

THE STATE OF WASHINGTON,)
)
 Plaintiff,)
 v.) No. 19-1-01046-7 SEA
)
 TIMOTHY ANDREW CLEMANS,) INFORMATION
)
 Defendant.)
)
)

Count 1 Assault In The Third Degree

Contrary to RCW 9A.36.031(1)(g), and against the peace and dignity of the State of Washington.

That the defendant TIMOTHY ANDREW CLEMANS in King County, Washington, on or about January 19, 2019, did intentionally assault Justin L. Bedford and Scott I Schenck, law enforcement officers or other employees of a law enforcement agency who were performing official duties at the time of the assault;

Contrary to RCW 9A.36.031(1)(g), and against the peace and dignity of the State of Washington.

Daniel T. Satterberg, Prosecuting Attorney
CRIMINAL DIVISION
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Count 3 Assault In The Third Degree

That the defendant TIMOTHY ANDREW CLEMANS in King County, Washington, on or about January 19, 2019, did intentionally assault Michael Virgilio, a law enforcement officer or other employee of a law enforcement agency who was performing official duties at the time of the assault;

Contrary to RCW 9A.36.031(1)(g), and against the peace and dignity of the State of Washington.

DANIEL T. SATTERBERG
Prosecuting Attorney

By:

A handwritten signature in black ink, appearing to read 'R. Odegard', written over a horizontal line.

Ryan S. Odegard, WSBA #52675
Deputy Prosecuting Attorney

CAUSE NO. _____



**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**
JAN 22 2019

GENERAL OFFENSE # 2019-25444
UNIT FILE NUMBER

That Julie Wight is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case Number 2019-25444;

There is probable cause to believe that Timothy A. Clemans (DOB 07/19/90) committed the crime(s) of Investigation of Assault within the City of Seattle, County of King, State of Washington.

This belief is predicated on the following facts and circumstances:

At approximately 1849 hours, on Saturday January 19th 2019, suspect Timothy A. Clemans (DOB 07/19/90) called 911 and reported he was attempting "suicide by cop" and that he had an "airsoft gun." This incident took place in front of the Seattle Police Department West Precinct (810 Virginia St.) in the City of Seattle, County of King, State of Washington. The call history noted that Clemans "covered the tip of the airsoft gun" which in turn would make the air soft pistol appear like an actual pistol (intended to fire a bullet).

Multiple Officers responded to, and arrived on scene within a minute, and located Clemans standing directly in front of the West Precinct at the base of the stairs, on the sidewalk, holding what appeared to be a black pistol. According to Officer Passarella, Clemans was "holding the pistol waist level, pointing the muzzle of the pistol at a team of Officers standing at the West Precinct entrance" (to include victim Officer(s) J. Bedford #7789, J. Johnson #7754, J. Cruz #8605 and Sgt. S. Schenck #6918). Clemans was reported to be holding a phone in his other hand, and believed to be talking with dispatch.

In his statement, Officer Murphy reported he witnessed Clemans holding a black pistol in his hand and said Clemans was "obviously in a state of crisis" and was exclaiming "Kill me! Kill me!" Multiple Officers commanded Clemans on multiple occasions to drop the gun, but he refused. Officer Virgilio, who was working in a two-person car with Officer Beecroft, arrived on scene and noted he could hear Clemans yelling that "he wanted to die." Officer Virgilio was equipped with a less-lethal 40mm launcher (which deploys eXact iMPact 40mm blue nose impact rounds) and again advised Clemans to drop the gun; Clemans refused at which point Officer Virgilio deployed a single 40mm round which struck Clemans in the left thigh. Officer Virgilio instructed Clemans to comply with his commands to drop the gun, which he again refused to do. Officer Murphy noted "astonishingly, the impact had no effect" and that Clemans then turned and pointed his firearm at Officer Virgilio.

