People v. Brock Allen Turner Case # B1577162

# People's Sentencing Memorandum

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**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
**IN AND FOR THE COUNTY OF SANTA CLARA**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

BROCK ALLEN TURNER,

Defendant.

No. B1577162

PEOPLE'S SENTENCING MEMORANDUM

DATE: June 2, 2016
TIME: 9:00 p.m.
DEPT.: 89

## I. INTRODUCTION

The Defendant, Brock Allen Turner, (hereinafter "Defendant") was convicted as charged of three felonies after a three week jury trial that concluded on March 30, 2016. The Defendant was found guilty of the following three felony violations: Penal Code section 220(a) [Assault with Intent to Commit Rape of an Intoxicated/Unconscious person]; Penal Code section 289(e) [Penetration of an Intoxicated Person]; Penal Code section 289(d) [Penetration of an Unconscious Person]. The California legislature classifies a violation of Penal Code section 220 as a violent felony pursuant to Penal Code section 667.5(c) and a serious felony pursuant to

Penal Code section 1192.7(c). All three charges are listed under Penal Code section 290(c) requiring the Defendant to register as a sex offender for life.

The Defendant is presumptively probation ineligible due to his conviction on Count One, Penal Code 220 and under Penal Code Section 1203.065(b). The Probation Department has made a recommendation regarding the sentence and it has recommended that the Court exercise discretion and make a finding of "unusual circumstances" in order for the Defendant to be sentenced to a county jail term. The People respectfully disagree with the Probation Department's assessment and recommendation in this case. The Probation Department's recommendation does not take into consideration the seriousness of this case, the fact that the Defendant was convicted of multiple sex acts, and the fact that he has not demonstrated genuine remorse or accountability for his actions.

## II. STATEMENT OF FACTS

In the evening of January 17, 2015, [redacted] Doe, a recent college graduate, hung out with her sister, [redacted], and several of [redacted]'s friends at their family home in Palo Alto.[1] [redacted] and her friends were Cal Poly students and were home for the weekend. They had planned to meet their mutual friend, Julia [redacted] who was a student and resident at Stanford University. They began drinking hard liquor and champagne at approximately 10:30 p.m. [redacted] Doe had approximately four shots of whiskey before the girls' mother dropped them off on the Stanford campus between 11:00 to 11:15 p.m. They met up with Julia at a party on campus at the Kappa Alpha fraternity (hereinafter "KA".) They socialized and drank alcohol both inside and outside of the KA fraternity house. While at the party, [redacted] Doe had two

[1] The following facts were adduced at trial or were reported to police during the investigation.

shots of vodka and some beer. Shortly after midnight, the girls were split up from one another. JANE DOE 2 and Colleen [redacted] wanted to return to Julia's dormitory so that their friend, Trea who was not feeling well, could sleep. After JANE DOE 2, Trea, and Colleen left the party, Julia and JANE DOE 1 Doe were split up.

During this time, JANE DOE 1 Doe made some phone calls to her boyfriend, [redacted], who was living in Pennsylvania for graduate school. They had been dating since 2014 and had an exclusive relationship. On the night of January 17, 2015, he did not consume any alcohol and went to sleep early. Early in the morning on January18, 2015, at approximately 2:54 a.m. Eastern Standard time (11:54 p.m. PST), he received a phone call from JANE DOE 1 Doe and answered it. The call lasted approximately three minutes. He was not able to understand what she was saying because her speech was unintelligible and she was rambling. At about 3:16 a.m. Eastern Standard time (12:16 a.m. PST), JANE DOE 1 Doe called [redacted] again, but he did not answer. JANE DOE 1 Doe left a voice mail on [redacted] phone. He listened to the voice mail and felt that while she was trying to make more sense when she was talking, she still sounded very intoxicated. [redacted] could understand parts of JANE DOE 1 Doe's message, but other parts were unintelligible. It was clear JANE DOE 1 Doe was extremely intoxicated. This voice mail was later provided to Detective Kim and was played before the jury.

At approximately 3:18 a.m. Eastern Standard time (12:18 a.m. PST), [redacted] called JANE DOE 1 Doe and they had a 10 minute conversation. [redacted] could not make out what JANE DOE 1 Doe was saying. She was rambling unintelligibly. [redacted] wanted JANE DOE 1 Doe to find her sister, because it was apparent she was unable to care for herself and she appeared to be alone. The phone call ended at 12:28 a.m. Immediately after the call with [redacted] JANE DOE 1 Doe called JANE DOE 2 and had a 35 second unintelligible conversation. JANE DOE 2 could not hear or make out

what [redacted] Doe was saying, so she ended the call. [redacted] Doe then called Julia at 12:29 a.m. and she was unable to get ahold of Julia.

At approximately 1:01 a.m., Deputies Taylor and Adams were dispatched to an area near the KA house to a report of a female who was unconscious, but breathing in a field. Deputy Taylor arrived on scene at approximately 1:05 a.m. and located the female, later identified as [redacted] Doe. She was on the ground lying in a fetal position behind a garbage dumpster. She was breathing, but she was completely unresponsive. Her dress was pulled up to her waist exposing her vagina and buttocks. Her underwear was on the ground next to her. The back of her hair was disheveled, knotted and completely covered in pine needles. She was wearing a grey sweatshirt that was removed from one arm only.[2] (Exhibit One: photos of victim at the scene [court copy filed under seal].)

The deputies were alerted to two males who had pinned down and restrained a subject (later identified as Brock Allen Turner, herein after the "Defendant") about 25 yards north. Deputy Adams and Deputy Shaw ran towards the men, while Deputy Taylor stayed with [redacted] Doe who remained unconscious. Peter Jonsson was straddling the Defendant while holding both of the Defendant's arms down. Carl-Fredrik Arndt was sitting on the Defendant's legs. Deputy Shaw asked the men what was going on and Mr. Jonsson replied, "We found him on top of the girl!" He then pointed back towards where [redacted] Doe was lying on the ground. The Defendant remained silent. Deputy Shaw placed handcuffs on the Defendant. While doing so, he noticed a strong odor of alcohol coming from the Defendant, his crotch area appeared disheveled, and he had what appeared to be a cylindrical bulge consistent with an erect penis underneath his pants.

[2] Photos of victim's state on 1/18/15, previously admitted into evidence.

When Deputy Taylor stayed with JANE DOE [redacted] Doe, who was lying on the ground, he checked for a pulse and heard her snore. In a very loud voice he asked several times, "Can you hear me?" JANE DOE [redacted] Doe did not respond to any verbal or physical attempts to wake her. Shortly thereafter, paramedics arrived and began treating JANE DOE [redacted] Doe. They attempted to get a response from her by applying various techniques including a "shake and shout" and applying a physical pain stimulant, but none were successful. During their assessment at the scene, she vomited once, but did not regain consciousness.

Deputy Taylor accompanied the victim as she was transported to Valley Medical Center (hereinafter "VMC") at 1:30 a.m. Inside the ambulance, Deputy Taylor again attempted to wake JANE DOE [redacted] Doe every 15 minutes. Deputy Taylor observed EMT technicians place an I.V. in her arm and she still did not regain consciousness. Deputy Taylor reported that JANE DOE [redacted] Doe remained unconscious throughout the ambulance ride and the check in process at the hospital when she arrived at VMC at 2:00 a.m. She finally regained consciousness at approximately 4:15 a.m. JANE DOE [redacted] Doe was medically cleared at 4:30 a.m. and taken to undergo a SART exam. Her blood was drawn at 7:15 a.m. and at that time, her blood alcohol concentration (Hereinafter "BAC") was 0.12%. A back extrapolation of JANE DOE [redacted] Doe's BAC at the time of the assault placed her intoxication level at approximately 0.22% BAC, almost three times the legal limit. According to Santa Clara County criminalist Alice King, this does not account for the dilution of her blood alcohol content due to the Saline I.V. that was given to her. Thus, her blood alcohol content was likely much higher, but it is impossible to know how high.

