

1           **40. Physical Examinations**

2           All notes and records of any physical exams done on the alleged victim or anyone  
3           else in connection with this case. This includes any photographs, videos, colposcopes  
4           or recordings taken in conjunction with such exam, and any lab or toxicology reports  
5           done in conjunction with such exam. This includes all documents recording what  
6           physical evidence was taken in the case, where it was stored, and any related chain of  
7           custody documents.

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9           **41-69. REQUESTS INTENTIONALLY OMITTED**

10       **Catch-all request**

11           **70. Contacting Other Agencies**

12       Finally, the defendant requests that this Court order the prosecution to contact other agencies or  
13       agents acting on behalf of or working with the prosecution, or in any other way a part of the  
14       prosecution team, and initiated to ascertain whether any of those agencies or agents possess or  
15       know of any material information that would tend to exculpate Mr. Glover, impeach a  
16       prosecution witness, or mitigate Mr. Glover's possible punishment.

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18                               DATED 11<sup>th</sup> day of September, 2017.

19  
20   *Jennifer P. Ingelate*  
21   DISTRICT COURT JUDGE                       NL

22       Submitted by:

23       PHILIP J. KOHN  
24       CLARK COUNTY PUBLIC DEFENDER

25  
26       witness or through aid especially due to the individual's status as a "victim" then there is no  
27       provider-patient privilege as the information is being sought with the purpose to disclose to third  
28       parties. Further, under general discovery principles, anything disclosed that bears on the  
      credibility of the witness, on the credibility of any other witness, or any evidence that suggests  
      that the defendant did not commit the crime, that someone else may have perpetrated the crime,  
      or anything else relevant to discovery, then such information must be disclosed under case law  
      cited in this brief.

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2 By /s/Ryan J. Bashor  
3 RYAN J. BASHOR, #11914  
4 Deputy Public Defender  
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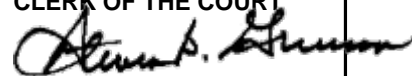
**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of the above and forgoing COURT ORDER was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 13<sup>th</sup> September, 2017

By: /s/Robert E. O'Brien - PD

An employee of the  
Clark County Public Defender's Office

Case Name: Shawn Glover  
Case No.: C-16-312448-1  
Dept. No.: IX



NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
DAVID L. STANTON  
Chief Deputy District Attorney  
Nevada Bar #003202  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-16-312448-1

SHAWN GLOVER, aka,  
Shawn Lynn Glover, Jr.,  
#1950305

DEPT NO: IX

Defendant.

STATE'S NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

TO: SHAWN GLOVER, aka, Shawn Lynn Glover, Jr., Defendant; and

TO: RYAN BASHOR, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF NEVADA intends to call the following expert witnesses in its case in chief:

**DR. DUTRA**, and/or designee; A medical doctor employed by the Clark County Coroner Medical Examiner. He will testify to all aspect of the coroner's investigation and conclusions in the death of Patrick Fleming. This will include identification, cause and manner of death. This witness will testify that the examination by the coroner's office and the autopsy in particular, evidence a clear case of homicide and not any other medical/legal means of death. Testimony will include that the injury was instantaneously incapacitating and the directionality of the projectile inside the body of Mr. Fleming. All aspects of the autopsy report and the photographs will be discussed in detail through this witness.



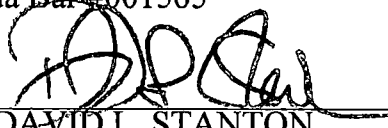
1            **DETECTIVES BEN OWENS, NLVPD #1173 and SAYOKO WILSON-FAY,**  
2 **NLVPD #1437,** They will testify to all aspects of crime scene investigation from initial  
3 observations to the memorialization process of the crime scene. Further, these witnesses will  
4 testify to the crime scene and interpreting this as a homicide and no other explanation of the  
5 cause/manner of death. Their testimony will include that no evidence of self-defense exists  
6 and evidence directly showing a murder.

7            These witnesses are in addition to those witnesses endorsed on the Information or  
8 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert  
9 Witnesses has been filed

10           The substance of each expert witness' testimony and a copy of all reports made by or  
11 at the direction of the expert witness has been provided in discovery.

12           A copy of each expert witness' curriculum vitae, if available, is attached hereto.

13           STEVEN B. WOLFSON  
14           DISTRICT ATTORNEY  
15           Nevada Bar #001565

16           BY   
17           DAVID L. STANTON  
18           Chief Deputy District Attorney  
19           Nevada Bar #003202

20           **CERTIFICATE OF SERVICE**

21           I certify that on the 9th day of November, 2017, I e-mailed a copy of the foregoing  
22 State's Notice of Expert Witnesses, to:

23           Ryan Bashor, Public Defender  
24           [bashorj@clarkcountynv.gov](mailto:bashorj@clarkcountynv.gov)

25           /s/ Stephanie Johnson

26           Employee of the District Attorney's Office

27  
28           16FN0004X/saj/MVU

## Curriculum Vitae

**Timothy Franklin Dutra, M.D., M.S., Ph.D.**

### **Current Occupation:**

Medical Examiner (Forensic Pathologist)  
Clark County Coroner's Office  
1704 Pinto Lane  
Las Vegas, NV 89106  
Tel. (702) 455-3210  
E-mail: tdutra@co.clark.nv.us

### **Personal Data:**

Languages: English & Spanish

### **Board Certifications:**

Forensic Pathology  
ABP Diplomate and certified, September 9, 2009.

