain approval from God because of others' sense of himself as a man of faith.

Prior to moving closer to the LDS Church in the 1980s, Brian Mitchell lived very much as he did prior to arrest; unstructured, accountable to no one, getting his material needs met but otherwise with no direction. The Church anchored him – through marriage, divorce, poverty and unemployment. Away from that anchor, Mr. Mitchell returned to old

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 183 of 206

indulgences, this time convincing himself that this was happening not because he had fallen, but rather because he was a prophet.

Brian preached to others to repent in the early days of his Utah State Hospital stay, until [REDACTED] challenged the defendant that “for kidnapping and raping a young girl, he should not be telling others to repent.” Just like that, Mr. Mitchell stopped the calls to repent (unless he was operating in the courtroom setting surrounded by others who were less street smart). How sincere is his belief in the just cause of his plundering Elizabeth Smart when he so wilts from the potential for a repeat of the [REDACTED] exchange?

When Brian Mitchell was reminded that he had said he would take medicines if directed by God, he later said he had changed his mind. That being the case he exercises control even over the influence that he attributes to God. Whatever sense of his religious reasons for not cooperating, the defendant changes the significance of his beliefs **to him** when it serves his purpose. How significant, then, *is* the influence of God to him? When questioned about his preoccupation with *Charmed*, of all things for a “prophet” to be enamored of, he responded to social worker Porter, “I’m a weak man...I can be tempted like anyone else.”

The defendant asserted that Elizabeth Smart had been delivered to him – he had not kidnapped her. Elizabeth, after her liberation, told questioners that Mr. Mitchell spoke of arming her and Wanda with machetes and having them set upon a camp to obtain more wives. So much for the capacity of God to deliver.

If conviction speaks to delusional thinking, is the Dalai Lama psychotic? If one were to suspend rational context for psychiatry as an applied science, and use conviction as a criterion as a delusion, the following is pertinent to the conviction of faith:

If he had such depth of conviction, why was Brian willing to plead guilty to kidnapping and burglary if his actions were directed by God?

Moreover, if Brian has such conviction, how did he abandon the mandate to preach when he assumes a “fasting for words?”

The defendant insisted on being called Immanuel, and sought Tracy Hurd Killpack out and may have been attracted to her, but when she responded that she would be calling him Brian, he accepted this (from her)

How is it that Brian does not demand the opportunity to testify before the court but rather avoids it, and cross examination?

The defendant, noted Wanda, was subject to fear and doubt.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 184 of 206

The defendant anticipated others rejection of the BIDI, according to Wanda.

If the defendant had such conviction, how is it that he would abandon plans, such as that to kidnap ██████████ and ██████████, when such plans are not successful? For by Brian Mitchell's account, he did not receive revelation that the plan is to be abandoned, only infers that God does not command that he must continue.

Had Brian such conviction, what would be the reason he misrepresented their names and especially Elizabeth's relation to him?

One examiner suggested that Mr. Mitchell "firmly believed" that God would protect him and keep Elizabeth Smart under his control with a massive search underway. If that were the case, however, he would not have felt compelled to tie her up and would not have been compelled to threaten her and her family to gain her silence.

One examiner attributed delusional thinking to Mr. Mitchell because "he does not expect penalty to be imposed." Yet in a system in which one is innocent until proven guilty, when someone like OJ Simpson insists he will be found innocent even after Bruno Magli shoeprints in his size are found at a bloody crime scene, he is not deemed psychotic. There is no evidence to distinguish what makes Mr. Mitchell any more psychotic in such optimistic pronouncement, any more than Mr. Simpson. Evidence has further demonstrated that Brian has commented about his expectation of being found guilty if found competent (to Dr. DeMier), to be sent to prison for a long time if found guilty (to Dr. DeMier), and to spend the rest of his life in prison or a hospital (to staff at USH).

Dr. Skeem described as delusional the defendant's assertion to her that God would deliver him in seven years is contradicted by his reported overtures to Dr. Whitehead and Mr. Porter to help him escape. He made clear efforts to maintain himself in safe housing during his incarceration. Even at Utah State Hospital, he kept himself from potentially violent patients when there was no staff present. Furthermore, the defendant represented to social worker Greg Porter that he expected to be locked up for the rest of his days. The defendant added, lightheartedly, "barring God's intervention." Furthermore, this appraisal connotes that whatever Brian has expressed to others about ideas of how long he may be in confinement, these beliefs are not fixed and so cannot be denoted as evidence for delusion or of his deterioration.

Some examiners cited as evidence for delusional thinking that Mr. Mitchell pulled Elizabeth behind a bush as a police car approached there area and exclaimed, "If this work be true, don't let the police see us." How do we know this is a reflection of his faith, of any depth more than Barry Bonds pointing to the heavens after a steroid-driven home run?

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 185 of 206

Why hide, after all, if one believes one is right? Extreme faith to even contemplate delusion would have seen Mr. Mitchell simply keep walking, praying to the Lord, rather than hiding from mortal man. Furthermore, if Brian Mitchell invokes the power of God as having been responsible for the police car passing them, who is to disagree with any scientific certainty?

This has not been documented in the hospital.

Brian Mitchell's manipulateness demonstrates how Mr. Mitchell would take events from the surroundings and use them to reinforce control over people in his clutches, be they the devout and dependent Wanda Mitchell or the terrified and helpless Elizabeth Smart. Which he did. There is no one around him now whom Brian Mitchell needs to control with the embedding of external events.

Much has been made of the defendant's "martyrdom" and how it reflects on him as psychotic. He has made a number of statements that sound self-sacrificing. But his legacy of entitlement at Utah State Hospital is anything but martyrdom. Exactly what has he been willing to suffer for his Lord? This is a man angered when his meal is not brought to him, and even more angry when it arrives 1 oz. of soy milk short.

Therefore, in my professional opinion, Brian Mitchell's conviction has its limits – limits that at times *he* voluntarily sets.

Degree of Preoccupation

Before arrest, there is no accounting for Brian Mitchell's complete day. He was known to disappear from the camp, leaving Wanda with Elizabeth, for many hours. While he represented that he was "ministering," on one of those occasions he was taking pills and then intoxicating himself to the end that he was arrested. Without the capacity to account for so much of the defendant's day to day time, it is impossible to deem him preoccupied with religious activities to a pathological degree. On the unit, under 24 hour observation and untreated, Brian Mitchell exhibits the antithesis of being preoccupied with religion, let alone religious ideas of a pathological nature.