Deputy Shaw interviewed Mr. Jonsson and he indicated that at approximately 12:55 a.m., he and Mr. Arndt were riding their bikes to go to the party at the KA house when he noticed a male and female lying on the ground near the dumpster and it appeared that they were

having sex. He and Mr. Arndt at first thought it was a mutual interaction, but as he got closer, he got a bad feeling. Mr. Jonsson described that the woman was lying on her back, motionless, and it looked like she was asleep or passed out while the man was on top of her aggressively thrusting his hips into her. As they got closer, he could tell the woman was not moving at all, her eyes were closed, and her head was tilted to the side, so he yelled to get the Defendant's attention. He yelled words to the effect of, "Hey, she's fucking unconscious!" The Defendant looked up, slowly got off of [redacted] Doe, and began running rapidly away from her. Mr. Jonsson and Mr. Arndt briefly checked on the girl and noticed she continued to appear unconscious and did not respond to them asking her if she was okay. Mr. Jonsson then gave chase after the Defendant and caught up to him about 35 yards away. He told the Defendant to stop many times, but the Defendant continued to run. Mr. Jonsson caught up to the Defendant and did a leg sweep to trip him, which caused the Defendant to fall. According to Mr. Jonsson, it looked like the Defendant was going to run away again, so Mr. Jonsson tackled him to the ground and held his arms down as Mr. Arndt caught up to them and held the Defendant's legs down until help arrived.

Deputy Adams transported the Defendant to the police station where his blood was drawn by a phlebotomist at approximately 3:15 a.m. His blood alcohol content was back extrapolated to be at 0.16% BAC. After a SART exam was performed on him, the Defendant was interviewed. This interview was played for the jury after the Defendant testified.

The following day, Detective Kim interviewed [redacted] Doe and [redacted] Doe did not know what happened to her. She remembered being at the party and waking up in the hospital. She did not remember being alone with any males. She was in a relationship with [redacted] and did not intend on "hooking up" with anyone. She indicated that everyone at

the party was much younger than her, and she really was being silly and joking around about the fact that she was at a college fraternity party. She did not remember making the calls to her boyfriend [redacted]. The next morning, she checked her phone call log and saw that she attempted to call her sister and Julia at 12:30 a.m. She also did not remember making any of these calls.

JANE DOE 2 [redacted] indicated that at 11:00 p.m., their mother dropped the group off at Stanford University. They walked across campus to meet up with Julia at the KA house and they were inside the party for approximately 45 minutes. At approximately 11:50 p.m., they all went outside to "pee" in the bushes. They did not go back inside the party and instead, they talked to some guys who were outside. One of the guys, Tom Kremer, had a sibling who went to Cal Poly and she and Tom talked about this connection. At some point when she was outside, the Defendant suddenly grabbed her and kissed her. JANE DOE 2 [redacted] turned and pushed him away. She thought this was odd, because they had not talked much and there was no flirtation, but she did not really think much of this incident. Later on that night, the Defendant came back and tried to kiss her a second time while she was trying to talk to her friend. This time, he put his hands on her waist and she had to move away from him. At approximately 12:16 a.m., one of the girls in the group was very intoxicated and felt sick, so JANE DOE 2 [redacted] and Colleen decided to take her back to Julia's room to sleep. JANE DOE 2 [redacted] was gone for about an hour and when she came back, she saw the police and assumed they were there to break up the party. She looked for JANE DOE 1 [redacted] and she could not find her sister. She assumed that her sister took an Uber home.

**Other Female Interactions**

On June, 25, 2015, Detective Kim received information about two females who had an encounter with the Defendant the weekend before the assault on JANE DOE 1 [redacted] Doe. Detective Kim interviewed both [redacted] Harman and [redacted] Moran. Ms. Moran indicated that she came to the

Stanford campus the weekend of January 9 through January 12, 2015, to visit Ms. Harman, who was a Stanford student. While on campus, they attended a party at the KA fraternity where Ms. Moran was introduced to the Defendant. She described the Defendant as living in the same dormitory as Ms. Harman and that they had mutual friends, but were not close. She stated that during the party, she and Ms. Harman were dancing on a table and the Defendant followed them onto the table. She described the Defendant as being flirtatious with her. He put his hat on her and she took it off. He then started to dance behind her and tried to turn her around to face him. She felt uncomfortable and tried to turn her body away so that he would not be directly "behind" her. He became really "touchy" and put his hands on her waist and stomach. He even put his hands on her upper thighs. She felt more exceedingly uncomfortable and got down off of the table. She said the Defendant "creeped" her out because of his persistence. (See Exhibit Two: portion of police report referencing this incident.)

**Prior Arrest and Pending Case B1576943**

On November 15, 2014, at approximately 3:10 p.m., the Defendant and a group of males were walking on campus drinking beers. Deputy Shaw first saw them holding what appeared to be beer cans so he stopped his patrol car and exited it. As soon as he walked toward the group of males, they began to briskly walk away from his direction. Deputy Shaw walked faster to contact them in order to determine if they were of legal drinking age. The group immediately began running away from him. Deputy Shaw yelled, "Stop! Police," but the group looked back at him and continued running. Deputy Shaw broadcasted on his radio that he was in a foot pursuit. He chased them through the Knight Management complex and continued to yell "Stop! Police!" several times. He lost sight of the subjects as they passed the south end of the complex. He then heard Deputy Devlugt yell, "Stop get on the ground!" in a loud voice

at a subject she had detained. Deputy Shaw located a discarded black backpack with Coors Light beer cans in it. The subject who was detained identified the Defendant as one of his swim teammates whom he was drinking with when Deputy Shaw first saw them.

Deputy Shaw then called the Defendant on the phone and asked him to return to the scene. He returned wearing a bright orange tuxedo and Deputy Shaw smelled the odor of alcohol on him. The Defendant stated that he was headed to the Stanford football game with his swim teammates. He noticed the Sheriff's vehicle pull up next to them. He had a black backpack on with Coors Light beers inside, as well as a beer in his hand. He admitted trying to hide the beer and knew he was not supposed to have it because he was not 21 years old. He stated that when he saw Deputy Shaw approach, he made the decision to run. While running, he heard the verbal commands to stop, but continued evading. He said it was a split-second decision and he regretted making it. He admitted the backpack that Deputy Shaw found with beers inside of it belonged to him. The Defendant also was in possession of a fake driver's license. (See Exhibit Three: police report 14-319-0270U.)

**Cell Phone Extraction**

Shortly after the Defendant's arrest in the early morning hours of January 18, 2015, Detectives noticed a text message in the "Group Me" application that appeared on the Defendant's screen. It stated, "Who's tits are those?" (See Exhibit Four: photos of screenshot.) A search warrant for the Defendant's phone was obtained and his phone was searched by the Santa Clara County Crime lab. Detectives were unable to locate the text from the "Group me" application or any photos related to that text. However, they learned that when there is a third party application, the images are not stored on the phone and can be deleted by a third party member in the group.

More importantly, the search of the Defendant's cell phone shed some light onto the Defendant's behavior and character during the time period in question and the year prior to attending Stanford. There were many items of evidence indicating the Defendant was engaging in excessive drinking and using drugs: (1) Photo of the Defendant smoking from a pipe (See Exhibit Five: photo); (2) Close up photo of a bong and another photo of a Stanford swimmer and Defendant's teammate with a bong in his hand. (Exhibit Six: two photos); (3) Video depicting the Defendant smoking from a bong and drinking out of a bottle of liquor immediately after taking a "bong hit," which was captured on the Defendant's phone on December 27, 2014. (See Exhibit Seven: video DVD.)