Blood Banking and Transfusion Medicine  
ABP Diplomate and certified, September 9, 2005

Anatomic and Clinical Pathology  
ABP Diplomate and certified, November 11, 1998

### **Most Recent Fellowship:**

Fellowship, Forensic Pathology  
St. Louis University  
(A.C.G.M.E. accredited: 10/01/08 – 9/30/09)  
St. Louis City Medical Examiner's Office

### **Recent Colleague:**

Visiting Colleague, Forensic Pathology  
(10/05/09 – 10/31/09)  
Servicio Medico Forense  
Mexico, D.F. 06720

**Recent Teaching:**

Instructor: Physiology Laboratory  
Monterey Peninsula College  
Monterey, CA 93940

**Recent Research:**

Co-Investigator: "Marrow Tissue Cultivation ex vivo  
in vitro for Blood Cell Collection (animal cell model)"  
LABioMed Research Institute  
Torrance, CA 90502

**Previous Fellowship:**

Fellowship, Blood Bank and Transfusion Medicine  
University of Wisconsin  
(A.C.G.M.E. accredited: 08/01/04 – 07/31/05)  
University of Wisconsin Hospital  
Madison, WI 53792-2472

**Previous Pathology Practice:**

Post-Certification Pathology Practice (1999 – 2003)  
Physician Specialist, Anatomic and Clinical Pathology,  
including gross and microscopic surgical pathology,  
aspiration cytopathology and bone marrow pathology.  
Section Chief of Clinical and Special Chemistry.  
Blood Bank and Transfusion Medicine acting Chief,  
during absences of BB & TM Section Chief.  
Pathology Department  
Martin Luther King, Jr. Hospital  
Los Angeles, CA 90059

**Locum Tenens Practice:**

Locum tenens Pathology Practice (9/00, 9/01, 9/02, & 9/03)  
One month locum tenens for each of four years, as Acting Director  
for a solo practice Pathology Department, including coverage  
of surgical pathology and clinical laboratory.  
Pathology Department  
Orthopaedic Hospital  
Los Angeles, CA 90007

**Current Licensure:**

Active Status Medical Doctor, Nevada, renewal 7/1/2011  
Physician and Surgeon, California, renewal 3/2011  
Practitioner, D.E.A., U.S., renewal 7/2011

**Educational Degrees:**

University:	University of California at Berkeley, B.A. in Chemistry and Zoology, 1968
Medical School:	University of Southern California, M.D., 1972
Graduate School:	University of Southern California, M.S. in Anatomy and Cell Biology, 1986
Graduate School:	University of California at Los Angeles, Ph.D. in Anatomy and Cell Biology, 1993

**Professional Societies:**

Fellow, National Association of Medical Examiners, 2009 –  
Fellow, College of American Pathologists, 1999 –  
Fellow, American Society of Clinical Pathologists, 1999 –  
Member, American Association for the Advancement of Science, 1994 –

**Recent Meetings and Courses:**

Annual Meeting, American Society for Clinical Pathology  
San Francisco, CA, 10/27 – 10/31/10  
Interim Meeting, National Association of Medical Examiners  
Seattle, WA, 2/23/10  
Segunda Conferencia Internacional de la Medicina Forense  
Mexico City, 4/28 – 4/30/10  
Annual Meeting, National Association of Medical Examiners  
San Francisco, CA, 10/11 – 10/15/09  
Osler Anatomic Pathology Review Course  
Los Angeles, CA, 3/9 – 3/12/09  
Medicolegal Death Investigator Training Course  
St. Louis, MO, 4/17 – 4/21/09

**Professional Training/Practice Chronology:**

Internship: Cottage Hospital (Santa Barbara, CA),  
rotating internship, 1972-73

Residency: Cottage Hospital (Santa Barbara, CA),  
first year, Pathology, 1973-74

General Practice: Santa Barbara, CA, 1974-77. General admission privileges  
for Cottage and Goleta Valley Hospitals.

General Practice: King City, CA, 1977-78. General admission privileges  
for George L. Mee Memorial Hospital.

Residency: Highland/Alameda County Hospital (Oakland, CA),  
second and third years, General Surgery, 1978-80

Residency: Duke University Medical Center (Durham, NC),  
first and second years, Orthopaedics, 1980-82

Residency: Los Angeles County/U.S.C. Medical Center,  
third year, Orthopaedics, 1982-83

Graduate School: University of Southern California School of Medicine,  
Department of Anatomy and Cell Biology, 1984-86

Graduate School: University of California at Los Angeles School of Medicine,  
Department of Anatomy and Cell Biology, 1987-93

Residency: Harbor-U.C.L.A. Medical Center (Torrance, CA), second through  
fifth years, Anatomic and Clinical Pathology, 1994-9

Fellowship: Orthopaedic Hospital (Los Angeles, CA), six months of  
Fellowship, Bone and Soft Tissue Pathology, 1998-99

Pathology Practice: Los Angeles, CA, 1999-2003. Anatomic and Clinical  
Pathology privileges at King-Drew Medical Center

Fellowship: University of Wisconsin (Madison, WI), one year Fellowship,  
Blood Banking and Transfusion Medicine, 2004-05

Research Scientist: LABioMed Research Institute, 2005-07. Co-investigator:  
"Marrow stromal fibroblastic cell cultivation *in vitro* on  
de-cellularized bone marrow extracellular matrix"

Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08  
Monterey Peninsula College (Monterey, CA)

Fellowship: St. Louis City Medical Examiner's Office (St. Louis, MO),  
one year Fellowship, Forensic Pathology, 2008-09

**Teaching Experience:**

Teaching Assistant: Anatomy Dissection Laboratory, Fall semester, 1985  
University of Southern California School of Medicine

Teaching Assistant: Anatomy Dissection Laboratory, Fall semesters. 1987-88  
University of California at Los Angeles School of Medicine

Assistant Lecturer: "Head, Neck, & Dental Embryology", Fall semesters, 1990-91  
University of California at Los Angeles School of Medicine

### Teaching Experience (continued):

Staff Pathologist: Routinely presented histopathology of cases for review  
at the weekly hospital Tumor Board Conferences  
Martin Luther King, Jr. Hospital, Los Angeles, CA 1999-03

Staff Pathologist: Routinely presented histopathology case reviews at  
subspecialty surgical Resident training conferences  
King-Drew Medical Center, Los Angeles, CA 1999-2003

Lecturer: "Blood Banking and Transfusion Medicine", Winter, 2005  
University of Wisconsin School of Medical Technology

Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08  
Monterey Peninsula College

### Publications:

Dutra, T.F. and Bernard, G.W.: "Size-selective Comparison of Fetal Calvarial  
versus Adult Marrow Osteogenic Colony-forming Entities"; *Anatomical Record*;  
239: 1 – 8; 1994

Dutra, T.F. and Bernard, G.W.: "Post-fracture stimulation of in vitro osteogenesis  
is not systemic"; *International Journal of Oral Biology*; 23: 213 – 217; 1998

Dutra, T. and French, S.: "Marrow stromal fibroblastic cell cultivation in vitro on de-  
cellularized bone marrow extracellular matrix"; manuscript published in *Experimental  
and Molecular Pathology* on 9/22/2009