Officer Bedford was also equipped with a less-lethal 40mm launcher, and reportedly took up a position by the front door of the precinct. Shortly after Officer Virgilio deployed his 40mm, Officer Bedford fired a single 40mm round at Clemans, striking him in his "pelvic girdle." Officer Murphy stated "again, the round had no positive effect." Sgt. Kraus who was on scene stated "after the deployment of the blue nose, I noted that Clemans appeared to focus on the location of the less lethal Officers west of me. At that point, I observed that he began to point his handgun in the

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**

INCIDENT NUMBER 2019-25444
UNIT FILE NUMBER

direction of the less lethal Officers.” From an approximate distance of 15 feet, Sgt. Kraus reported he deployed his Taser, and that both prongs struck Clemans; one in the left hamstring area and the other on his back near the belt line. The deployment was successful, at which point Officers approached Clemans and took him into custody without further incident. It was not until Clemans was in custody, that it was confirmed the weapon he was pointing at Officers, was in fact a replica Sig Sauer BB gun. Additionally, Clemans had wrapped the end of the gun with black electrical tape, to hide the bright orange tip on the gun. The orange tip is specifically designed to make it very apparent that the gun is a replica, and not a “genuine gunpowder fired projectile weapon.” The below is a photo of the weapon recovered from Clemans.



Officer Passarella spoke with Clemans after he was taken into custody, and stated Clemans reported the following (in summary):

“he was Bipolar, and he was tired of living. He went to Dick’s Sporting Goods today, and purchased the Sig pistol with a plan to use it to provoke police officers. He wanted Police to shoot him, he was tired of being tired, and depressed. He reached out for help several times before without any results. He told his case worker he was suicidal, and his case worker didn’t believe him.”

It should be noted that over the past year, from July 16th 2018 through January 19th 2019 (most recent above incident), Clemans has been involved in ten total reported crisis/suicide incidents with the Seattle Police Department. Three of these incidents have been “suicide by cop” and have taken place in the past three months. Additionally, the SPD Crisis Response Unit are very familiar with Clemans and have concerns over his escalating behavior related to his “suicide by cop” suicidal behavior. Officer Murphy summarized his statement as follows, which seems to very clearly articulate the concern over Clemans escalating behavior.

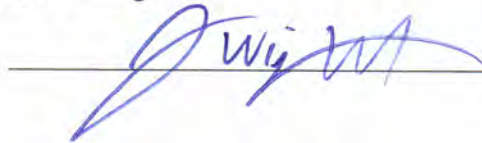
“CLEMANS has repeated his behavior, and has escalated each time, I fear that CLEMANS will eventually find a way to obtain a firearm, and attempt to harm, and, or kill Law Enforcement. I would like to urge the Seattle Law Department

**CERTIFICATION FOR DETERMINATION
OF PROBABLE CAUSE**INCIDENT NUMBER
2019-25444

UNIT FILE NUMBER

to refer this incident to Mental Health court, before CLEMANS has the opportunity to create a life ending event through his actions. In this incident, CLEMANS took a substantial step in his suicidal agenda. This time, he showed up to a Police precinct, and lured officers out to him. He then pointed the weapon at Officers, in hopes that he would be shot. Due to his escalation, it was feared that CLEMANS had learned from his past failures with a replica gun, and would utilize his modus operandi to lull officers into complacency, hoping they would believe the gun to be "fake". Only to have a "real" firearm this time, and harm an Officer. Officers on scene prepared for this scenario, treating the threat level as deadly force against them, until it was verified as a replica after the incident was concluded, and the gun was in Police custody."

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to best of my knowledge and belief. Signed and dated by me this 22nd day of January, 2019, at Seattle, Washington.



1
2 CAUSE NO. 19-1-01046-7 SEA

3 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
4 CONDITIONS OF RELEASE

5 The State incorporates by reference the Certification for Determination of Probable
6 Cause prepared by Officer Julie L Wight of the Seattle Police Department for case number 2019-
7 25444.

8 Pursuant to CrR 2.2(b)(2)(ii) the State requests bail set in the amount of \$150,000.00
9 because there is reasonable cause to believe the defendant is likely to commit a violent offense
10 The defendant does not have any criminal convictions or warrant history of which the State is
11 aware; however, the allegations in this case and the defendant's reported incident behavior over
12 the past six months give the State grave concern for safety of the community and law
13 enforcement officers should bail not be imposed.

14 The defendant has been involved in ten reported crisis/suicide incidents with SPD in the
15 last six months, three of which have been "suicide by cop" incidents in the last three months. In
16 the present case, the defendant showed up to a police station with an airsoft gun that had been
17 modified to look like an operable handgun and attempted to commit suicide by police through
18 pointing the gun at five police officers while yelling and shaking. Just before the incident, he
19 called 911 and reported he had bought an airsoft gun and was attempting "suicide by cop."