Furthermore, there are many text messages that are indicative of drug use, both during the Defendant's time at Stanford and during his time in Ohio when he was still in high school. On December 18, 2014, he sent a message to friend Brock [redacted] that stated, "Do you think I could buy some wax so we could do some dabs?" (See Exhibit Eight: text messages.) Dabs are a highly concentrated potent form of marijuana that is a THC (tetrahydrocannabinol) concentrated mass. They are most similar in appearance to either honey or butter, which is why it is referred to or known on the street as "honey oil" or "budder." Dabs are an increasing problem on campus and with teens as an alternative way to ingest marijuana.[3] There is another group message about pulling money together to buy 30 tabs on January 13, 2015. (See Exhibit Nine: text messages.)

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[3] http://www.dea.gov/pr/multimedia-library/publications/marijuana-concentrates.pdf
A disturbing aspect of this emerging threat is the ingestion of concentrates via electronic cigarettes (also known as e-cigarettes) or vaporizers. Many abusers of marijuana concentrates prefer the e-cigarette/vaporizer because it's smokeless, odorless and easy to hide or conceal. The user takes a small amount of marijuana concentrate, referred to as a "dab," then heats the substance using the e-cigarette/vaporizer producing vapors that ensures an instant "high" effect upon the user. Using an e-cigarette/vaporizer to ingest marijuana concentrates is commonly referred to as "dabbing" or "vaping."

There were many references to smoking, buying, and sharing "weed" from as early as April 1, 2014, when the Defendant was in Ohio, throughout the Defendant's short time at Stanford. (See Exhibit Ten: various text messages.) The text messages also referenced doing acid or trying to find a "hook up" to purchase acid both in high school and while at Stanford. On December 24, 2014, Jack [redacted] sent a message to the Defendant stating, "I've got a hankerin for a good acid trip when we get back." The Defendant responded, "I'm down for sure." (See exhibit Eleven: text exchange.) On July 25, 2014, while still in Ohio, the Defendant sent a text message to Patrick [redacted] saying, "Oh dude I did acid with Kristian last week." Patrick [redacted] then bragged about "candyflippin" the prior week, which he explained was taking LSD and MDMA together. The Defendant responded, "I gotta fucking try that. I heard it's awesome." (See Exhibit Twelve: text messages.)

Finally, there is a text message exchange between the Defendant and his sister Caroline from June 3, 2014. She asked him, "Did you rage last night?" He responded, "Yeah kind of. It was hard to find a place to drink. But when we finally did could only drink for like an hour and a half." She responded, "Haha enjoy it while it lasts, the finniest (sic) thing to look back on high school is having beer but no place to drink it. That will go away in college." (See Exhibit Thirteen: text messages.)

## III. LEGAL ARGUMENT

Penal Code section 1170(a)(1) defines the purpose of sentencing someone to prison: "The Legislature finds and declares that the purpose of imprisonment for crime is ***punishment***. This purpose if best served by terms proportionate to the ***seriousness of the offense*** with the

provision for ***uniformity*** in the sentences of offenders committing the same offense under similar circumstances." (Cal Pen Code 1170(a)(1). (emphasis added.))

Moreover, the general objectives of sentencing are outlined by the California Rule of Court 4.410 to include (1) protecting society (2) punishing the defendant, (3) encouraging the defendant to lead a law-abiding life in the future and deterring him or her from future offenses, (4) deterring others from criminal conduct by demonstrating its consequences, (5) preventing the defendant from committing new crimes by isolating him or her for the period of incarceration, (6) securing restitution for the victims of crime, and (7) achieving uniformity in sentencing.

The Probation Department's recommendation that the Defendant be sentenced to a moderate term in the County Jail, which is generally four to six months, does not adequately take into account the seriousness of the Defendant's crimes. The recommendation does not encompass the totality of circumstances surrounding a pattern of behavior by the Defendant. Therefore, it will not effectively punish the Defendant and ensure he will not be a danger to the community. Lastly, it does not reflect the impact the case has had on the victim or the community, where the problem of campus sexual assaults is an epidemic. Thus it will not serve the very important purpose, which every sentence should strive to attain, to deter future crimes and in this case, sexual assaults on college campuses.

**A. <u>Probation Ineligible Pursuant to Penal Code Section 1203.065(b)</u>**

Pursuant to Penal Code section 1203.065(b), the Defendant, because he was convicted of a violation of Penal Code section 220, is statutorily ineligible for probation. "Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of violating paragraph

(7) of subdivision (a) of section 261, subdivision (k) of Section 286, subdivision (k) of Section 288a, subdivision (g) of Section 289, or **Section 220 for assault with intent to commit a specified sexual offense."** (Cal Pen Code § 1203.065(b)(1). (emphasis added.))

The Statute further clarifies that: "When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition." (Cal Pen Code § 1203.065(b)(2)) Furthermore, prior to granting probation the court must go through the factors listed in California Rule of Court 4.413(b) in evaluating whether the interests of justice would be served. (Id.)

**1. 4.413(b) & (c) Probation Eligibility When Probation is Limited Probation**

If the defendant comes under a statutory provision prohibiting probation "except in unusual cases where the interests of justice would best be served," or a substantially equivalent provision, the court should apply the criteria in (c) to evaluate whether the statutory limitation on probation is overcome; and if it is, the court should then apply the criteria in rule or court 4.414 to decide whether to grant probation.

**a. Criteria in 4.413(c)(1)(A) Facts Showing Unusual Case Related to Basis for Limitation on Probation.**

The following facts may indicate the existence of an unusual case in which probation may be granted if otherwise appropriate: a fact or circumstance indicating that the basis for the statutory limitation on probation, although technically present, is not fully applicable to the case, including:

> The fact or circumstance giving rise to the limitation on probation is, in this case, ***substantially less serious than the circumstances typically present in other cases involving the same probation limitation***, and the defendant has no recent record of

committing similar crimes or crimes of violence; (Cal Rule of Ct. 4.413(c)(1)(A) (emphasis added.))

Contrary to the Probation Department's assessment classifying this crime as "neutral" in the criteria for Rule 4.414(a)(1), this case is not substantially less serious than the circumstances typically present in other cases involving the same probation limitation. In fact, unlike most violations of Penal Code section 220, Assault with Attempt to Commit Rape, the Defendant here was successful in completing a sex act, and found guilty of violating both Penal Code Sections 289(d) and 289(e). After completing those sex acts, he then continued to assault the vulnerable victim with the intention of raping her behind a dumpster in the dark.

Notably, campus sexual assaults have been rampant across the country, however, the circumstances of this case are exceptionally more serious than those that typically occur. The fact that two independent bystanders had to intervene to prevent the Defendant from completing the rape, makes this case more egregious than other cases of assault with intent to commit rape. The Defendant's attempt to flee, and his physical attempts to continue to get away from the Good Samaritans who caught and restrained him, further illustrate the threat and menace the Defendant posed to the victim and the community at large.

The seriousness of this case is apparent in the facts that were presented at trial. It is abundantly clear that on the night in question, the Defendant was on the prowl and attempted to "hook up" with women who were strangers to him, and who were clearly not interested in his sexual advances. Additionally, this assault occurred a week after he was similarly aggressive with another female, at a different fraternity party, at the same location. That female came forward and described the Defendant as making her feel uncomfortable.