### Presentations:

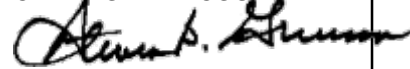
Dutra, T.F.: "Cultured Human Circulating Fibrocytes Express CD34 and Endothelial  
Markers"; Hematopoietic Stem Cell Transplantation (Sixth International Symposium);  
San Diego, CA; 4/16-4/18/98

Dutra, T.F.: "Flow Cytogenetics"; Clinical Cytogenetics Program, California State  
University at Dominguez Hills; 4/25/01

Dutra, T.F. and Graham, M.A.: Poster presentation: "Big People, Big Hearts:  
histochemical and immunohistochemical stain comparisons of hypertrophic heart  
sections from morbidly obese decedents, compared with heart sections from age  
matched controls"; 43<sup>rd</sup> Annual Meeting of the National Association of Medical  
Examiners; 9/11-9/16/09

Dutra, T.F.: "Marrow stromal fibroblastic cell cultivation in vitro on de-cellularized bone  
marrow extracellular matrix", Pathology Grand Rounds, Harbor-UCLA Medical Center,  
1/22/10

Dutra, T.F.: "La Muerte Subita", Segunda Conferencia Internacional de la Medicina  
Forense, Mexico City, 4/28/10



1 **NOTC**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 DAVID L. STANTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #003202  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 SHAWN GLOVER, aka,  
13 Shawn Lynn Glover, Jr., #1950305  
14 Defendant.

CASE NO: C-16-312448-1

DEPT NO: IX

15 **STATE'S NOTICE TO PLACE ON CALENDAR**

16 Upon the application of STEVEN B. WOLFSON, Clark County District Attorney, it is  
17 hereby requested that the above entitled matter be placed on the calendar on the 10th day of  
18 May, 2018, at 9:00 o'clock A.M. for the purpose of resetting the Jury Trial Date. David  
19 Stanton will be out of the jurisdiction from May 16, 2018 through May 21, 2018.

20 DATED this 2nd day of May, 2018.

21 STEVEN B. WOLFSON  
22 Clark County District Attorney  
23 Nevada Bar #001565

24 BY

  
25 DAVID L. STANTON  
26 Chief Deputy District Attorney  
27 Nevada Bar #003202

28 ///

///



1 CERTIFICATE OF SERVICE

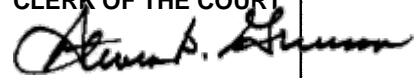
2 I certify that on the 2nd day of May, 2018, I e-mailed a copy of the foregoing State's  
3 Notice to Place on Calendar, to:

4 Ryan Bashor, Public Defender  
5 [bashorj@clarkcountynv.gov](mailto:bashorj@clarkcountynv.gov)

6 /s/ Stephanie Johnson

7 Employee of the District Attorney's Office  
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PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,  
Plaintiff,

v.

SHAWN GLOVER,  
Defendant,

CASE NO. C-16-312448-1

DEPT. NO. IX

DATE:  
TIME:

**MOTION TO STRIKE EXPERT WITNESSES**

COMES NOW, the Defendant, SHAWN GLOVER, by and through RYAN J. BASHOR, Deputy Public Defender and hereby moves this Honorable Court to strike notice of expert witnesses: Detectives Ben Owens and Sayoko Wilson-Fay.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 4<sup>th</sup> day of May, 2018.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: 

RYAN J. BASHOR, #11914  
Deputy Public Defender

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On November 9, 2017 the State filed a Notice of Expert Witnesses. Detectives Owens and Wilson-Fay were noticed in the following manner:

They will testify to all aspects of crime scene investigation from initial observations to the memorialization process of the crime scene. Further, these witnesses will testify to the crime scene and interpreting this as a homicide and no other explanation of the cause/manner of death. Their testimony will include that no evidence of self-defense exists and evidence directly showing a murder.

## ARGUMENT

These detectives do not qualify as an expert witnesses under NRS 50.275. Pursuant to NRS 50.275:

If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may testify to matters within the scope of such knowledge.

“The threshold test for the admissibility of an expert turns on whether the expert’s specialized knowledge will assist the trier of fact in understanding the evidence or issue in dispute.” *Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 243 (1998). In *Hallmark v.*

1 Eldridge, 124 Nev. 492, 498 (2008), the Nevada Supreme Court outlined specific standards to  
2 determine whether or not an individual is qualified to testify as an expert. First, he or she must be  
3 qualified in an area of “scientific, technical or other specialized knowledge. Second, his or her  
4 specialized knowledge must assist the trier of fact to understand the evidence. And lastly, his or  
5 her testimony must be limited “to matters within the scope of his or her specialized knowledge.”  
6 Id. The Hallmark court went further to consider factors such as (1) formal schooling and  
7 academic degrees, (2) licensure, (3) employment experience, and (4) practical experience to  
8 assess whether or not someone has that required specialized knowledge. Hallmark v. Eldridge,  
9 124 Nev. 492, 499 (2008).

11 These detectives are not experts in the sense of NRS 50.275 and Hallmark. Particularly,  
12 the notice includes that there is “no other explanation of the cause/manner of death.” Cause and  
13 manner are solely within the purview of a medical examiner. Elevating to a “reasonable degree  
14 of scientific certainty” to “no other explanation” is also inappropriate.

16 Most importantly, the notice indicates that their “testimony will include that no evidence  
17 of self-defense exists and evidence directly showing a murder.” This conclusion rests with the  
18 jury. Detectives cannot opine as to ultimate issues.

### 19 CONCLUSION

20 Thus, based on the foregoing, Mr. Glover respectfully requests that this Honorable Court  
21 strike Detectives Owens and Wilson-Fay as expert witnesses and limit their testimony to areas  
22 which are relevant and admissible  
23


24 //

25 //

26 //.

1  
2 DATED this 4<sup>th</sup> day of May, 2018.


3 PHILIP J. KOHN  
4 CLARK COUNTY PUBLIC DEFENDER

5  
6 By:   
7 RYAN J. BASHOR, #11914  
8 Deputy Public Defender  
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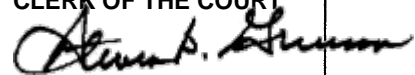
YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 15 day of May, 2018, at 9:00 a.m.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:   
 RYAN J. BASHOR, #11914  
 Deputy Public Defender

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountynyda.com on this 4th day of May, 2018.