20 The incident occurred in a busy part of the city and caused civilian witnesses to fear for
21 their safety, causing at least one witness to take cover after observing the defendant with the gun.
22 Law enforcement officers responded from multiple locations and noted in their reports their
23 concerns with potential cross-fire, and attempts to avoid positions that would result in cross fire
24 lethality, endangering themselves and civilians. Reporting officers also indicated how the gun

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

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1
2 appeared real to them and that they reacted accordingly, drawing department issued lethal
3 weapons and taking cover. Two separate non-lethal 40mm rounds were used on the defendant in
4 this incident. After one was fired, he turned and aimed his gun at the officer who had fired it.
5 Eventually, a Taser was used with success to stop the defendant and he was placed into custody.

6 Signed and dated by me this 23rd day of January, 2019.

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10 Ryan S. Odegard, WSBA #52675
11 Deputy Prosecuting Attorney
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FELONY PLEA AGREEMENT

Date of Crime: January 19, 2019

Date: July 19, 2019

Defendant: TIMOTHY ANDREW CLEMANS

Cause No: 19-1-01046-7 SEA

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement **may be withdrawn at any time prior to entry of the guilty plea.**

The PLEA AGREEMENT is as follows:

On Plea To: As charged in Count(s) 1 of the ☒ original ☐ _____ amended information.

☐ **With Special Finding(s):** ☐ firearm, RCW 9.94A.533(3); ☐ deadly weapon other than firearm, RCW 9.94A.533(4); ☐ domestic violence – intimate partner, RCW 9A.36.041(4); ☐ domestic violence (other), RCW 10.99.020; ☐ sexual motivation, RCW 9.94A.533(8); ☐ other ____; for count(s): ____.

☐ This is part of an indivisible agreement that includes cause number(s): _____.

☐ **DISMISS:** Upon disposition of Count(s) ____, the State moves to dismiss: ____.

☒ **REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES:** In accordance with RCW 9.94A.530, the parties have stipulated that the following are real and material facts for purposes of this sentencing:

☒ The facts set out in the certification(s) for determination of probable cause and prosecutor's summary.

☐ The facts set forth in ☐ Appendix C; ☐ ____.

The defendant acknowledges and waives any right to have a jury determine these facts by proof beyond a reasonable doubt.

☒ **RESTITUTION:** Pursuant to RCW 9.94A.753, the defendant shall pay restitution in full to the victim(s) on charged counts and

☐ agrees to pay restitution in the specific amount of \$ ____.

☒ agrees to pay restitution TBD.

The parties agree that neither party will seek an exceptional sentence, and the defendant agrees that he or she will not request a first-time offender waiver, or a drug offender or parenting sentencing alternative.

The defendant agrees that any attempt to withdraw the defendant's guilty plea(s), or any attempt to appeal or collaterally attack any conviction or agreed sentence under this cause number or any cause number that is part of this indivisible agreement will constitute a breach of this agreement.

☒ **OTHER:** This agreement is for count 1 only. Counts 2 and 3 are being transferred to Mental Health Court. The defendant agrees to comply with all conditions of Mental Health Court.

CRIMINAL HISTORY AND OFFENDER SCORE:

a. ☒ The defendant **agrees** to this Plea Agreement and that the attached sentencing guidelines scoring form(s) (Appendix A), offender score, and the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). The State makes the sentencing recommendation set forth in the State's sentence recommendation. An essential term of this agreement is the parties' understanding of the standard sentencing range(s); if the parties are mistaken as to the offender score on any count, neither party is bound by any term of this agreement.

b. ☐ The defendant **disputes** the Prosecutor's Statement of the Defendant's Criminal History, as follows:

(1) Conviction: ____ Basis: ____

(2) Conviction: _____

Basis:

c. ☐ The defendant understands that one or more **convictions from other jurisdictions** have been included in the offender score, and agrees that these convictions have been properly included and scored according to the comparable offense definitions provided by Washington law.

Maximum on Count(s) 1 is not more than 5 years each and \$ 10,000 fine each.

Maximum on Count(s) _____ is not more than _____ years each and \$ _____ fine each.