Before committing the assault on [redacted] Doe, he unsuccessfully went after her sister [redacted] without any sort of invitation or interest from [redacted]. In fact, [redacted] was actually talking to the Defendant's friend, Tom Kremer, and she did not even have a conversation or interaction with the Defendant. Despite his lies that there was some sort of "flirtation" between himself and [redacted], both at trial and in his statement to probation; it was abundantly clear from [redacted]'s testimony that she was completely caught off guard by his multiple attempts to kiss her that night. She even had to get away from him after he grabbed her waist, and she alerted her friend, Colleen, to his behavior. She and Colleen later picked out the Defendant in a line-up, and described him as the "aggressive" guy at the party, well before any publicity of this case arose.

There has been an attempt by the Defendant, and others in support of him, to minimize his conduct in this case, as conduct that is typical at parties on college campuses. However, the fact that "some people" are "promiscuous" at college parties does not absolve the Defendant of his conduct and the manner that he violated both [redacted] Doe and her sister [redacted]. Even though he was twice rejected by [redacted] he felt it was acceptable to pursue her sister, [redacted] Doe, later that night when she was alone and inebriated. He purposefully took her to an isolated area, away from all of the party goers, to an area that was dimly lit, and assaulted her on the ground behind a dumpster. He deliberately took advantage of the fact that she was so intoxicated that she could not form a sentence, let alone keep her eyes open or stand. This behavior is not typical assaultive behavior that you find on campus, but it is more akin to a predator who is searching for prey. The prey in this case was a young woman who drank too much and was unable to protect herself.

After physically removing her underwear and digitally penetrating her for some time, causing lacerations to her genital area, he continued to assault her and attempted to rape her until he was interrupted and stopped by the other students. Once confronted, he did not make any attempt to help her up, or to help her get her clothes on, or to make sure she was physically fine. Rather he ran away and left her there half-naked and completely unconscious and incoherent. But for the intervention of the two Good Samaritans, the Defendant would have completed the penile penetration of JANE DOE [redacted] Doe. Ultimately, the fact that the Defendant preyed upon an intoxicated stranger on a college campus should not be viewed as a *less* serious crime, than if he were to assault a stranger in Downtown Palo Alto.

The recommendation by Probation does not take into account the global ramifications the Defendant's conduct has had on not only JANE DOE [redacted] Doe and her family, but also the greater community and students on Stanford's campus. This case did not just attract public headlines because a star athlete, yet again, was accused of committing a sexual assault. This case touched on the nerve of the community because of the audacious and callous manner that the Defendant assaulted a completely unconscious female in public. This case appealed to the pulse of the community because the Defendant ran and tried to get away, and unlike many other cases, he was only apprehended by two brave students who chased him down and ensured he would answer to the authorities for what they observed. They reported what they saw and stopped it because it so clearly shocked their conscience, as it would shock the conscience of any ordinary law abiding citizen.

Even though the Probation Department does not see this as a more serious case, JANE DOE [redacted] Doe and her family do, and equally important the students on Stanford's campus do not take this case lightly. The Founders of the Stanford Association of Students for Sexual Assault

Prevention (ASAP) wrote a letter and circulated a petition depicting the "profound impact the sentencing of Brock Turner will have on the entire Stanford community." The attached letter describes how the Defendant's actions "raised serious concerns about campus safety," and that many students feared walking alone at night because "anyone can become a victim of sexual violence, as evident by Mr. Turner's actions." The students also raised concerns that "a light sentence, such as probation or a few months in jail, would send the incorrect message that this was not a serious crime. This would undermine the trust in the legal system at large, diminish reporting and possibly make the Stanford community a more dangerous place for all."

The students also describe that every member of the class of 2018, which the Defendant was a part of at the time of the offense, "was required to listen to hours of speeches on the importance of acquiring consent and not engaging in sexual activities when alcohol is involved or the other person is unconscious and unable to give consent." (See Exhibit Fourteen: letter Founders of the Stanford Association for Sexual Assault Prevention.) As of the filing of this memorandum, 255 students signed this letter and petition in support of sentencing the Defendant to prison. The impact of this case on the Stanford community is significant. (See Exhibit Fifteen: Letter from Michelle Landis Dauber.) Given the magnitude of the case, which was solely caused by the Defendant's actions, this Court should not find that this case is a less serious crime warranting a finding of unusual circumstances; it is in fact more serious than other similar cases demanding a considerable punishment that is commensurate to the global effects of the Defendant's actions.

**b. Rule 4.413(c)(2)(A) Facts Limiting the Defendant's Culpability: There Was no "Great Provocation, Coercion, or Duress."**

A fact or circumstance not amounting to a defense, but reducing the defendant's culpability for the offense, includes:

> The defendant participated in the crime under circumstances of ***great provocation, coercion, or duress not amounting to a defense***, and the defendant has no recent record of committing crimes of violence;

(Cal Rule of Court 4.413(c)(2)(A))

The probation report listed this factor for the crime as "neutral" in the criteria for Rule 4.414(a)(7) and listed in the comments section that it was "unknown" whether the crime was committed because of an unusual circumstance such as great provocation, which is unlikely to recur. This is a misstatement of the facts that were presented in the police report and at trial. First, there is not one shred of credible evidence that the Defendant assaulted JANE DOE1 [redacted] Doe out of any provocation, coercion or duress from anyone. Second, the Court has received information that the Defendant made another girl feel physically uncomfortable with his sexual advances a week prior to this assault at another party; clearly demonstrating that the Defendant's behavior was recurring. Third, the evidence is clear that on the night JANE DOE1 [redacted] Doe was assaulted, he unsuccessfully tried to assault [redacted] more than once without any provocation. Hence, the Defendant's past conduct at fraternity parties demonstrates a pattern of behavior, and not that he was provoked, or coerced to commit these crimes. Fourth, the Defendant's repeated attempts to claim JANE DOE1 [redacted] Doe was awake and a willing participant were in direct contrast to the testimony of both Mr. Jonsson' and Mr. Arndt. It is impossible for someone who is unconscious and physically unresponsive to provoke, coerce or participate in any way in the acts the Defendant was observed doing. Mr. Jonsson's and Mr. Arndt's observations were corroborated by the fact tha JANE DOE1 [redacted] Doe was unconscious from the moment they saw her to minutes later when the first responders arrived, until well over three hours later.

The Defendant's repeated claims to the contrary, both at trial and in his statement to probation, are not supported by the evidence, and demonstrate the depths of his denial and the great lengths he will go to avoid responsibility for his actions. The lack of ownership for his actions is not the character of someone who warrants a finding of "unusual circumstance." Thus, based on the above, it is unclear why the probation report does not list this factor in rule 4.414(a)(7) as unfavorable, as that is the only reasonable assessment based on the evidence. The Court should make a finding that the facts of this case do not support a finding of unusual circumstances of great provocation, coercion or duress not amounting to a defense pursuant to both 4.413(c)(2)(A) and 4.414(a)(7).

**c. Defendant is youthful or aged, and has no significant record of prior criminal offenses. 4.413(c)(2)(C).**

The Defendant clearly is youthful and committed this crime while in his first year in college. It is also true that the Defendant had no prior criminal convictions. However, this Court should not rely on the Defendant's youth as a factor in finding "unusual circumstances," because that would mean that any circumstance where someone is facing a probation ineligibility clause and they are youthful, they would be treated differently than others committing similar offenses. The reality of campus sexual assaults is that most of the people who commit these types of sexual assaults are typically in college and by definition "youthful." Therefore, in order to achieve the sentencing goal listed in 1170(a) as deterring others from committing the crime, the Court should not give a benefit to the Defendant for his youth. To do so would be sending the message that campus sexual assault defendants deserve special treatment, while campus sexual assault victims do not deserve the full protection of the law.