By:   
An employee of the  
Clark County Public Defender's Office



1 PHILIP J. KOHN, PUBLIC DEFENDER  
2 NEVADA BAR NO. 0556  
3 RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
4 NEVADA BAR NO. 11914  
5 **PUBLIC DEFENDERS OFFICE**  
6 309 South Third Street, Suite 226  
7 Las Vegas, Nevada 89155  
8 Telephone: (702) 455-4685  
9 Facsimile: (702) 455-5112  
10 *Attorneys for Defendant*

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,  
10 Plaintiff,  
11 v.  
12 SHAWN GLOVER,  
13 Defendant,

CASE NO. C-16-312448-1

DEPT. NO. IX

DATE:  
TIME:

14 **MOTION TO BIFURCATE COUNT 3**

15 COMES NOW, the Defendant, SHAWN GLOVER, by and through RYAN J.  
16 BASHOR, Deputy Public Defender and hereby moves this Honorable Court to bifurcate Count  
17 3, Ownership or Possession of a Firearm by Prohibited Person from the remaining counts in the  
18 Indictment.

19 This Motion is made and based upon all the papers and pleadings on file herein,  
20 the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

21 DATED this 4<sup>th</sup> day of May, 2018.

22 PHILIP J. KOHN  
23 CLARK COUNTY PUBLIC DEFENDER

24 By:   
25 RYAN J. BASHOR, #11914  
26 Deputy Public Defender  
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It is alleged that on January 1, 2016, the defendant, Shawn Glover, shot and killed Patrick Fleming within an apartment at 4032 Smokey Fogg, Apartment No. 201, North Las Vegas, Nevada. (Count 1 – Open Murder with Use of a Deadly Weapon). It is further alleged that Mr. Glover pointed a gun at Miranda Sutton at that time and place. (Count 2 – Assault with a Deadly Weapon). It is also alleged that Mr. Glover was a felon at the time, and therefore he was illegally in possession of a firearm. (Count 3 – Ownership or Possession of a Firearm by Prohibited Person). Finally, it is alleged that Mr. Glover fired the handgun within a structure. (Count 4 – Discharge of Firearm From or Within a Structure or Vehicle).

## ARGUMENT

A criminal defendant's fundamental right to a fair trial includes the presumption of innocence. *Hightower v. State*, 154 P.3d 639 (2007); U.S.C.A. VI; XIV; Nev. Const. Art. 1, Sect. 8. Evidence that allows a jury to infer that an accused has engaged in prior criminal activities destroys this presumption.<sup>1</sup> *Manning v. Warden*, 99 Nev. 82 (1983) (citing *Chapman v. California*, 386 U.S. 18, 24 (1967)). The Court in *Brown v. State*, 114 Nev. 1118 (Nev. 1998) recognized a particular danger of prejudice in a multi-count indictment where one of the counts is a charge of possession of a firearm by an ex-felon pursuant to NRS 202.360. The Court found that, despite the recognized value of judicial economy, Nevada courts should not allow joinder when fairness is compromised:

[T]he State must generally introduce evidence of a defendant's prior felony convictions in order to establish the elements of a violation of NRS 202.360

<sup>1</sup> Admittedly, nearly a half century ago, the United States Supreme Court declined to find a Due Process violation in the introduction of a defendant's prior conviction(s) at his murder trial, where the priors were used to enhance his sentence under Texas law. *Spencer v. Texas*, 385 U.S. 554, 567-69 (1967). However, the trial court in that case instructed jurors that the prior conviction evidence could not be considered on the issue of guilt. *Id.* at 555-57. Additionally, in resolving whether the prior conviction evidence coupled with a limiting instruction implicated constitutional concerns, the *Spencer* Court noted: "... were the matter before us in a legislative or rule-making context," it "might well agree" with the suggestion of some commentators and courts that a "two stage jury trial... is probably the fairest." *Id.* at 576-68.

1 beyond a reasonable doubt. Concomitantly, the State's introduction of a  
2 defendant's prior felony convictions exposes the defendant to prejudice. We  
3 recognize that institutional values such as judicial economy, efficiency, and  
4 fairness to criminal defendants often raise competing demands. Although the  
joinder of all feasible counts in one trial no doubt maximizes scarce judicial and  
public resources, we cannot allow such joinder when fairness is compromised.

5 See *id.* at 1126. Thus, Brown laid out a bright-line rule where, in cases involving multiple  
6 counts including a count of Possession of Firearm by an Ex-Felon, this count must be severed  
7 from any other pending charges and tried separately. See *id.*

8 The rule in *Brown*, though still binding, was augmented in 2006. See *Morales v. State*,  
9 122 Nev. 966 (2006). In *Morales*, the Court modified the Brown rule to allow for bifurcation<sup>2</sup> -  
10 rather than provide completely separate trials, after *Morales* the district court could bifurcate a  
11 trial into two separate parts. In this regard, a jury is asked to deliberate the non-prejudicial  
12 component of a charged crime before being asked to deliberate -- in an immediately following  
13 proceeding -- a prejudicial element of a charged offense. For example, it is now appropriate for  
14 the Court to allow the jury to decide whether or not a defendant possessed a prohibited item  
15 before introducing evidence to prove that he satisfies the prejudicial "prohibited person"  
16 requirement.  
17

18 The Nevada Supreme Court made it clear in *Brown* and *Morales* that asking a jury to  
19 deliberate on the "possession" and "ex-felon" requirements simultaneously is unduly prejudicial  
20 to a defendant. While there are not multiple counts in this case, the rationale still applies. Mr.  
21 Sanchez would be unduly prejudiced if his prior felonies were introduced in the State's case in  
22

23 <sup>2</sup> In *Morales*, the district court ordered bifurcation of the trial so that the members of the jury would only  
24 hear and determine the separate firearms charges if they first found Morales guilty of the burglary and robbery  
25 charges implicating the use of a deadly weapon." *Id.* The Court reviewed the procedure utilized by the district court  
26 and determined that the "bifurcation procedure accomplishes the policy reflected in the prospective severance  
27 mandate declared in *Brown*. As with full severance, bifurcation prevents the State from discussing or producing  
28 proof of prior felony convictions until after the jury has deliberated on the charges that are unrelated to the  
defendant's status as an ex-felon. Bifurcation also promotes judicial economy by allowing for adjudication of all  
charges in a single trial." *Id.* Based on this rationale, the Court concluded that "the district court may resort to  
bifurcation ... rather than complete severance." *Id.*

1 chief prior to the jury determining whether he “possessed” the firearm under Nevada law. Also,  
2 the State could easily prove up the “ex-felon” prong with certified judgements of conviction after  
3 satisfying the “possession” element, if appropriate. The bifurcation would not require additional  
4 witnesses or, realistically, substantive jury deliberation. Therefore, bifurcating the charge in this  
5 manner is in the best interests of judicial economy, and preserves Mr. Glover’s constitutional  
6 right of due process under the law.  
7

### 8 CONCLUSION

9 Thus, based on the foregoing, Mr. Glover respectfully requests that this Honorable Court  
10 bifurcate the “ex-felon” element, raising the question of possession of the firearm as a predicate  
11 before a jury.  
12

13  
14 DATED this 4<sup>th</sup> day of May, 2018.