☐ Mandatory Minimum Term(s) pursuant to RCW 9.94A.540 only:

☐ Mandatory weapon sentence enhancement for Count(s) _____ is _____ months each; for Count(s) _____ is _____ months each. This/these additional term(s) must be served consecutively to each other and to any other term and without any earned early release.

If this offense is a **felony firearm offense as defined by RCW 9.41.010** (including any felony committed while armed with a firearm, drive-by shooting, unlawful possession of a firearm, theft of a firearm, and possession of a stolen firearm), the judge may impose a requirement that I register with the sheriff in the County where I reside, for a period of four years from sentencing or from my release from confinement for this offense, whichever is later, in compliance with RCW 9.41.333. If this felony firearm offense, or an offense committed in conjunction with this offense, involved sexual motivation, was committed against a child under 18, or was a serious violent offense, the judge must impose this registration requirement. If it is later determined by the appellate courts that the facts required to order registration have not been properly established, any firearm offender registration requirement will be stricken.

The State's recommendation will increase in severity if additional criminal convictions are found or if the defendant commits any new charged or uncharged crimes, fails to appear for sentencing, or violates the conditions of release. If the defendant violates any other provision of this agreement, the State may either recommend a more severe sentence, file additional or greater charges, or re-file charges that were dismissed. The defendant waives any objection to the filing of additional or greater charges based on pre-charging or pre-trial delay, statutes of limitations, mandatory joinder requirements, or double jeopardy. This agreement does not preclude the defendant challenging whether a violation or breach of this agreement has occurred.

Felony Plea agreement (2 pages)

Cause No. 19-1-01046-7 SEA



Defendant

Deputy Prosecuting Attorney, WSBA #45636

Attorney for Defendant, WSBA# 46374

Judge, King County Superior Court

Timothy Clemans
19-1-01046-7

303

Assault Third Degree Excluding Assault 3 of a Peace Officer with a Projectile Stun Gun

RCW 9A.36.031(1)(a)-(g) & (i)-(j) CLASS C* – NONVIOLENT/CRIMES AGAINST PERSONS OFFENDER SCORING RCW 9.94A.525(7)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(8)) on or after 7/01/2006, use the General Nonviolent Offense with a Sexual Motivation Finding scoring form on page 248.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Nonviolent Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 246.

ADULT HISTORY:

Enter number of felony convictions x 1 = _____

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions x 1 = _____

Enter number of nonviolent felony dispositions x 1/2 = _____

OTHER CURRENT OFFENSES:

(Other current offenses that do not encompass the same conduct count in offender score)

Enter number of other felony convictions x 1 = _____

STATUS:

Was the offender on community custody on the date the current offense was committed? + 1 = _____

Total the last column to get the **Offender Score** (Round down to the nearest whole number)..... 0

SENTENCE RANGE

		Offender Score								
	0	1	2	3	4	5	6	7	8	9+
	2m	5m	8m	11m	14m	19.5m	25.5m	38m	50m	55.5m
LEVEL III	1 - 3	3 - 8	4 - 12	9 - 12	12+ - 16	17 - 22	22 - 29	33 - 43	43 - 57	51 - 60*

- ✓ For gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 237 for standard range adjustment.
- ✓ For deadly weapon enhancement, see page 245.
- ✓ For sentencing alternatives, see page 227.
- ✓ For community custody eligibility, see page 239.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 234.

**APPENDIX B TO PLEA AGREEMENT
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)**

DEFENDANT: TIMOTHY ANDREW CLEMANS
FBI No: 678712AF9 State ID No.: WA48030257 DOC No.:

This criminal history was compiled on: January 24, 2019

☐ None known. Recommendations and standard range assumes no prior felony convictions.