Rather the Court should rely on the totality of circumstances surrounding the Defendant's history to determine that he, unlike a typical high school student, competed competitively as a swimmer and therefore was more disciplined and had the ability to engage in goal oriented activities. He was able to get into Stanford's competitive swimming program and was succeeding in school. The same advantages that he was privileged to have should not be used to give him the benefit of a light sentence. Furthermore, while the Defendant did not have a significant record of prior criminal offenses, his pending criminal case when he committed this offense, which also involved drinking, should not be overlooked. Thus this is not a situation where the Defendant's youthful history only shows law abiding behavior.

Indeed, the consideration of Defendant's youthfulness and criminal history is appropriately applied in determining the appropriate prison term. As discussed below, it is after taking into account Defendant's age and criminal history that the People are seeking the midterm, as opposed to the aggravated, prison sentence.

**B. <u>Circumstances in Aggravation Warranting a Prison Sentence</u>**

**a. Rule 4.421(a)(3):The Victim was particularly vulnerable.**

In committing these crimes, the Defendant took advantage of a victim who was particularly vulnerable and could not protect herself. Adult sexual assault crimes are often committed against women who are highly intoxicated and unable to fend off the offender. In this way, alcohol is almost used a weapon, because the offender does not need to use force or fear to effectuate the sexual assault. In this case, JANE DOE 1 [redacted] Doe was extremely intoxicated, more than three times the legal limit, and she also was unconscious during the time the Defendant was on top of her sexually assaulting her. While this is technically an element of the crime, the fact that the victim was so severely intoxicated and unconscious for several hours after the

assault was stopped, should be taken into consideration and treated as an aggravating factor warranting a prison sentence. JANE DOE [redacted] Doe's level of intoxication was so grossly disproportionate to those cases that are typical for Penal Code 289(e) & PC 289(d) violations, that this Court should evaluate this case as more egregious that justifies a stiffer punishment.

**b. Rule 4.423: Defendant's prior conduct**

As mentioned above, the Defendant has no prior criminal convictions, but the probation report does not adequately depict the Defendant's prior criminal history. Though he does not have an extensive criminal history, he does have a prior arrest for drinking. In that case he was confronted by campus police who were investigating underage drinking in public, and he ran from them ignoring numerous police orders to stop. He willfully ran away and discarded evidence of the crime he was committing. His actions caused a police foot chase which involved at least two officers. When he was ultimately apprehended he also was in possession of a fake identification card. That case is pending in docket B1576943. This prior offense is not typically treated very seriously. However the nature of the offense as a drinking violation, coupled with the fact that the underlying facts support a violation of Penal Code section 148(a)(1), are directly relevant to the Defendant's later conduct with respect to the sexual offenses in this case, as it shows the Defendant knows the nature of his actions, even when he has been drinking. Moreover, the fact that the Defendant had this pending case during the time of the current offense shows the Defendant's blatant disregard for problems associated with his drinking and decisions made while under the influence. Thus, the Court should take it into consideration in assessing the risk the Defendant poses to the community and the type of behavior the Defendant was engaged in. This prior arrest, coupled with the current case, demonstrate that in his short stint in the adult world, he is a continued threat to the community.

C. Other Factors to Consider

a. **Defendant has not taken responsibility for his actions or expressed true remorse for his conduct. He lied in the probation report and while testifying.**

The Defendant testified at trial and claimed that he was engaged in consensual mutual behavior with [redacted] Doe. He claimed that she "orgasmed" after a minute of digitally penetrating her, and that he checked with her to see if she liked it. He also claimed that he only stopped "hooking up" with her to throw up and he told her that he was going to throw up, despite never throwing up. He made other various claims about gaining permission from [redacted] Doe prior to engaging in sexual conduct with her body, which he had not previously reported to law enforcement. He claimed the only reason he ran was because Mr. Jonsson had grabbed him and became violent toward him, despite the fact that he previously told Detective Kim he did not run during this incident. He claims that when he left [redacted] she was fine and alert. After the Defendant testified at trial, the jurors heard his prior recorded statement with Detective Kim in its entirety. The jurors also heard from Mr. Jonnson, who again affirmed he only touched the Defendant after catching up to him and tripping him. If the jurors found the Defendant credible, they would not have convicted him as charged. They did not believe his story, because his story was outrageous and was not supported by the plethora of evidence against him. They did not believe him, because his story was a lie.

After the Defendant was convicted, he was given the opportunity to give a statement to the Probation Department. He gave the same story to the probation officer, that he testified to during trial; the same story that was not believed by the jurors. Astonishingly, he still maintains that this was a consensual encounter. He still insists that he only ran after Mr. Jonsson aggressively grabbed him, notwithstanding the fact that Mr. Jonsson and Mr. Ardnt both

testified more than once, that the Defendant ran away well before anyone made physical contact with him. He still maintains that JANE DOE I [redacted] Doe was a willing and capable participant, even though every piece of evidence points to the contrary. At the same time, the Probation Report inaccurately opines that the Defendant "expressed sincere remorse and empathy for the victim." It is baffling that the report does not reflect the disingenuousness of the Defendant's "expression" of remorse, while at the same time continuing to maintain his innocence.

The fact that the Defendant is continuing to perpetuate this lie is telling about his character. He is still in denial about his criminal culpability. He is still in denial about violating JANE DOE I [redacted] Doe's body and her right to choose with whom she engages in sexual activity. He is still in denial about the deliberate choices he made, which caused him to be in the situation he finds himself. In his statement to probation he seems to regret his choice, not because of how it resulted in a young woman to be sexually assaulted, but because it has so greatly affected his life as though he is the "victim" of "peer pressure." No one pressured him into sexually assaulting an unconscious female. He feigns remorse and claims to "feel bad" about JANE DOE I [redacted] Doe, but how does one feel bad about something they have yet to take full responsibility for?

JANE DOE I [redacted] Doe spoke to the probation officer and was clear and articulate about the impact this case had on her life, but at times empathetic towards rehabilitation. That empathy does not mean that she wants the Defendant to not spend a day in prison. When she spoke to the Probation Department, it is not clear that she understood her expressions of empathy would be used against her, and essentially would be providing a recommendation that the Defendant should get a "slap on the wrist." When the report was ultimately completed, a copy was forwarded to her, as is mandated by *Marsy's Law,* and she became upset that her words were used in a way to assume she did not want the Defendant to be punished for his actions. She

further was shocked and outraged that the Defendant appears to be in complete denial about violating her. His words, reiterating the lies he told, re-victimized her and made her feel as though the Defendant truly does not appreciate the ramifications of his actions and what he did to her. In making its recommendation for a moderate county jail sentence, the Probation Report ironically states that, "Perhaps, just as importantly, but sometimes overlooked, are the victim's wishes as to the potential outcome." When JANE DOE1 [redacted] Doe spoke to the Probation Department, she had no idea that they were going to make a four to six month recommendation. That recommendation does not reflect her feelings on the outcome of this case, nor does it encapsulate the true impact the Defendant's actions have had on her and her family. (See Exhibit Sixteen: letters from JANE DOE1 [redacted] Doe, JANE DOE2 [redacted], Julia [redacted], Anne [redacted] [redacted].)

Additionally, the Defendant attempts to persuade the Court to allow him to remain on probation so that he can teach others from his actions. In his letter he states, "I know I can impact and change people's attitudes towards the culture surrounded by binge drinking and sexual promiscuity that protrudes through what people think are at the core of being a college student." He later states, "My poor decision making and excessive drinking hurt someone that night and I wish I could just talk it all back." How can someone help others, when they never acknowledge sexually assaulting a victim? How can someone help others when they blame drinking, peer pressure, and college culture on their actions, which were predatory and repulsive?