15 PHILIP J. KOHN  
16 CLARK COUNTY PUBLIC DEFENDER

17 By:   
18 RYAN J. BASHOR, #11914  
19 Deputy Public Defender  
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**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 15 day of May, 2018, at 9:00 a.m.


DATED this 4<sup>th</sup> day of May, 2018.

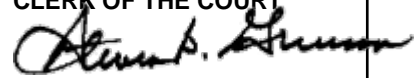
PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:   
\_\_\_\_\_  
RYAN J. BASHOR, #11914  
Deputy Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at [motions@clarkcountyda.com](mailto:motions@clarkcountyda.com) on this 4<sup>th</sup> day of May, 2018.

By:   
\_\_\_\_\_  
An employee of the  
Clark County Public Defender's Office



**NWEW**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
DAVID L. STANTON  
Chief Deputy District Attorney  
Nevada Bar #003202  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

SHAWN GLOVER, aka,  
Shawn Lynn Glover, Jr., #1950305  
Defendant.

CASE NO: C-16-312448-1  
DEPT NO: IX

**STATE'S NOTICE OF WITNESSES**  
[NRS 174.234(1)(a)]

TO: SHAWN GLOVER, aka, Shawn Lynn Glover, Jr., Defendant; and

TO: RYAN BASHOR, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

NAME

ADDRESS

CUSTODIAN OF RECORDS  
OR DESIGNEE

Clark County Coroner / Medical Examiner  
1704 Pinot Lane, Las Vegas, NV

CUSTODIAN OF RECORDS  
OR DESIGNEE

Clark County Detention Center  
330 S. Casino Center Blvd., Las Vegas, NV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Records  
400 S. Martin L. King Blvd., Las Vegas, NV

///

1 CUSTODIAN OF RECORDS  
2 OR DESIGNEE

North Las Vegas Detention Center,  
2222 Constitution Way North Las Vegas, NV

3 CUSTODIAN OF RECORDS  
4 OR DESIGNEE

NLVPD Dispatch, 1301 E. Lake Mead Blvd.  
North Las Vegas, NV

5 CUSTODIAN OF RECORDS  
6 OR DESIGNEE

NLVPD Records, 1301 E. Lake Mead Blvd.  
North Las Vegas, NV

7 DOLAN, WILLIAM

NLVPD #1491

8 EMRY, KEVIN

NLVPD #1100

9 FISCHER, PATRICK

NLVPD #1647

10 HAFEN, SCOTT

NLVPD #1023

11 HARDER (ORLANDO), RENEE

NLVPD #1694

12 HYDE, ADAM

NLVPD #1487

13 LEON, RUTH  
14 OR DESIGNEE

INVESTIGATOR  
C.C. DISTRICT ATTORNEY

15 LEWIS, VINCENT

NLVPD #1561

16 MILLER, LEONARD

NLVPD #1250

17 OWENS, BENJAMIN

NLVPD #1173

18 SUTTON, MIRANDA

C/O DISTRICT ATTORNEY'S OFFICE

19 VEASLEY, ARIRKA

4032 Smokey Fog Ave., N. Las Vegas, NV

20 WILSON-FAY, SAYOKO

NLVPD #1437

21 These witnesses are in addition to those witnesses endorsed on the Information or  
22 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert  
23 Witnesses has been filed.

24 STEVEN B. WOLFSON  
25 DISTRICT ATTORNEY  
Nevada Bar #001565

26 BY /s/ David L. Stanton  
27 DAVID L. STANTON  
Chief Deputy District Attorney  
28 Nevada Bar #003202

///

1 CERTIFICATE OF SERVICE

2 I certify that on the 20th day of July, 2018, I e-mailed a copy of the foregoing State's  
3 Notice of Witnesses, to:

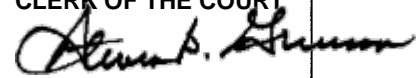
4 Ryan Bashor, Public Defender  
5 [bashorj@clarkcountynv.gov](mailto:bashorj@clarkcountynv.gov)

6 [RUANOSG@ClarkCountyNV.gov](mailto:RUANOSG@ClarkCountyNV.gov)

7  
8 /s/ Stephanie Johnson  
Employee of the District Attorney's Office

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NOTC  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
BashorRJ@clarkcountynv.gov  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-16-312448-1
	)	
v.	)	DEPT. NO. IX
	)	
SHAWN GLOVER,	)	
	)	
Defendant,	)	

**DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234**

TO: CLARK COUNTY DISTRICT ATTORNEY:

You, and each of you, will please take notice that the Defendant, SHAWN GLOVER, that in addition to any witnesses noticed by the State in any form at any time, intends to call the following witness in his case in chief:

Roger Hosford, Investigator	Clark County Public Defender's Office 309 S. Third St. Las Vegas, NV 89155
-----------------------------	--

Loren Mendoza	13801 Oxnard St. Van Nuys, CA 91364
---------------	--

Emily Reeder Mitigation Specialist	Clark County Public Defender's Office 309 S. Third St. Las Vegas, NV 89155
---------------------------------------	--

Michael Reyes	10349 Gaviota Ave. Granada Hills, CA 91344
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DATED this 23rd day of July, 2018.

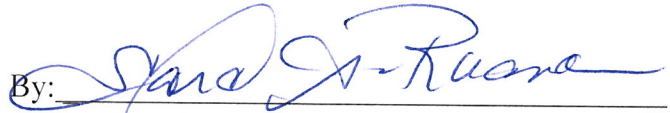
PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By: 

RYAN J. BASHOR, #11914  
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing NOTICE was served via electronic e-filing to the Clark County District Attorney's Office at [motions@clarkcountydade.com](mailto:motions@clarkcountydade.com) on this 24th day of July, 2018.