The available evidence demonstrates that Brian Mitchell conveys preoccupied with religious themes when he is interviewed by psychologists or staff who may have an impact on the assessment of his competency. The record reflects:

Despite the importance the defendant ascribes to the BIDI, there is no evidence of his having used the BIDI to proselytize others on the unit, not even to promote others to read it.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 186 of 206

Brian is not aggressive with others around him in sharing his ideas. He even limits his communication with staff to obtaining material needs and comforts – not fulfilling a religious calling.

Even for people who came to him for advice, he did not express that he was a prophet

He developed a rapport with Tye Jensen and discussed literature, music, and health with him - rarely religion. Once, according to Mr. Jensen had a rational, deep three hour conversation about the book “*Silas Marner*.”

Most of Brian’s activities have nothing to do with any belief and are diversional. Little of the defendant’s life is affected by “what God wishes.” Does God wish him to read Jane Austen? To watch *Spiderman*?

The defendant exercised as much as five hours a day.

Brian participated in karaoke, and listened to opera, symphony, classical music – not liturgical music.

The defendant played *Axis and Allies* and chess, two games of absorbed concentration and thinking. According to psychiatric technician David Talley, Brian would watch chess for a couple of hours at a time, and would ask questions about the game.

Brian watched a large range of movies, the history Channel, (up to three hours daily of *Charmed*), and other television.

The defendant read extensively, -- not religious books or scripture – but novels and biographies, classics (Birds Fall Down (West), Tale of Two Cities (Dickens), Schindler’s List, War and Peace (Melville), Zen and the Art of Motorcycle Maintenance, Robert Jordan’s *Wheels of Time* series, Sense & Sensibility, Persuasion, Pride & Prejudice (Austen). He reportedly displayed excitement waiting to speak to psychiatric technician Cam McGarry about the *Wheels of Time* series.

Reportedly Brian spoke with Arvil Ewell at length about food and nutrition, and health, such as the vitamin and mineral content in foods. With inmate [REDACTED], Brian spoke about “everything,” according to Utah State Hospital staff.

Brian communicated with Judith Fuchs and attended her groups, although she instructed him that she did not want to speak about religion with him. Religion was not a prerequisite to his connecting. She reasoned that it was because she was in a position to get him library books.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 187 of 206

Dustin Salisbury, psychiatric technician, noted that they spoke about books and television. This reflected the experience of psychiatric technician David Jones, that Brian Mitchell could carry on a conversation about any topic.

Brian Mitchell was observed to be speaking to a number of inmates about many topics.

Brian conversed with the devout [REDACTED] about religion *and* politics, chess, television and movies, and pop culture, among other things – he was not preoccupied even when consorting with the patient who was especially devout!

Moreover, the religiously-devout [REDACTED], to whom the defendant became close, did not inspire Brian to become more grandiose. On the contrary, the peer's influence made Brian Mitchell more well-rounded and more approachable.

Brian did not try to have certain laws passed, to form prayer groups, to ban television or even books from the library.

The range of Brian's daily activities has nothing to do with his controversial beliefs. He expressed dietary, dentistry, and activity of daily living needs without reference to religion.

No adjustments needed to be made for his religious beliefs – this is especially relevant as the grandness of his religious agenda and the claimed influence of revelation contributed to his being termed delusional. As Brian read the *Dune* series, watched a range of movies and television, and played chess, and participated quite actively in secular activities, there was little evidence for delusional thinking influencing the defendant's routine – at all.

No revelations influenced Brian Mitchell or inspired him to influence others and no revelations emerged after January 23, 2005.

He allows himself to be called Brian by hospital personnel and not Immanuel David Isaiah.

Although he sings hymns disruptively in court, Brian does not sing uncontrollably in other settings and not even in the face of stress, such as when he was attacked on the unit.

Most, if not all, of what Brian writes as notes to others is not even religious in content. Most of the staff has never heard Brian mention that he is a prophet, even when he was giving advice, and almost none have heard him speak to the Davidic King idea.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 188 of 206

The defendant's silence prevented him from preaching, but it served the tactical purpose of enabling Brian to conceal his abilities in the face of competency questions.

It is therefore my professional opinion, with psychiatric certainty, that Brian Mitchell does not exhibit pathological preoccupation with any religious delusional or even extreme religious themes.

Degree of Distress

In my professional opinion, with a reasonable degree of psychiatric certainty, Brian Mitchell has not exhibited a significant degree of distress over the entire course of his incarceration, with the possible exception of just after he was arrested and very brief disagreements over television and eating privileges. He has maintained a composed, cool manner and has maintained full command.

- ◆ **No elevated distress documented, in all of the time he was in the hospital and continuously monitored settings**
- ◆ Described as smiling a lot on numerous occasions
- ◆ Required no need for medication for distress and did not seek intervention for distress
- ◆ No deterioration in his behavior leading up to important court decisions
- ◆ When the defendant returned from singing in court, he did not exhibit distress
- ◆ The defendant even engages in composed debate
- ◆ Staff noted him to exhibit greatest distress when he could not watch the *Charmed* television program
- ◆ He exhibited non-remarkable mood and affect
- ◆ The only time Brian electively sought staff help for something was when he was abruptly transferred to Utah State Hospital. Even then, he was composed and rationally handled his reaction to the circumstances with no distress

Dr. Skeem suggested that Brian Mitchell's additions to the BIDI explaining his behavior reflected his distress. As he was only recently arrested on serious charges, such a reaction is not delusional, it is appropriate. A defendant then actively expressing a defensive argument

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 189 of 206

does not demonstrate that he is psychotic; he is attempting to address the source of his rational distress, the arrest, in a persuasive way.

Many witnesses of him in Salt Lake City recalled his panhandling and his garb distinctly. But none recalled his “anguish of the soul.” Such distress would have been bad for business – Lois Smart, for example, would not have invited such a distressed stranger to work on her home, and Viri Kemp would have been more cautious about inviting such a distressed stranger into his.