Finally, the Defendant in his statement to probation lied about ever using illicit drugs. He appears to make it seem as though his first time drinking was when he first went to Stanford University at a swim team party. He states, "Coming from a small town in Ohio, I had never

really experienced celebrating or partying that involved alcohol."[4] He further claims, he was an "inexperienced drinker and party goer." (*Id.*) Not only did the evidence from his cell phone records, referenced above, clearly show he was already an experienced drinker in high school who regularly partied, he also testified that he was not so drunk that he did not know what he was doing and had the ability to choose to run when people caught him. The Defendant's words and actions contradict each other. Moreover, the cell phone evidence also showed that he had routinely engaged in smoking marijuana and experimenting with other drugs, specifically acid. Thus, he was not truthful with the probation department or this Court about his experience with drinking and partying, much like he was not truthful about taking advantage of JANE DOE [redacted] much like he was not truthful with the aftermath of being caught by the Good Samaritans.

## IV. SENTENCING RECOMMENDATION

The Defendant's maximum exposure is fourteen years, calculated as the maximum of eight years on Count Two, consecutive to the maximum of six years on Count One pursuant to California Penal Code section 667.6(c)[5], for a total term of fourteen years. The maximum exposure is calculated by applying Count Three as PC 654 to Count Two. The People respectfully recommend the Defendant be sentenced to the midterm of Count Two, which is six years in prison, with the midterm of the remaining counts to be run concurrently to Count Two.

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[4] Quote taken from Defendant's letter attached to Presentence Probation Report.

[5] (c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of an offense specified in subdivision (e) if the crimes involve the same victim on the same occasion. A term may be imposed consecutively pursuant to this subdivision if a person is convicted of at least one offense specified in subdivision (e). If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison. 667.6(c)

This sentence is more reflective of the seriousness of the case, the procedural posture of the case, conviction post-trial and not an early plea, and it is more uniform with similar sexual assault cases in our County that result in convictions after trial.

The Probation recommendation of four to six months appears to be based on a one-sided consideration of solely the Defendant's interests. It reeks of the stigma that campus sexual assaults often receive by a small portion of the community. That stigma needs to be changed, so that defendants who perpetrate crimes on college students should not be treated specially, just because their victims were also drinking. The Probation recommendation treats this case as though defendants in campus sexual assault cases should receive a discount for their crimes merely because in the past, people would often turn a blind eye to these types of crimes or resort to victim bashing to justify their behavior. Many simple felonies that are not sexual assault cases receive a similar recommendation of four to six months as a benefit for an early plea. The Probation recommendation of four to six months in this case falls so short of the seriousness of this case that it should not even be objectively considered. Justice in this case means sending the Defendant to prison and holding him accountable for this very serious crime. By sentencing the Defendant to a substantial prison term, this Court will send a message to him, JANE DOE1 [redacted] Doe, and the greater community that sexually violating a woman is never acceptable, especially when she is intoxicated.

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| **Count 1 PC 220:** Assault with Intent to Commit Rape of an Intoxicated Person | **2 – 4 - 6** | **4 years** (midterm concurrent to Count 2) |
| **Count 2 PC 289(e)** Penetration of an Intoxicated Person | **3 - 6 - 8** | **6 years (midterm)** |
| **Count 3 PC 289(d)** Penetration of an Unconscious Person | **3 – 6 - 8** | **6 years** ( midterm concurrent and PC 654 to Count 2) |
| | | **Total Term 6 years** |

## V. CONCLUSION

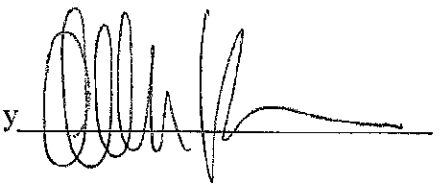
In sentencing the Defendant the Court must be mindful of the purposes of sentencing. A sentence, among other things, should encourage the defendant to live a law abiding life and prevent him from committing future offenses. It should strive to protect the community and it should seek to deter others from committing similar acts. Many of the objectives of sentencing will not be served unless the Defendant is sentenced to a significant prison term beyond the mandatory minimum required by law, and definitely beyond that recommended by probation. This Court should sentence the Defendant to a midterm of six years in order to protect society, to punish the Defendant for his multiple sex crimes, to encourage him to lead a law abiding life in the future and to deter him and others from committing new and similar crimes.

Dated: May 27, 2016

Respectfully submitted,

JEFFREY F. ROSEN

DISTRICT ATTORNEY

By 

ALALEH KIANERCI

Deputy District Attorney

**PROOF OF SERVICE**

| | | |
|---|---|---|
| STATE OF CALIFORNIA | ) | People v. BROCK ALLEN TURNER |
| | ) | ss. |
| COUNTY OF SANTA CLARA | ) | Docket No. B1577162 |

I am employed in the County of Santa Clara, State of California. I am over the age of eighteen years, and not a party to the above-entitled action. My business address is: Office of the District Attorney, 270 Grant Avenue, Fourth Floor, Palo Alto, CA 94306

On May 27, 2016, I served the following documents upon the interested parties in this action by the method(s) indicated below:

**People's Sentencing Memorandum**

[ ] BY FIRST CLASS MAIL: by placing a true copy thereof, enclosed in a sealed envelope, for postage and deposit with the U.S. Postal Service on the same date it is submitted for mailing, and addressed as follows:

[ ] BY PERSONAL DELIVERY: by causing a true copy thereof to be hand-carried to the recipient at the address indicated:

[X] BY E-MAIL TRANSMISSION: by e-mailing a true copy thereof to the recipient at the e-mail address indicated:

**Michael Armstrong at**
**marmstrong@peninsulacrimlaw.com**

[ ] BY COUNTY PONY MAIL: by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 27, 2016, at Palo Alto, California.

Lucy Cedillo

Jeffrey F. Rosen
District Attorney
County of Santa Clara
San Jose, CA. 95110

# EXHIBIT ONE
# FILED UNDER SEAL

# EXHIBIT TWO

SR 15-0089F

LISTED INFORMATION

ATTACHMENTS

CD of (O-8)MORAN's statement

Email from (O-8)MORAN

Email from (O-9)HARMAN

NARRATIVE

6/25/15, I received information regarding another possible witness to (S)TURNER's behavior the weekend before the incident. I had only the email address for (O-8)MORAN

On 6/26/15 at about 1542 hours, I sent an email to (O-8)MORAN to inquire about an incident that occurred between her and a male subject at a party held at the Kappa Alpha fraternity house over the weekend of 1/9/15 to 1/12/15. I purposely did not name (S)TURNER in my email.

On 6/27/15 at about 0928 hours, I received a reply from (O-8)MORAN. The email mentions that she came to the Stanford campus to visit (O-9)HARMAN who is a current Stanford student. She came to Stanford for the weekend of 1/9/15 to 1/12/15. She attended a party at the Kappa Alpha fraternity house where she was introduced to (S)TURNER. (O-8)MORAN states that while she was dancing, (S)TURNER stood behind her and was very "grabby" and persistent. (O-8)MORAN eventually felt uncomfortable enough that she left the dance floor.

On 7/9/15 at about 0906 hours, I sent (O-8)MORAN another email asking

her to contact me by phone. At that time, I only had her name and email address. I informed her that I would like to clarify some details on her previous email.

On 7/14/15 at about 0836 hours, I sent an email to (O-9)HARMAN asking her if she recalled any incidents involving (O-8)MORAN and a male subject at the Kappa Alpha fraternity party over the weekend of 1/9/15 to 1/12/15.

At about 0945 hours I received an email from (O-9)HARMAN which stated that she recalled an incident where one guy was a little bit friendly with her and she felt uncomfortable and removed herself from that situation.

At about 1307 hours I sent another email asking her if she knew who that "one guy" was and what exactly he was doing that made her uncomfortable enough to want to leave.