By: 

An employee of the  
Clark County Public Defender's Office

Case Name: Shawn Glover

Case No.: C-16-312448-1

Dept. No.: District Court, Department IX

ORIGINAL

1 AIND  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 DAVID STANTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #3202  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

JUL 31 2018

BY *A. Trujillo*  
ATHENA TRUJILLO, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 SHAWN GLOVER, aka  
13 Shawn Lynn Glover, Jr., #1950305

14 Defendant.

CASE NO: C-16-312448-1

DEPT NO: IX

AMENDED  
INDICTMENT

15 STATE OF NEVADA }  
16 COUNTY OF CLARK } ss.

17 The Defendant above named, SHAWN GLOVER, aka Shawn Lynn Glover, Jr.,  
18 accused by the Clark County Grand Jury of the crime(s) of MURDER WITH USE OF A  
19 DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001);  
20 ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201);  
21 DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR VEHICLE  
22 (Category B Felony - NRS 202.287 - NOC 51445) and OWNERSHIP OR POSSESSION OF  
23 FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460),  
24 committed at and within the County of Clark, State of Nevada, on or about the 1st day of  
25 January, 2016, as follows:

26 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

27 did willfully, unlawfully, feloniously and with malice aforethought, kill PATRICK  
28 FLEMING, a human being, with use of a deadly weapon, to-wit: a handgun, by shooting at

C-16-312448-1  
AIND  
Amended Indictment  
4767518



1 and into the body of the said PATRICK FLEMING, the said killing having been willful,  
2 deliberate and premeditated.

3 COUNT 2 - ASSAULT WITH A DEADLY WEAPON

4 did willfully, unlawfully, feloniously and intentionally place another person in  
5 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully  
6 attempt to use physical force against another person, to-wit: MIRANDA SUTTON, with use  
7 of a deadly weapon, to-wit: a handgun, by pointing said handgun at the said MIRANDA  
8 SUTTON.

9 COUNT 3 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR  
10 VEHICLE

11 did willfully, unlawfully, maliciously, and feloniously, while in, on or under a structure,  
12 located at 4032 Smokey Fogg, Apartment No. 201, North Las Vegas, discharge a firearm  
13 within or from the structure, while being within an area designated by a City or County  
14 Ordinance as a populated area for the purpose of prohibiting the discharge of weapons.

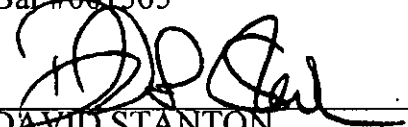
15 COUNT 4 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

16 did willfully, unlawfully, and feloniously own, or have in his possession and/or under  
17 his custody or control, a firearm, to-wit: a handgun, the defendant being a convicted felon,  
18 having in 2012, been convicted of Voluntary Manslaughter With Use of a Deadly Weapon, in  
19 Case No. C211880, in the Eighth Judicial District Court, Clark County, a felony under the  
20 laws of the State of Nevada.

21 DATED this \_\_\_\_ day of July, 2018.

22 STEVEN B. WOLFSON  
23 Clark County District Attorney  
24 Nevada Bar #001565

25 BY

26   
27 DAVID STANTON  
28 Chief Deputy District Attorney  
Nevada Bar #3202

Names of witnesses testifying before the Grand Jury:

SUTTON, MIRANDA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

VEASLEY, ARIRKA, 4032 SMOKEY FOG AVE., NLV, NV

WILSON-FAY, SAYOKO, NLVPD P#1437

Additional witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, NLVPD DISPATCH

CUSTODIAN OF RECORDS, NLVPD RECORDS

15BGJ035X/16FN0004X/dd-GJ  
NLVPD EV#1600031  
(TK)

JUL 31 2018

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

BY A. Trujillo  
ATHENA TRUJILLO, DEPUTY

State of Nevada

Plaintiff(s),

CASE NO. C312448-1

-vs-

Shawn Glover

Defendant(s).

DEPT. NO. 9

JURY LIST

- |                         |                     |
|-------------------------|---------------------|
| 1. Aziyel Madrigal      | 8. Stephanie Mazzei |
| 2. John Graber          | 9. Diane Morgan     |
| 3. Morgan Dwinell       | 10. Susan Gevers    |
| 4. Christopher Stettler | 11. Robert Chiesi   |
| 5. Nancy Cardoza        | 12. Nicole Williams |
| 6. Miles Vinluan        | 13. Mario Reyna     |
| 7. Victoria Farfan      | 14. Matthew Jones   |

ALTERNATES (SECRET FROM ABOVE)





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SHAWN GLOVER, ) No. 77425  
)  
)  
Appellant, )  
)  
)  
v. )  
)  
)  
THE STATE OF NEVADA, )  
)  
)  
Respondent. )  
\_\_\_\_\_)

<b>DARIN IMLAY</b> Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610  Attorney for Appellant	<b>STEVE WOLFSON</b> Clark County District Attorney 200 Lewis Avenue, 3 <sup>rd</sup> Floor Las Vegas, Nevada 89155  <b>AARON FORD</b> Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538  Counsel for Respondent
--	--

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 17 day of April 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

BY /s/Rachel Howard  
Employee, Clark County Public Defender's Office

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Respondent.

Electronically Filed  
Apr 17 2019 04:50 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX VOLUME I PAGES 001-217**

## Counsel for Respondent

**INDEX**  
**SHAWN GLOVER**  
**Case No. 77425**

**PAGE NO.**

1		
2		
3	Amended Indictment filed 07/31/18.....	214-216
4	Defendant's Notice of Witnesses filed 07/24/18.....	211-213
5	Defendant's Sentencing Memorandum	
6	Date of Hrg: 10/10/18.....	261-304
7	District Court Minutes from 02/04/16 through 10/10/18 .....	311-335
8	Indictment filed 02/04/16 .....	1-3
9	Indictment Warrant filed 02/04/16 .....	4-5
10	Indictment Warrant Return filed 02/08/16 .....	6-8
11	Judgment of Conviction (Jury Trial) filed 10/15/18.....	305-306
12	Jury List filed 07/31/18.....	217
13	Instructions to the Jury filed 08/03/18.....	218-256
14	Media Request and Order Allowing Camera	
15	Access to Court Proceedings filed 02/17/16.....	103-104
16	Motion to Compel Production of Discovery & Brady Material	
17	Date of Hrg: 06/07/17 .....	120-155
18	Motion to Continue Trial Date	
19	Date of Hrg: 11/02/16.....	117-119
20	Motion for Setting of Reasonable Bail	
21	Date of Hrg: 05/23/16.....	111-113
22	Motion to Bifurcate Count 3	
23	Date of Hrg: 05/15/18.....	203-207
24	Motion to Strike Expert Witnesses filed 05/04/18 .....	198-202
25	Motion to Withdraw as Counsel filed 04/07/16 .....	107-110
26	Notice of Appeal filed 11/08/18 .....	307-310
27	Notice of Department Reassignment filed 07/12/17 .....	172-173
28	Order filed 09/13/17 .....	176-188
	Order for Production and Release of CPS/DFS Records filed 08/22/17 .....	174-175
	State's Notice of Expert Witnesses filed 11/09/17 .....	189-195
	State's Notice of Witnesses filed 07/20/18.....	208-210