No distress noted by Irene Mitchell, Dora Corbett, Karl West, Tom Holbrook, Scott Dean, other than confrontation leading to eviction from Irene’s home and when BIDI was delivered.

Dr. Skeem attributed distress to Brian Mitchell’s having deliberated taking Elizabeth, and interpreted this distress as psychotic. Yet the last time the defendant had engaged in extramarital sexual relations, with a local woman, his wife Wanda became irate, as he reportedly told Elizabeth Smart. And his wife was again to become distraught with his sexual involvement with Elizabeth. Anticipating an illegal act, in which he might be caught, attacked by someone on the home, and even if not, that he would look forward to domestic strife, Brian Mitchell would have been expected to experience a certain distress beforehand – unless he was psychotic.

The available evidence from literally years of observation and documentation demonstrate that Brian Mitchell was anything but distressed about his religious ideas. He derived and continues to derive increased self-esteem and purpose from his identity as a prophet; he was a failure and a pedophile who had failed at marriage and fatherhood otherwise.

In Dr. DeMier’s detailing of Brian’s recent presentation at the BOP in Springfield, he noted the defendant to manifest no sleep or appetite disturbance, no excessive guilt, and characterized himself as at peace.

Paranoia

It is my professional opinion, with a reasonable degree of psychiatric certainty, that Brian Mitchell does **not** exhibit clinically significant paranoia. He is vigilant to protect himself from anything that exposes his competency. Otherwise, there is no irrational guardedness, accusatory behavior, pathological suspicion, or other dimensions of paranoia. His cynicism and restraint as experienced by some who approach him is reflective of Brian Mitchell’s antisocial personality. Examples from the record that form the basis of my opinion:

Brian Mitchell trusts [REDACTED] and several other inmate friends.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 190 of 206

The defendant exhibited a comfort on the unit and did not demonstrate himself to be limited in any way.

When sent food he specifically asked not to receive, he does not interpret this in a paranoid way and deals with it in a way that does not escalate the dispute.

He even forged a friendly acquaintance with a peer who attacked him– the antithesis of paranoid behavior.

No irrational attributions to others were noted.

Dr. DeMier diagnosed Brian with persecutory thinking, based upon the Brian's notion that prior to his "deliverance" he would be persecuted by man. The defendant calls his incarceration a persecution and contends he should not be penalized for furthering his religious ideals. A person who disputes the legitimacy of his own incarceration will rationally believe that he is being persecuted.

His "willingness" to "suffer for the Lord" was also credited by Dr. DeMier as persecutory. Yet people of faith do not consider suffering for the Lord to be persecutory, and extreme suffering and self-denial defines conviction for many who are rewarded by their peers for this conviction. According to Alyssa Phillips, the West's held great regard for Mr. Mitchell's willingness to forego his possessions as living a non-materialistic and spiritual life. They admired him for it. They also did not know, according to Karl West and Ms. Phillips, that he was affiliated with the Patriot movement and abandoned his past because he was motivated to evade tax payment and child support, according to Karl West.

Of particular relevance to the instant case, those observing Mr. Mitchell at length found him to be vigilant in concealing himself from scrutiny, but to otherwise manifest no evidence for paranoia.

If psychiatry presumes that a person receiving revelations is delusional, then Joseph Smith was delusional. If psychiatry presumes that a person distressed by religious experiences is delusional, then Jesus Christ was psychotic, and so is virtually every prophet known. If psychiatry presumes that a person so devout as to be deeply preoccupied with spiritual thoughts is delusional, then monasteries are indistinguishable from mental sanitariums, Orthodox Jews who learn scripture to the end of ignoring the earthly world are psychotic, and fundamentalist clerics in madrassas are delusional. Research has not adequately accommodated these incompatibilities for psychiatry and psychology as an applied science.

That noted, Brian Mitchell shows no evidence for elevated distress, significant preoccupation with, paranoia, or florid experiences about his religious ideas. His level of

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 191 of 206

function has persisted across his life cycle, notwithstanding his intellect, social agility, and absence of symptoms of chronic mental illness such as schizophrenia.

Questions of Schizophrenia

The diagnostic criteria for schizophrenia include two (or more) of the following qualities over an extended period:

- (1) delusions
- (2) hallucinations
- (3) disorganized speech (e.g., frequent derailment or incoherence)
- (4) grossly disorganized or catatonic behavior
- (5) negative symptoms, i.e, affective flattening, speech poverty, or lack of initiative

Only one Criterion A symptom is required if delusions are bizarre or hallucinations consist of a voice keeping up a running commentary on the person's behavior or thoughts, or two or more voices conversing with each other.¹⁰⁵

Furthermore, for a significant portion of the time since the onset of the disturbance, one or more major areas of functioning such as work, interpersonal relations, or self-care are markedly below the level achieved prior to the onset (or when the onset is in childhood or adolescence, failure to achieve expected level of interpersonal, academic, or occupational achievement).¹⁰⁶

Mr. Mitchell's representation of himself as a prophet and "one mighty and strong" may or may not be true. It is a religious idea that cannot be disproven. Viewed most favorably to the defense in order to assume for the moment that his ideas are delusions, approximations of Brian's beliefs are widely manifest among fundamentalist LDS. Brian's ideas are not at all bizarre for his community and his peers. There are a host of self-proclaimed fundamentalist prophets never diagnosed with more than a personality disorder who espouse ideas that are far more distinctly unusual.

The ideas of the BIDI emanate primarily from other texts, perhaps from materials available to Brian at local libraries, according to Professor Peterson, with points that parallel the controversies espoused by LDS fundamentalists.

Despite a lack of treatment, little has been elaborated in the BIDI since he was incarcerated, and nothing since January 2005. The ideas therein provide cognitive distortion for a pedophile facing accusation.

¹⁰⁵ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 312, 2000

¹⁰⁶ *Ibid.*

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 192 of 206

When Brian has debated religion on the unit, his arguments originated from scripture, not the BIDI.

Brian has attributed prophet abilities to others, including a fellow inmate to whom he assumed a more junior and deferential posture. The defendant is not so grandiose to be above believing others to have the same standing as he, even those dismissed by society as mentally ill offenders, like [REDACTED]

There are no bizarre rituals or practices peculiar to Mr. Mitchell's sect.