At about 1813 hours, I received an email from (O-9)HARMAN stating that the "one guy" was (S)TURNER. (S)TURNER was trying to dance with (O-8)MORAN but she felt uncomfortable and left to go find one of her other Stanford friends. (O-9)HARMAN stated that she was not sure about the details.

On 7/16/15 at about 1712 hours, I received a phone call from (O-8)MORAN and arranged to meet with her at the Stanford DPS station on Friday 7/17/15 at about 1400 hours.

On 7/17/15 at about 1308 hours, I called (O-8)MORAN to reschedule the interview to the following Friday, 7/24/15 at 1400 hours.

On 7/24/15 at about 1405 hours, (O-8)MORAN arrived at the Stanford DPS station to provide me with a statement. The interview took place in the soft interview room and it was audio/video recorded.

STATEMENT OF (O-8)MORAN

(O-8)MORAN is not affiliated with Stanford University. Her permanent residence is in a nearby city therefore has several friends that attend Stanford University.

(O-8)MORAN stated that she came up from Los Angeles on Friday 1/9/15 and met up with her friend (O-9)HARMAN somewhere between 2000 and 2100 hours. She drank about 3-4 shots of vodka in (O-9)HARMAN's room. She felt a strong to medium buzz but was fully coherent. She normally drinks about 6-8 shots of hard liquor and it takes about 8-10 shots for her to become drunk. She did not drink at all once she arrived at Kappa Alpha.

At about 1030 hours, (O-8)MORAN and (O-9)HARMAN went to the Kappa Alpha fraternity house. Soon after entering the house, they saw (S)TURNER standing in the hallway near the dance floor. (O-9)HARMAN introduced (O-8)MORAN to (S)TURNER. (S)TURNER and (O-9)HARMAN live in the same dormitory. They are not very close but they have many mutual friends. (S)TURNER did not appear to be drunk when (O-8)MORAN met him.

(O-8)MORAN and (O-9)HARMAN went to the dance floor, got up on a table and started to dance. (S)TURNER followed them onto the table and was flirtatious with (O-8)MORAN. (S)TURNER put his hat on (O-8)MORAN's head and she took it off. (S)TURNER started to dance behind

(O-8)MORAN and tried to turn her around to make her face him. (O-8)MORAN felt uncomfortable and tried to turn her body away so that (S)TURNER would not be directly on her "behind". (S)TURNER became really "touchy" and put his hands on (O-8)MORAN's waist and stomach. (S)TURNER also moved his hands down onto (O-8)MORAN's upper thighs. (S)TURNER did not touch (O-8)MORAN's skin. This went on for about fifteen minutes. (O-8)MORAN felt more and more uncomfortable and got down off of the table. (O-8)MORAN said that she does not usually get "creeped out" by guys, but (S)TURNER creeped her out because of his persistence. (O-8)HARMAN then left the dance floor and went to look for her male friend, Franklin BIRD.

End of Supplement

SR 15-0089F

LISTED INFORMATION

ATTACHMENTS
Evidence Sheet



NARRATIVE

On 3/14/16 at about 1737 hours, I called (O-9)HARMAN and left a message requesting that she call me back.

At about 1751 hours, I received a phone call from (O-9)HARMAN. Since I was not in the office at the time of the call, I recorded the conversation on my cell phone. The volume of (O-9)HARMAN's voice is low in the recording.

STATEMENT OF (O-9)HARMAN

(O-9)HARMAN is an undergraduate student at Stanford University. She is good friends with (O-8)MORAN who is away at college in UCLA.

(O-9)HARMAN stated that (O-8)MORAN came up from Southern California for the weekend. On Saturday night, "the weekend before the assault happened", they went to "KA" together at about 2300 hours. They went to the basement which was very crowded with lot of people dancing.

(O-9)HARMAN lived in the same dorm as (S)TURNER. She knew who he was but did not know him very well. (S)TURNER came up to her and (O-8)MORAN and started to dance behind (O-8)MORAN. (S)TURNER's front side was facing (O-8)MORAN's backside. (O-9)HARMAN believes that

they may have been dancing on a table but is not sure. (O-9)HARMAN doesn't remember any details regarding how (S)TURNER was dancing behind (O-8)MORAN. (O-9)HARMAN is not sure if any physical contact was made between them. This went on for about five minutes.

(O-8)MORAN and (O-9)HARMAN looked at each other and (O-8)MORAN had an expression on her face that (O-9)HARMAN read as, "This is something that she didn't want to do because she didn't know him." (O-9)HARMAN said that it is hard to explain the type of look (O-8)MORAN had on her face. She stated that she could tell that (O-8)MORAN did not want to be in that situation because they are good friends. (O-9)HARMAN then grabbed (O-8)MORAN by the hand and they left the dance floor and went to a different part of the house. (S)TURNER did not attempt to follow them.

(O-9)HARMAN didn't think much of the situation in the moment. She just thought that (S)TURNER was just another guy trying to dance with a girl at a party. However, they were really "freaked out" after they realized he was the one that assaulted someone the following week.

(O-9)HARMAN does not drink very much. She believes she drank one beer that night. (O-8)MORAN drank more than (O-9)HARMAN, however, she was fully coherent.

NARRATIVE CONT'D

(O-9)HARMAN's statement was placed on a CD and booked into evidence.

# EXHIBIT THREE

LISTED INFORMATION

ADDITIONAL CHARGES

(S01)BUCK ¿ 25662(a)B&P-Minor in possession of alcohol

(S02)TURNER-25662(a)B&P-Minor in possession of alcohol

(S03)YODER-14610(a)(1)VC-Possession of fake driver¿s license

ATTACHMENTS

-Evidence Sheet

-Photographs

NARRATIVE:

On 11/15/2014 at approximately 1510 hours, I was on routine patrol in a marked SUDPS vehicle (#1851) dressed in full deputy sheriff uniform. I was in the area of Serra St. and Galvez St.located in unincorporated Santa Clara County on the Stanford University Campus. I noticed a group several white males who appeared to be between the ages of 18-20 walking northbound on the sidewalk of Galvez St. from Serra St.. I noticed that two of the males had silver aluminum cans in their hands and one was wearing a black backpack. One of the males, later identified as (S01)BUCK, was holding a silver can in his right hand. As I drove closer to the group, (S01)BUCK looked over his left shoulder in my direction and then he lowered the beer can and clutched it to his right thigh in an apparent attempt to conceal it from my view. I drove slightly ahead of the subjects, parked and exited my vehicle. I began walking towards the group for an investigation of being minors in possession of alcohol.

I was approximately 20 yards away from them when they all looked in my direction and then turned around and began to walk briskly away from

me eastbound down Serra St. from Galvez St.. I started to walk faster in an effort to catch up to them. As I drew closer, they all began running eastbound down Serra St. and into the Knight Management Complex located on the 600 block of Serra St.. At this point I believed they were attempting to elude me, so I shouted ¿stop, police¿ in a loud, clear voice. The subjects looked back in my direction and continued running away from me. I notified Palo Alto Police Communications that I was in a foot pursuit, providing a description of the subjects and direction of travel. Dep. BATES broadcasted the want for the subjects (violation of 25662(a) B&P).

I passed PSO DEVLUGT, a uniformed member of the SUDPS, who was conducting traffic control at the intersection of Serra St. and Arguello Wy.. PSO DEVLUGT recognized I was in a foot pursuit and started to head eastbound down Serra St. towards Campus Dr. so that he may assist in taking a post at a perimeter location.