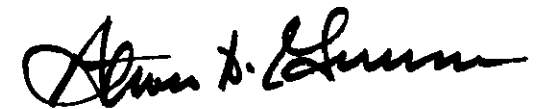
1	State's Notice to Place on Calendar filed 05/03/18.....	196-197
2	State's Opposition to Defendant's Motion to Compel Production of Discovery & Brady Material	
3	Date of Hrg: 05/31/17.....	156-171
4	State's Opposition to Defendant's Motion for Setting of Reasonable Bail	
5	Date of Hrg: 05/23/16.....	114-116
6	Stipulation and Order filed 08/30/18.....	259-260
7	Substitution of Counsel filed 03/04/16.....	105-106
8	Verdict filed 08/03/18.....	257-258

### **TRANSCRIPTS**

10	Recorder's Transcript <b>JURY TRIAL DAY 1</b>	
11	Date of Hrg: 07/30/18.....	435-629
12	Recorder's Transcript <b>JURY TRIAL DAY 2</b>	
13	Date of Hrg: 07/31/18.....	630-747
14	Recorder's Transcript <b>JURY TRIAL DAY 3</b>	
15	Date of Hrg: 08/01/18.....	748-925
16	Recorder's Transcript <b>JURY TRIAL DAY 4</b>	
17	Date of Hrg: 08/02/18.....	926-995
18	Recorder's Transcript <b>JURY TRIAL DAY 5</b>	
19	Date of Hrg: 08/03/18.....	996-1047
20	Recorder's Transcript Calendar Call	
21	Date of Hrg: 05/10/18.....	412-416
22	Recorder's Transcript Calendar Call; Defendant's Motion to Bifurcate Count 3;	
23	Defendant's Motion to Strike Expert Witness	
24	Date of Hrg: 06/28/18.....	417-423
25	Recorder's Transcript Defendant's Motion to Strike Expert Witnesses; Calendar Call	
26	Date of Hrg: 07/19/18.....	424-428
27	Recorder's Transcript Defendant's Motion to Strike Expert Witnesses; Calendar Call	
28	Date of Hrg: 07/26/18.....	429-434

1	Recorder's Transcript	
2	Defendant's Motion for Setting of Reasonable Bail	
	Date of Hrg: 05/23/16.....	349-352
3	Recorder's Transcript	
4	Defendant's Motion to Compel Production of Discovery & Brady Material	
	Date of Hrg: 05/31/17.....	356-358
5	Recorder's Transcript	
6	Defendant's Motion to Compel Production of Discovery &	
	Brady Material and Status Check: Murder Team Assignment	
	Date of Hrg: 07/11/17.....	359-361
7	Recorder's Transcript	
8	Defendant's Motion to Compel Production of Discovery &	
	Brady Material; Status Check: Trial Setting	
9	Date of Hrg: 07/18/17.....	362-394
10	Recorder's Transcript	
11	Defendant's Motion to Compel Production of Discovery &	
	Brady Material; Status Check: Trial Readiness	
	Date of Hrg: 08/29/17.....	395-397
12	Recorder's Transcript	
13	Defendant's Motion to Continue Trial	
	Date of Hrg: 11/02/16.....	353-355
14	Recorder's Transcript	
15	Grand Jury Indictment	
	Date of Hrg: 02/04/16.....	336-339
16	Recorder's Transcript	
17	Initial Arraignment	
	Date of Hrg: 02/08/16.....	340-342
18	Recorder's Transcript	
19	Jess R. Marchese, Esq.'s Motion to Withdraw as Counsel	
	Date of Hrg: 04/18/16.....	343-345
20	Recorder's Transcript	
21	Sentencing	
	Date of Hrg: 10/10/18.....	1048-1067
22	Recorder's Transcript	
23	Status Check: Trial Readiness	
	Date of Hrg: 04/25/16.....	346-348
24	Recorder's Transcript	
25	Status Check: Trial Readiness	
	Date of Hrg: 10/10/17.....	398-403
26	Recorder's Transcript	
27	Status Check: Trial Readiness/Record of Offer	
	Date of Hrg: 11/09/17.....	404-407
28		

1	Recorder's Transcript	
	Status Check: Trial Readiness/Record of Offer	
2	Date of Hrg: 11/14/17 .....	408-411
3	Reporter's Transcript	
	Grand Jury	
4	Date of Hrg: 02/03/16 .....	9-102
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CLERK OF THE COURT

1 **IND**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 DAVID STANTON  
6 Chief Deputy District Attorney  
7 Nevada Bar #3202  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-16-312448-1

11 -vs-

DEPT NO: VIII

12 SHAWN GLOVER, aka  
13 Shawn Lynn Glover, Jr., #1950305

14 Defendant.

INDICTMENT

15 STATE OF NEVADA )  
16 COUNTY OF CLARK ) ss.

17 The Defendant above named, SHAWN GLOVER, aka Shawn Lynn Glover, Jr.,  
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20 ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201);  
21 OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B  
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23 A STRUCTURE OR VEHICLE (Category B Felony - NRS 202.287 - NOC 51445),  
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3 COUNT 2 - ASSAULT WITH A DEADLY WEAPON

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6 attempt to use physical force against another person, to-wit: MIRANDA SUTTON, with use  
7 of a deadly weapon, to-wit: a handgun, by pointing said handgun at the said MIRANDA  
8 SUTTON.