Brian Mitchell does not hallucinate and has not in the past.

There is no history for florid spiritual experiences that even compare to the quality of ecstatic religions or beyond what might be experienced by some LDS or fundamentalist LDS adherents.

Defense psychologists have asserted as evidence for Brian Mitchell's having a major mental illness that his manner alienated all and struck them as crazy. He ignored or avoided those family and even acquaintances who approached him.

When trading in his previous station as a humble die cutter for his robes and devout beliefs, Mr. Mitchell no longer identified with his previous life. He would not be the first to convert, to embrace a devout observance, and to spurn reminders of his past when they came upon him.

When Dr. DeMier asked about a history of drug abuse, Brian responded, "The past is washed away and all things are made new," and referred to himself as a "new creature." The idea of a new and holy identity solving a moral descent has been frequently described in self-styled prophets. Brian Mitchell revealed to Dr. DeMier (as his silence has with others) that he wants the past to very much remain forgotten.

To assert that Mr. Mitchell was alienating in general is not supported by facts, however.

- ◆ Julie Adkison did not accept Brian's invitation for plural marriage, but listened to him discuss religion and did dialogue with him over months
- ◆ Brian was offered work by the Smarts, and he came to their home and uneventfully performed work, even alongside Ed Smart, without preaching and without raising concern
- ◆ Brian was invited back to the Smart home

- ◆ Intense scrutiny into the background of those working at the home did not cast suspicion on Brian Mitchell for his manner. He did not stand out among the transients who had worked at the Smart home, even many months later
- ◆ Brian maneuvered his way into the Kemp home in Lakeside to find a suitable kidnap victim by assuming false trappings and impressed as polite and appropriate for several hours, drawing no sense of suspicion of mental illness
- ◆ At Utah State Hospital, Brian was able to share humor with the staff even without verbal communication – so he was unusually able to connect
- ◆ Brian is clever and has a good sense of humor, reflecting good abstraction. These are traits that are not found in those with longstanding schizophrenia
- ◆ Brian connected to others in the hospital by his own selectivity, not by others selecting him
- ◆ He was quite sociable at times and even friendly, per psychiatric technician Dan Brady
- ◆ Even with Brian's silence, there was no avoidance that manifested paranoia
- ◆ Brian was peeved when his expectations were not met, but he did not cultivate hostility or aggression toward staff or peers
- ◆ According to Tye Jensen, psychiatric technician, the defendant even became friends with a peer who physically attacked him.
- ◆ ██████████ his friend, even ran errands for him
- ◆ Per psychiatric technician Dan Brady, distaste among the patients for Brian in the hospital was very uncommon, and typically related to what others knew him to have done to Elizabeth Smart and not his manner or behavior
- ◆ Nurse Cory Karsten observed that Brian Mitchell did nothing to feed into others' distaste of him, and many staff interviewed reflected that there was no animosity among the defendants for Mr. Mitchell
- ◆ Todd McAlister, RN, related that Brian was able to engage in discussion with critical (about religious ideas) peers confidently and assertively, but without alienating and without becoming agitated
- ◆ Brian exhibited a sense of entitlement to some, but not because he was a prophet or religious leader, but because his was a high profile case
- ◆ Brian was very close with defendant ██████████
- ◆ Some patients even engaged Mr. Mitchell to ask for forgiveness, as if he had some higher religious calling. He says "I love you", and peer responds, "I love you too, brother" – this reflects that others respond to him in the spirit of religious teaching
- ◆ This exchange also demonstrates how he is able to employ spirituality interpersonally to enhance his importance to others
- ◆ There were no recorded instances in over three years of Brian's continuous monitoring of other patients experiencing him saying anything irrational or expressing anything they experienced as crazy
- ◆ When another patient confronted him in an irrational way, asking Brian if he had cut the vagina out of a woman, he was frightened, and withdrew, rather than calling

- out to the person to “repent!” The defendant did not escalate a situation with an irrational person, which reflects upon his social judgment
- ◆ Several staff, such as Tye Jensen, Rodney Jay, Cam McGarry had particularly good rapport with him, even with his discretion about interacting with staff
 - ◆ Mr. Jay recounted how the defendant was able to redirect inappropriate patients by conveying positive messages.
 - ◆ Staff member Jeffrey Smith reported that some patients went to Brian for advice
 - ◆ Other patients did not relate to Brian as if he were delusional
 - ◆ Social worker Stephen Phair noted the defendant to analyze a conflict between two peers “with good insight that is not impeded by religious themes but interpersonal ones,” demonstrating that Brian is capable of higher order thinking without religious overlay, even in a conflict setting
 - ◆ Brian mobilized the efforts of other patients to help tune the television to *Charmed*
 - ◆ According to social worker Greg Porter, initially [REDACTED] and Mr. Mitchell avoided one another but they became very close and even collaborated together. So he not only can get along with others, Brian can do so even with someone whom he was avoiding earlier. This is neither rigid nor an inability to collaborate and plan independent of religion
 - ◆ Brian’s difficult relationship long preceded his mother’s order of protection against him, from his tormenting her in adolescence to his bitterness over her lack of support for the relationship with [REDACTED] to his taking advantage of her and being inconsiderate of her in the years before the temporary order of protection
 - ◆ He was reported to have enjoyed a positive relationship with C. Samuel West, in which he was experienced in 1998 by others in the home as rational, pious, according to Alyssa Phillips, who recalled that others followed the direction of what Brian termed his revelations
 - ◆ Brian did not alienate Dan Trotta, with whom he stayed in Salt Lake City on occasion
 - ◆ Brian was not evicted from the library or other establishments that he visited
 - ◆ He was never arrested for disturbing the peace

Examiners have asserted a history of the defendant’s functional decline, noting his having left full-time employment at OC Tanner, his home, and his position within the LDS to a homeless existence. The defendant’s drifting around America, jobless and penniless, eating discarded food and subsisting among the community of homeless is a compelling portrayal of low function.