I chased the subjects through the Knight Management complex. I yelled ¿stop, police¿ several times while pursuing them. I lost sight of the subjects at the southeast corner of the complex. As I exited the south side of the complex, I heard PSO DEVLUGT yell "stop, get on the ground" in a loud, clear voice. I made my way to PSO DEVLUGT's vehicle and found one of the subjects, later identified as (001) BLACK, sitting on the pavement. The other subjects managed to flee the area. The subject I had seen earlier carrying the black backpack had discarded it in the Knight Management Complex. The backpack was later recovered by PSO DEVLUGT from the bushes along Serra St. and given to me. I opened the backpack and saw five ¿Coors Light¿ beers . The backpack had no means of identification inside of it.

I contacted (O01)BLACK, who was identified by his valid Illinois driver¿s license.

STATEMENT (O01)BLACK:

(O01) BLACK, a Stanford University undergraduate student, told me that he was walking to the football game on 11/15/2014 at around 1500 hours. He was walking with his friends, who are all members of the Stanford swim team members (S01)BUCK, (S01)TURNER and (S03)YODER. He noticed a sheriff car pull up ahead of the group and a deputy exit. All of a sudden, his friends began running, so he started running too. He heard me yelling ¿stop, police.¿ He ran a few hundred yards before he saw someone in a uniform who was approximately ten yards away from him in his vehicle. The man in uniform told him to stop and get on the ground and he complied.

(O01)BLACK had not been drinking and did not have any alcoholic beverage in his possession, he only ran because the rest of his friends did. (O01)BLACK stated he knew the three other members of his group who had fled and would provide me with their phone numbers.

NARRATIVE (CONT.)

With the information provided to me by (O01)BLACK, I contacted the remaining subjects via telephone. I advised them to return to my location (600 block of Serra St.) as I knew who they were. Approximately thirty minutes later they returned to the scene. I recognized all three of the subjects as the ones who initially ran from me. The subjects were later identified as (S01)BUCK, (S02)TURNER and (S03)YODER.

(S01)BUCK provided me with his Stanford University photo ID and

verbally identified himself. I requested a Montana DL check via Palo Alto Police Communications and they confirmed he had a valid Montana DL which confirmed his age to be 19 years old.

(S02)TURNER provided me with a Ohio DL. I requested a Ohio DL check via Palo Alto Police Communications and they confirmed he had a valid Ohio DL which confirmed his age to be 19 years old.

S03)YODER provided me with a Georgia DL. I requested a Georgia DL check via Palo Alto Police Communications and they confirmed he had a valid Georgia DL which confirmed his age to be 19 years old.

I smelled the odor of an alcoholic beverage emanating from each of their persons. Although they had been drinking, they did not meet the criteria for 647(f)PC, drunk in public. They were individually interviewed and stated the following in summary.

STATEMENT OF (S01)BUCK:

(S01)BUCK, a Stanford University undergraduate student, stated on 11/15/2014 at approximately 1500 hours he was walking to the Stanford football game with a few of his friends who are fellow swim team members. At Serra St. and Galvez St. he noticed a sheriff¿s vehicle pull up. He was holding a silver aluminum ¿Coors Light¿ can. He noticed that the police seemed to be looking at him, so he clutched the can to his right thigh in an attempt to conceal it from the police. When the deputy exited the patrol car and began approaching him, he said they all started running. He did not know why they chose to run, adding it was a stupid choice. He knew the person chasing him was a police officer and heard the officer shouting ¿stop, police.¿

(S01)BUCK said he returned to the scene because he felt bad for running.

STATEMENT OF (S02)TURNER:

(S02)TURNER, a Stanford University undergraduate student, stated on 11/15/2014 at approximately 1500 hours he was walking to the Stanford football game with his friends and fellow swim team members, (S01)BUCK , (O01)BLACK and (S03)YODER. At Serra St. and Galvez St. he noticed a sheriff¿s vehicle pull up. (S02)TURNER had a black backpack on, with beers inside. He was also holding a ¿Coors Light¿ beer can which he was drinking out of. When he saw the police, he tried to hide the beer, because he knew he was not supposed to have it being under 21. When the police officer began to approach the group, (S02)TURNER and the rest of the group began running. He stated it was split second decision and he regretted running. He knew that the person was a police officer and heard the officer yelling ¿stop, police.¿ He also claimed ownership of the backpack and beer. (S02)TURNER stated he was sorry for running and regretted making that decision.

STATEMENT OF (S03)YODER:

(S03)YODER , a Stanford University Undergraduate student, stated on 11/15/2014 at approximately 1500 hours he was walking to the Stanford football game with his friends and fellow swim team members, (S01)BUCK , (O01)BLACK and (S02)TURNER. He was wearing a bright orange tuxedo which is a Stanford swim team tradition to wear at sporting events. He was drinking a beer when he noticed a sheriff¿s car pull up ahead of the group. When he saw a deputy exit, he became nervous that the officer was going to contact him and his friends.

When the deputy started to approach, he began running because the group began running. (S03)YODER heard the verbal commands given by the officer to stop, yet continued to run.

S03)YODER later returned to the scene because he felt guilty after being called by the police.

NARRATIVE (CONT.):

I asked (S03)YODER for ID and he retrieved his wallet from his pants pocket. Without looking into his wallet, I asked (S03)YODER if he had a fake ID inside as he handed it to me. (S03)YODER said "yes he did.¿ I opened (S03)YODER¿s wallet and located an Ohio DL with (S03)YODER's name and photograph printed on it. I asked (S03)YODER if that was a fake ID, to which he replied ¿yes it is.¿ (S03)YODER said he got the fake ID from a friend for $50.00. He said he has barely used it, but has it so he is able to buy alcohol. At first glance (S03)YODER `s fake DL looked legitimate. It had (S03)YODER¿s name on it, a DOB of 08/27/1991 making his age to be 23 and an address out of Ohio. I seized the fake DL as evidence and later booked it into evidence locker 10 at the SUDPS Evidence room as evidence.
I digitally recorded each interview of the suspects. I later downloaded the digital audio files onto a CD and booked it into SUDPS Evidence locker number ten as evidence.

All four subjects were admonished for violating 148(a)(1)PC, resisting, delaying or obstructing a peace officer. (O01)BLACK was released from the scene.

Dep. FONG responded to the scene to assist. I issued (S01)BUCK a citation for violating 25662(a) B&P. Dep. BATES issued a citation to

| REPORT TYPE | | Stanford University Dept. of Public Safety<br>Office of the Sheriff, Santa Clara County<br>NARRATIVE | CASE NO. |
|---|---|---|---|
| 25662(a) BP [M] Minor in possession of alcohol | ☐ SUPPLEMENTAL | | 14-319-0270U |
| LOCATION OF ORIGINAL EVENT (IF KNOWN)<br>Serra St. @ Galvez St. / Stanford / 94305 | | VICTIM NAME (LAST, FIRST, MIDDLE (FIRM, IF BUSINESS))<br>State of California | |

(S02)TURNER for violating 25662(a)B&P. At my request, Dep. FONG issued a citation to (S03)TURNER for 14610(a)(1) VC, possession of fake driver¿s license.

I removed the beer from the backpack and took digital photographs of them. (See attachments). I returned the now empty backpack to (S02)TURNER and emptied the contents of the beer cans and discarded them at the scene.

END OF REPORT

P.L.E.O

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|---|---|---|---|
| Dep. SHAW | #S1780 | SUDPS | Original Report |
| Dep. BATES | #B1230 | SUDPS | FTO |
| Dep. FONG | #F2048 | SUDPS | Assisting Deputy |

| OFFICER'S NAME | ID NUMBER | DATE | SHIFT/DAYS OFF | SUPERVISORS REVIEW | ID NUMBER | DATE | PAGE | OF |
|---|---|---|---|---|---|---|---|---|
| Shaw, B. | 26039 | 11/15/14 1740 | B1 Vari | Rondeau, Richard | 26016 | 11/20/14 1147 | 10 | 10 |

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# EXHIBIT FOUR