☐ Criminal history not known and not received at this time. WASIS/NCIC last received on:

Offense	Score	Disposition	Type*
218027050 06-17-2018 no contact order violation dv		King County District Court WA - other deferral	AM
216057615 11-10-2016 assault 4th dv		King County District Court WA - other deferral	AM
216057615 11-10-2016 assault 4th dv		King County District Court WA - other deferral	AM
216057615 11-10-2016 harassment dv		King County District Court WA - other deferral	AM
585344 12-09-2012 reckless driving		Seattle Municipal Court WA - other deferral	AM

Comments:

Prepared by: _____
Chantavy San

STATE'S SENTENCE RECOMMENDATION
(FELONIES COMMITTED ON OR AFTER 7/1/2000; SENTENCE OF ONE YEAR OR LESS)

Date of Crime: January 19, 2019

Date: July 19, 2019

Defendant: TIMOTHY ANDREW CLEMANS

Cause No: 19-1-01046-7 SEA

The State recommends that the defendant be sentenced to a term of confinement as follows:

 cfts *Days* on Count *Days/months* on Count ;
 Days/months on Count ; *Days/months* on Count ;

This term shall be served:

- ☒ in the King County **Jail** or if applicable under RCW 9.94A.190(3) in the Department of Corrections
☐ in King County **Work/Education Release** subject to conditions of conduct
☐ in King County **Electronic Home Detention** subject to conditions of conduct
☐ For **burglary or residential burglary** offense, before entering Electronic Home Detention, 21 days must be successfully completed in Work/Education Release (RCW 9.94A.734(2)).
with credit for time served as provided under RCW 9.94A.505. ☐ Terms to be served **concurrently/consecutively** with each other. ☐
Terms to be served **concurrently/consecutively** with: . ☐ Terms to be consecutive to any other term(s) not specifically referred to in this form.

☒ This is an agreed recommendation.

- ☐ **ALTERNATIVE CONVERSION** (RCW 9.94A.680): days of total confinement should be converted to:
☐ *Days/hours* of **community restitution** (maximum of 30 days conversion, violent offenses not eligible) to be completed ☐ on a schedule established by the community corrections officer;
☐ days in King County **Supervised Community Option (Enhanced CCAP)** (violent and sex offenses not eligible) subject to conditions of conduct.

REASONS FOR NOT RECOMMENDING NON-JAIL ALTERNATIVE SENTENCE: ☐ criminal history; ☐ failure to appear history;
☐ violent offense - not eligible; ☐ other .

☐ **EXCEPTIONAL SENTENCE**: Substantial and compelling reasons for departing from presumptive range set out in attached memo.

☐ **COMMUNITY CUSTODY**: Pursuant to RCW 9.94A.702 (9.94A.545 prior to 8/1/09), the defendant should complete 12 months of community custody as defined in RCW 9.94A.030 and the State recommends the following additional conditions:

- ☐ Obtain an alcohol/substance abuse evaluation and follow all treatment recommendations; not possess or use alcohol.
☐ Enter into, make reasonable progress in, and successfully complete Domestic Violence Batterer's treatment, per WAC 388-60.

☒ **NO CONTACT**: For the maximum term, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties, with: **Seattle Police Department Officers Justin Bedford, Jonathan Cruz, Jacob Johnson, Michael Virgilio, and Scott Schenck, and the West Precinct of the Seattle Police Department, except in their official capacity as law enforcement to report a crime.**

☐ **NO CONTACT**: For the maximum term, defendant shall have no unsupervised contact with minors.

☐ Count(s) is a **FELONY FIREARM OFFENSE** (defined by RCW 9.41.010) as to which, pursuant to RCW 9.41.330:

☐ firearm offender registration is mandatory; **or** ☐ firearm offender registration may be required and the State recommends it.

MONETARY PAYMENTS: Defendant shall make the following monetary payments pursuant to RCW 9.94A.753 and RCW 9.94A.760.
Mandatory \$500 Victim Penalty Assessment. \$100 DNA collection fee (DNA fee is mandatory unless the State has previously collected DNA as a result of a prior conviction).

- ☒ Restitution as set forth in the "Plea Agreement" page and ☐ Appendix C.
☐ Court costs; recoupment of cost for appointed counsel.

MANDATORY CONSEQUENCES: **HIV** blood testing (RCW 70.24.340) for any sex offense, prostitution related offense, or drug offense associated with needle use. **DNA** testing (RCW 43.43.754). **Revocation of right to possess a FIREARM** (RCW 9.41.040). **DRIVER'S LICENSE REVOCATION** (RCW 46.20.285; RCW 69.50.420). **REGISTRATION**: ALL persons convicted of sex offenses and some kidnap/unlawful imprisonment offenses are required to register pursuant to RCW 9A.44.130.



Eileen Alexander, WSBA#45636
Deputy Prosecuting Attorney