However, Mr. Mitchell was drifting in the late 1970’s as well. In the early 1980’s he was underemployed and supported by a spouse who was higher functioning than was Wanda. Therefore, a *decline* in someone so historically low functioning as Brian Mitchell, and the

basis of that decline, has more to take into account. In appraising his function, the following must also be considered:

- ◆ Brian Mitchell had spent a number of earlier years drifting around the Northeast
- ◆ The defendant had not before achieved any scholastic or vocational success or stability
- ◆ Brian was a disengaged enough parent to have placed his two children into adoption in the mid-1980s when no illness was found on testing. So when he made an unusual gesture, having already established marginal functioning, his testing was unremarkable
- ◆ Brian Mitchell's marriage was by far his longest at the time of his capture. That it was to someone he successfully dominated to the end of complete obedience is telling about what he needs in order to succeed at a relationship
- ◆ Brian left his home and job in order to evade garnished child support, bad debt, and taxes. His take home pay was minimal and debts mounted
- ◆ The defendant had prepared for years to live out in the wild, survivalist style.
- ◆ The defendant created and maintained a camp where he and Wanda and Elizabeth Smart based, which eluded discovery by searchers who employed many teams of searchers and even helicopters
- ◆ Brian directed and made very practical moves to avoid capture
- ◆ Dealt with law enforcement in a fluent, agile way that maintained their cover
- ◆ He supported a "family" unit of three with no income
- ◆ In custody, the defendant was regarded as one of the higher functioning patients on the Utah State Hospital unit in which staff observed him for over three years
- ◆ While many if not most of the staff experienced Mr. Mitchell as manipulative, almost none experienced him as psychotic
- ◆ Staff at Utah State Hospital, such as nurse Jan Jakeman, experienced Brian as exceptionally adept at meeting his day to day needs. While some examiners cited his sermonizing as creating an obstacle to communicating his needs, staff found him to be exceptionally clear and aware of whom to direct his concerns to when his needs were not immediately met to his demands.
- ◆ The defendant demonstrated the ability to sustain focus on yoga and chess
- ◆ His chess abilities, appraised by others as average to above average, reflected shifting thinking that would otherwise be impaired in schizophrenia. Brian was competitive enough to beat staff often
- ◆ Brian satisfied his need for watching *Charmed* as much as three times a day by choreographing the entire ward television schedule so he could watch the program, even to the end of extensive notes about who would watch what in what room.
- ◆ He was exercising up to **five** hours a day in custody, jogging, with stationary bike, walking, over and above the level of most normal individuals
- ◆ Brian effectively negotiated for a variety of privileges and allowances, showing the ability to cite precedent

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 196 of 206

- ◆ The defendant read a number and variety of very long books and engaged in discussion of their fine points with excellent insight and no evidence for irrational interpretation. The subtleties of psychotic thinking might otherwise emerge from such an abstract exercise, and they did not
- ◆ Brian Mitchell maintained himself on a high observation unit with careful concealment from staff, while cultivating relationships with select peers
- ◆ He is no longer abusing drugs or alcohol

Dr. Golding appraised Mr. Mitchell to have a passivity that the psychologist interpreted as a sign of psychosis. As the psychologist asserts, a person controlled by external forces in the manner attributed by Wanda Mitchell and to his own words is reminiscent of a psychotic disorder.

The history bears Brian Mitchell to be anything but passive. It is his *lack* of passivity that contributed to the defense questioning his competency. He is controlling the approach the defense takes here, just as he has controlled the pace of the case.

The paradox between Dr. Golding's depiction and Mr. Mitchell's history and actions is not a paradox at all. Those with antisocial personality and psychopathy are notorious for coping with their environment by externalizing responsibility, which Mr. Mitchell does.

One example of Brian Mitchell's initiative was his courting of Julie Adkison. She found him intriguing and disclosed to him, in dialogue, that she was part of the Kingston clan – with which he was familiar. A number of contacts culminated in Brian and Wanda meeting with her in January 2001 and asking her to marry him. At the time, Julie was engaged, and she declined. Mr. Mitchell approached her with full bore rhetoric. At one point he ever referred to himself as Christ. Yet she followed him, sat with him, met with him even knowing he was homeless. He wrote her a long letter soon afterward. Ms. Adkison declined Brian and Wanda's solicitation to marriage; she even laughed about the entire experience to herself. But asked to size Mr. Mitchell up, she responded, "I don't think he was crazy. He didn't come across as crazy at all, just like a fanatic."

Schizophrenia, untreated, results in a progressive decline of function.¹⁰⁷ Mr. Mitchell has been unmedicated his entire life, a span that encompasses the fifteen years since he left the trappings of his everyday life behind. There is no evidence that he is functioning at a lower level, or that the dimensions of his faith have expanded, even in the years in which he has been under continuous observation. A decline would have been evident by now. Brian Mitchell is actually living a more adaptive lifestyle than when he came into custody in 2003.

¹⁰⁷ Salokangas, K. R., & McGlashan, T. H. **Early detection and intervention of psychosis. A review.** *Nordic Journal of Psychiatry*, 62:2, pp. 92-105, 2008

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 197 of 206

Assertions that Brian Mitchell's peripatetic and possession-free lifestyle was psychotic contributed to conclusions that he was delusional. This ignores that Mr. Mitchell was chronically parasitic and underemployed, managed for many, many months on the road without hospitalization or return to Utah and his family, and did not overtly suffer for wants. He drank, indulged sexually, and had no responsibilities while parlaying the recognizable "holy man" figure and his female companion into sufficient support for years of road tripping. There is no record of Brian Mitchell being met with police insistence that he be taken to the hospital, as many homeless and ill are. Brian's passing surroundings, including local police, thus reacted to him as an unremarkable homeless person.

Furthermore, going "off the grid" related directly in time to Brian accumulating the trappings of life that he had no ongoing use for – children, debt, child support, tithe, taxes, and forgettable history. Yes there *were* folks who stopped to help the couple clad in white who never before did so. He and Wanda were itinerant preachers, and not the first. There is no evidence that were he to not have forsaken his address, his base, and his previous job at OC Tanner (insufficient to meet his financial obligations), that his lifestyle would have been better.

Begging is tax free income, and Mitchell knew to which areas to go to pull in the best haul, and which agencies provided meals and clothes. Fundamentalist LDS clans and sects are known for subsisting on handouts and maintaining marginal socioeconomic standing. Evidence demonstrates that Brian and Wanda would learn about how to enhance their quality of life in all aspects of the lifestyle they termed "simplifying." Every indication from Brian Mitchell's medical history is that he is one of the healthier homeless people one will encounter. That also speaks to how well he adapted to the lifestyle.

Furthermore, the record of Brian's road trip with Wanda and then, his life on the run with Elizabeth did not reflect any longing for the structure – and responsibilities – of life in the mainstream. The diagnoses that he does meet criteria for (pedophilia, antisocial personality, psychopathy, narcissistic personality disorder) do carry with them such socioeconomic morbidity¹⁰⁸ that his itinerant station is entirely understandable.

For a man charged repeatedly with molestation, alienated from his church and family, leaving "Brian Mitchell" behind was nothing dramatic. The defendant had done so once before, when he abandoned a drug-fueled wandering in the Northeast United States to return to Utah and then, marriage to [REDACTED]. That return to a more grounded existence

¹⁰⁸ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 702 -704, 2000; Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition:** Technical Manual. New York: Multi-Health Systems Inc, pp. 36, 40-43, 2007
Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision. Washington, DC, *American Psychiatric Association*, pp. 716, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 198 of 206

culminated [REDACTED] his voluntarily giving up his children for adoption. Consider that for a person whose quality of attachment is so marginal that he can live without his children, sloughing other aspects of the self may not be especially difficult.

[REDACTED]

Homelessness does not equate with psychosis, or even mental illness. It connotes alienation and poverty, which may reflect illness or may reflect choices upon which a person has less control, such as debt obligations.

Functional shortcomings are also consistent with a personality disorder,¹⁰⁹ in that they manifested earlier in life and linked directly to his patterns of relatedness to others around him. Brian Mitchell's antisocial personality,¹¹⁰ psychopathy,¹¹¹ pedophilia,¹¹² and narcissistic personality¹¹³ are all established causes of suboptimal achievement.

The symptom most relevant to a diagnosis in the schizophrenia spectrum, therefore, is Mr. Mitchell's occasional oddness. Some of the notations are peculiar; he was described as folding clothes before inserting them into the dryer, for example. Others, such as his refusal of deodorant or soap, relate more understandably to a primary motivation of a vegan lifestyle (according to USH staffers Tye Jensen and Carma Karsten) and possibly a secondary motivation of keeping himself unapproachable by others. His exercise positions and their relationship to yoga cannot be explained without further input from Brian and from Wanda.

Whatever peculiarity Mr. Mitchell has, it is not accompanied by a history of hallucinations, bizarre delusions, functional decline, or other negative symptoms. Brian Mitchell does not meet criteria for schizophrenia.

_

¹⁰⁹ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 689, 2000

¹¹⁰ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 702 -704, 2000

¹¹¹ Hare, R.D. **Hare Psychopathy Checklist – Revised (PCL-R) 2nd Edition: Technical Manual.** New York: Multi-Health Systems Inc, pp. 36, 40-43, 2007

¹¹² Hall, R.C. & Hall, R.C. **A profile of pedophilia: Definition, characteristics of offenders, recidivism, treatment outcomes, and forensic issues.** *Mayo Clinic Proceedings*, 82, 457-471, 2007

¹¹³ **Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision.** Washington, DC, *American Psychiatric Association*, pp. 716, 2000

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 199 of 206

The inconsistency of Brian's presentation strongly supports malingered psychosis, especially as the defendant knows that hyperreligiosity is interpreted as a psychotic symptom.

Brian Mitchell has proven to be a man of many faces. Appraising the defendant diagnostically based upon his appearance at one moment in time is problematic.

However, for every "Repent!" is the composure and organization that preceded it and followed it, and the demonstrated capacity to extinguish it. For every "word fast" is the cute female he decided to talk to, irrespective of her faith or his needs. For every interview with olde English talk is completely adaptive dialogue before and after the meetings with the examining psychiatrist. For every family member ignored blandly is a Julie Adkison warmly solicited. For every story of the man in white robes wandering in San Diego is the contemporaneous account of a clean, composed, appropriately dressed Mitchell connecting himself in an LDS church with a clever ruse of the curious and interested stranger – so different in appearance and comportment that he is not later recognized in the robes by the high priest who sat with him for hours.

As false stories and false identity have served Brian Mitchell well, an evaluation cannot derive credibility without corroborating what Brian says whenever possible. Brian Mitchell, by history, is a practiced and effective manipulator, particularly in how he adapts how he represents himself. His wives would tell us that, so would his family, Virl and Peggy Kemp, Ed, Lois, and Elizabeth Smart

In a trajectory reminiscent of personality disorder, Brian Mitchell has seen better days of relationships that helped stabilize him for a time, and anchors to organize himself around, like the LDS.

The pathology of personality disorder and psychopathy, however, is such that sooner or later, these interpersonal qualities emerge, and undermine the social, vocational, marital, or other relationship. This is why even privilege cannot remedy personality disorder. Severe personality disorder only makes the fall all the more dramatic, if foreseeable. Brian Mitchell's personality disorders and psychopathy and his pedophilia are conditions best lived with on the move, covering yesterday, and staying just one step ahead of today's gratification.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 200 of 206

8) *Does Mr. Mitchell have the ability to perceive accurately, interpreting and responding appropriately to the world around him? What evidence speaks to this issue?*

Yes.

Brian Mitchell is composed and vigilant and responds cautiously to his surroundings. His abilities to perceive accurately, to interpret and to respond are intact.

Recalling his videotaped interview with law enforcement after his arrest, Brian Mitchell was attuned to the significance of their questions, and the tactics they were employing. His responses were quick, clever, and self-assured. The defendant's comportment was appropriate for the situation. Confronted with an intense interrogation, Brian Mitchell showed composure, discipline, intellectual agility, and humor. In very tense circumstances, he was stolid.

Then incarcerated, and then found incompetent, Brian Mitchell has been primarily housed in hospital type settings in recent years. Available records demonstrate that he adapted extremely well to the Utah State Hospital and BOP facility environment. At both institutions, Brian maintained distance from staff and examiners in such a way as to not allow for probing and scrutiny. However, he was able to get all needs met.

Extensive documentation chronicled **no** relatedness to his environment that evoked an irrational religious thinking, irrational suspiciousness or perceived threat. He is either polite to those whom he interacts with or is not responsive at all.

The defendant has been housed with mentally ill defendants for an extended time and has not presented management problems despite his freedom of movement. There is no history of his escalating conflicts.

The **only** venue where Brian Mitchell has displayed inappropriate response has been the courtroom, during his court hearings. He continues to sing disruptively, unresponsive to redirection. However, his intent is to disrupt the proceedings, by his account. There is no indication that Brian experiences anything irrational in court. He shows no distress traveling to court or returning, where singing does not disrupt.

Even under circumstances admitted to be distressing to him, such as the San Diego court hearing, Brian Mitchell displayed composure and responded very appropriately. His quick thinking when officers encountered and questioned him prompted Salt Lake City and Las Vegas police to allow Brian Mitchell and his traveling companions to continue on, missing an opportunity to retrieve one of the most wanted missing persons in America. Brian Mitchell's composition under fire is exceptional.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 201 of 206

The defendant properly calibrates his relatedness with others. His standoffishness and parrying of mental health professionals is a conservative strategy of revealing as little as possible. Two of those individuals, Dr. Whitehead and Dr. DeMier, documented how Brian minimized meetings, imposed conditions, and disclosed little. He communicated with Dr. Skeem until he learned she would find him incompetent. His decision to then stop interviewing with her was conservative and wise, as he avoided exposing himself in a way that she might be more informed and perhaps change her opinion.

In our meeting, Brian Mitchell took no chances with his discretion about exposing himself. He entered the room with his eyes closed, and maintained them shut. However, when I played a videotape of Elizabeth Smart's interview with investigators, he recognized her voice quickly and turned to watch it. His reaction to her was attentive; he attempted to position himself away from the video camera.

Brian is self-possessed enough to walk into an entirely unfamiliar church, as he did in San Diego, and pass himself off with a completely false identity to those with the skills to spot him, as he did before Viril Kemp. And he has the mental and social discretion to conceal his intentions, as he did in the Kemp residence. He has strong social judgment and presence of mind. Just as Brian Mitchell came to Viril Kemp's church in clean and appropriate clothes, he maintains his appearance and grooming on the unit by design.

So focused and vigilant is Brian Mitchell about his surroundings that he enforced silence whenever he believed staff was near, and with great success, for eighteen months of coinciding interaction with other patients. Carrying off his silence required tremendous discipline. This scheme also required the defendant having a sense of which of his peers he could interact with who would not in any way undercut his strategy of concealing clinically relevant information from the staff.

In videotaped interviews, even unexpected aspects of this extra focus and clarity manifest. While Brian was singing hymns in his post-arrest interrogation, seemingly oblivious as he was being harangued by an experienced investigator who barked, "You are nothing," Mr. Mitchell abruptly stopped singing hymns and in full pious character quietly intoned, "that is the first true thing you have said. I *am* nothing." Even when apparently detached, Brian hangs on each word with tenacity. When he closes his eyes, as he did in our interview, the radar stays on. When I began to type at my laptop, he opened his eyes for just the moment needed to survey what was before him.

In the continuous period since the finding of incompetence, there is no evidence that Brian has lost contact with reality. He was so intense in minding detail, for example, that he notified staff if his soy milk were one ounce short. According to Brigham Andrew, the

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 202 of 206

defendant would balance his time in the path chosen for his running on the track in order that his shoes would not wear out, for the track was uneven.

The defendant's faith has never impeded him from communicating, behaving, planning, and understanding in a way that advances his freedom and minimizes his exposure to scrutiny. He has an understanding, an intellect for what confronts him, and the adaptive executive skills to evade and redirect attempts to hold him accountable for his actions.

Seeing how Brian Mitchell's having spoken in San Diego -- and quite rationally and with calculation, even under tremendous stress -- reflects on him as competent, his strategy of opting from conventional testimony to singing hymns is a rational manipulation that has served him well by sowing confusion and delaying the proceedings.

Brian Mitchell's disruption is a tactical strategy. What was once his participation in the proceedings with a reasonable degree of rational understanding is still his capacity to participate in the proceedings with a reasonable degree of rational understanding. Brian Mitchell's successful attempts to derail the trial by embellishing his faith into the perception of something greater merely distract from his capability, which has manifested itself every day in one way or another since the finding of his incompetence, even as it did before.

9) Does Mr. Mitchell's have capacity to knowingly, intelligently, and voluntarily waive the insanity defense? What evidence speaks to this issue?

Yes.

Brian Mitchell is aware of the weight of the evidence against him, recognizes that Elizabeth Smart's testimony would be harmful to his case, and engaged in plea negotiations with these considerations in mind.

Correspondence from attorneys from that time very clearly articulated that Brian Mitchell was making a knowing, intelligent, and voluntary decision in his plea offer and in his consideration of the prosecution overture.

Anticipating trial, defense attorneys were open, in their representations to me in April, that they would prefer to advance an insanity defense.

Asserting insanity asks Brian to forego his religious persona to acknowledge that he forced a teenage girl to have sex with him -- and that he was crazy. Were the defendant to be driven entirely by a psychopath's strategy, sloughing off his idea that he is a prophet to now claim insanity would be as easy as changing from white robes to normal street clothes. However, Brian Mitchell has resisted asserting an insanity defense.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 203 of 206

Examiners have suggested that denial of illness is a reason that a defendant refuses the insanity defense. That may be the case for some, especially those psychologically invested in not acknowledging shortcomings, or sensitive to having already been diagnosed as ill by many. Brian Mitchell's metamorphosis into Immanuel contains a different history.

There is one other threshold in this case Brian has already been unwilling to cross – admitting to have forced fourteen year old Elizabeth to have sex with him. His plea negotiations collapsed on that issue. Brian Mitchell has not admitted to any of the sex offenses of his past, and has stayed a few steps ahead of their discovery.

Brian Mitchell has been compared to Ted Kaczynski, who declined to advance an insanity defense for denial of illness. Mr. Kaczynski had earned notoriety as the Unabomber for being willing to blow people up just so he could find a national audience, having lived a life of humbled underachievement. There are two perspectives on why Kaczynski did not want to pursue an insanity defense. The psychiatric perspective would have it that he did not want to admit he was ill, that being consigned to such a label is a seismic blow to the self. The human perspective would note that for a man who would go to such lengths to find a voice that he would kill, that matters more to him than anything. It is not the idea of being called sick, it is being marginalized to silence – when you are sick, nobody gives ear to what you have to say.

Enter Brian Mitchell. Born of an educated philosopher, harshly but erratically disciplined, angry and rejected and never able to gain the sort of attention his parents would say he craved. Graduated into an adulthood of underachievement and bad decisions worsened by the hedonism and irresponsibility of his narcissism and sociopathy, and with a pedophilia problem thrown in. He was still a child of the LDS, and when the church anchored Brian when he came back to Utah, he finally appeared to have that life path laying out for him.

A personality that challenges authority, and is grandiose and manipulative may aid ambition in some quarters, but not in the structure of the LDS. But Brian got the prophet bug, from way back in the beginning of his marriage to [REDACTED] and developmentally, even earlier. Brian had the hubris to aim beyond the church – a prophet for the poor perhaps, or a light of lymphology under the wing of Dr. West.

But money woes and the associated responsibilities of marriage and family bowled him over. By that time, the LDS knew the headstrong side of Brian a bit too well. A responsibility-free life beckoned, and to that Brian and Wanda affixed the one thing that gave them a sense of value – the pride they had in their orthodoxy as servants of the Lord.

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 204 of 206

Alienated from the church, proud, and poor, Brian still saw his greatness in his faith, and had an obedient devout wife who mirrored that back to him. As psychiatrist Dr. Gardner said, “Marriage sustained the grandiose fantasy, and the fantasy sustained the marriage.”

Poor and without the infrastructure for a church, Brian and Wanda felt their way. Their dress brought them donations but also brought them ridicule. Being a prophet, and the Davidic King, the indignities became relevant. With all of the painstaking work of five years or more, Brian and Wanda began assembling the components of their own New Zion. The completed BIDI was an important part of that maturation. Now Brian had his own scripture. Never mind that it was cobbled together, Brian believed he could pull it off, because he is still the man who could convince people of anything and because this mattered to him more than anything.

He wanted it enough to break into young girls’ homes to make it happen.

An insanity defense not only renders Brian’s seizing Elizabeth the pathetic actions of a man to be pitied, but also render his prophethood pathetic and to be pitied as well. It isn’t mental health Brian resists – he was ready to sign a plea deal to ensure placement at Olympus, which houses mentally ill defendants. Rather it is signing away the idea that he is Immanuel David Isaiah as pathetic and to be pitied. And a sex offender to boot.

If Brian Mitchell refuses an insanity defense, is that his mental illness? There is no evidence that such a tactical thinker has not sized up that the mental defense would not work either, so best to just stay incompetent as long as possible.

Why would it be irrational to forego an insanity defense if such a defense negates one’s faith, leads to humiliation as a “monster” – and would have little chance of succeeding? Furthermore, any insanity defense exposes the defendant to a high profile revelation of his legacy of conscious and sane predation on young people and psychologically sadistic elements of his relatedness to the women in his life.

From a medical standpoint, we do not deem patients incompetent to refuse care when they have serious conditions if the care we offer them has a high likelihood of failure and ruinous quality of life in the process. The neurosurgeon who offers a tumor patient surgery that he strongly recommends that has a high likelihood of severing the top of the spinal cord or lobotomizing the patient does not declare such a patient incompetent if the patient declines and opts for something more unconventional.

If we cannot prove that Brian Mitchell is delusional in his beliefs, even that he is mistaken but rational, how can we contest his investment in his own ideas to the end that he refuses to advance an insanity defense? If his attorney advances a defense that is based upon dismissive assumptions about Brian Mitchell’s faith that cannot be proven, it would be

Re: **Brian Mitchell**
The Forensic Panel – Michael Welner, M.D.
June 16, 2009

Page 205 of 206

rational for the defendant to object – especially given the facts that represent major obstacles to a successful insanity defense in this case. Brian's discomfort with employing the insanity defense speaks to his intelligence and willingness to actively direct his defense.

Away from the watchful eyes and ears of staff, Brian Mitchell has hardly been passive. He has continued to explore alternative defense strategies. [REDACTED], another inmate, worked with him at the computer to write up Mr. Mitchell's version of his case. Mr. Mitchell also reportedly researched the language of the constitutional law as it relates to the laws Brian is charged with breaking. Given the defendant's ideological orientation to anti-government beliefs, such thinking is not surprising, and speaks to his ability – and initiative – in aiding his defense.

Brian Mitchell specifically redirecting the court to his religiosity is his active challenge to the court that it has no jurisdiction over him because he follows the laws of God rather than the laws of man. He has a lifetime of being brazen, has been his own best advocate in the past, and continues to have the same persuasiveness.

Brian Mitchell is neither the first defendant to toss his fate to the court of the Lord - nor the first fundamentalist. His tactic is very much in line with the Patriot movement with which he had affiliated, to reject the laws of the land. Brian Mitchell is a rejectionist, and it has delivered him miraculously to psychiatry. Serial findings of incompetence validate his thinking and the abilities to have orchestrated this end.

When faced with trial, Brian's history and orientation will still be that of a rejectionist. Mr. Mitchell has the capacity to knowingly, willingly, and voluntarily make all decisions about his case, be they to plead, to waive the insanity defense, or to be his own counsel.

Please contact me with any questions you may have on this matter. I will update my findings as need be with the input of new materials and witnesses as they become available.

Very truly yours,

Michael Welner, M.D.
Chairman, The Forensic Panel
Diplomate, Psychiatry & Forensic Psychiatry, American Board of Psychiatry & Neurology

Re: **Brian Mitchell**

The Forensic Panel – Michael Welner, M.D.

June 16, 2009

Page 206 of 206

The above report was peer-reviewed to ensure maximum diligence, objectivity in analysis, and adherence to standards of the field of psychiatry, forensic psychiatry and forensic psychology, psychiatric diagnosis, criminal competency assessment, sex offender assessment, cultural context, and forensic assessment.

David Walker, M.D.

Diplomate, Psychiatry & Forensic Psychiatry, American Board of Psychiatry and Neurology

Eric Drogin, J.D., Ph.D

Diplomate, Forensic Psychology, American Board of Forensic Psychology