9 COUNT 3 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

10 did willfully, unlawfully, and feloniously own, or have in his possession and/or under  
11 his custody or control, a firearm, to-wit: a handgun, the defendant being a convicted felon,  
12 having in 2012, been convicted of Voluntary Manslaughter With Use of a Deadly Weapon, in  
13 Case No. C211880, in the Eighth Judicial District Court, Clark County, a felony under the  
14 laws of the State of Nevada.

15 COUNT 4 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR  
16 VEHICLE

17 did willfully, unlawfully, maliciously, and feloniously, while in, on or under a structure,  
18 located at 4032 Smokey Fogg, Apartment No. 201, North Las Vegas, discharge a firearm  
19 within or from the structure, while being within an area designated by a City or County  
20 Ordinance as a populated area for the purpose of prohibiting the discharge of weapons.

21 DATED this 3<sup>rd</sup> day of February, 2016.

22 STEVEN B. WOLFSON  
23 Clark County District Attorney  
24 Nevada Bar #001565

25 BY

26 DAVID STANTON 13019 for  
27 Chief Deputy District Attorney  
28 Nevada Bar #3202

27 ENDORSEMENT: A True Bill

28 Foreperson, Clark County Grand Jury



Names of witnesses testifying before the Grand Jury:

SUTTON, MIRANDA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

VEASLEY, ARIRKA, 4032 SMOKEY FOG AVE., NLV, NV

WILSON-FAY, SAYOKO, NLVPD P#1437

Additional witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, NLVPD DISPATCH

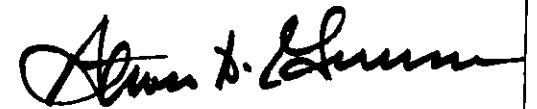
CUSTODIAN OF RECORDS, NLVPD RECORDS

15BGJ035X/16FN0004X/dd-GJ  
NLVPD EV#1600031  
(TK)

WARR

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02/04/2016 12:15:43 PM

DISTRICT COURT  
CLARK COUNTY, NEVADA



CLERK OF THE COURT

THE STATE OF NEVADA,  
Plaintiff,

-vs-

SHAWN GLOVER  
ID#1950305

Defendant.

CASE NO: C-16- 312448-1  
DEPT NO: VIII

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 4th day of February, 2016, in the above entitled Court, charging Defendant SHAWN GLOVER, above named, with the crime(s) of: (1) CT - MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); (1) CT - ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); (1) CT - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460) and (1) CT - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR VEHICLE (Category B Felony - NRS 202.287 - NOC 51445).

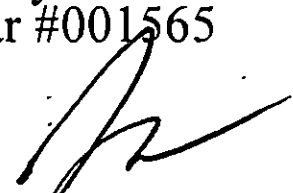
**YOU ARE, THEREFORE, COMMANDED** forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$ 1,060,000.00.

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night

GIVEN under my hand this 4th day of February, 2016.

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY

  
DAVID STANTON  
Chief Deputy District Attorney  
Nevada Bar #3202

  
DISTRICT JUDGE  
DAVID BARKER  
BAIL \$ 1,060,000.00

DA# 15BGJ035X/16FN0004X/dd-GJ  
NLVPD EV#1600031  
5/12/1986; BMA; SS#: 530-19-6207;  
(TK)

RET  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
DAVID STANTON  
Chief Deputy District Attorney  
Nevada Bar #3202  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SHAWN GLOVER,  
ID#1950305

Defendant.

CASE NO:  
DEPT NO:

C-16-312448-1  
VIII

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 4th day of February, 2016, in the above entitled Court, charging Defendant SHAWN GLOVER, above named, with the crime(s) of: (1) CT - MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001); (1) CT - ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); (1) CT - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460) and (1) CT - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR VEHICLE (Category B Felony - NRS 202.287 - NOC 51445), and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the \_\_\_\_ day of \_\_\_\_\_ 2016.

JOE LOMBARDO,  
Clark County, Nevada

BY \_\_\_\_\_  
Deputy

RET

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
DAVID STANTON  
Chief Deputy District Attorney  
Nevada Bar #3202  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

FILED

2016 FEB -8 A 11:20

*[Signature]*  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-16-312448-1  
IWR  
Indictment Warrant Return  
4521968



THE STATE OF NEVADA,

Plaintiff,

-vs-

SHAWN GLOVER,  
ID#1950305

Defendant.

CASE NO:  
DEPT NO:

C-16-312448-1  
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JOE LOMBARDO,  
Clark County, Nevada

BY

Deputy

*[Signature]* 5162

RECEIVED

FEB 08 2016

CLERK OF THE COURT

☐ JUVENILE ☐ DNA SAMPLE TAKEN ☒ DNA NOT REQ'D  
CO. SGT APPROVAL  
☒ REBOOK ☐ ABSENTIA ☐ FORM 6 ☐ NDOC ☐ EXT TO LAS VEGAS ☐ LVC ☐ HND ☐ NLV ☐ COURTESY HOLD ☐ DETAINER  
\*CO-DEF:   
\*EVENT #:

\*INTAKE NAME (AKA, ALIAS, ETC.) LAST FIRST MIDDLE TRUE NAME LAST FIRST MIDDLE  
GLOVER SHAWN SHAWN LYNN

\*HOME ADDRESS (STREET # AND STREET NAME) BLDG/APT # \*CITY STATE ZIP \*PLACE OF BIRTH  
4032 SMOKEY FOG 201 LV NV 89081 LAS VEGAS, NV  
\*DATE OF BIRTH 5/12/1986 \*RACE B \*ETHNIC M \*SEX M \*HEIGHT 5'07" \*WEIGHT 150 \*HAIR BLK \*EYES BRO \*SOCIAL SECURITY # 530-19-6207 \*CITIZENSHIP USA \*ALIEN REGISTRATION #  
\*LOCATION OF CRIME (STREET ADDRESS, CITY, STATE, ZIP) CC CC LV \*LOCATION OF ARREST (STREET ADDRESS, CITY, STATE, ZIP) CCDC

*ARR **	TYPE	LV	JC	DC	OTR	*WARRANT # / CASE #	*# COUNTS	*NOC CODE	M	GM	F	*CHARGE LITERAL	*ORD / NRS	*BAIL	*EVENT# / NIC#
GJI	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	C-16-312448-1	1	50001	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OPEN MURDER, E/DW	200.010	0	
GJI	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	C-16-312448-1	1	50201	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ASSAULT, W/DW	200.471	0	
GJI	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	C-16-312448-1	1	51460	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OWN/POSS GUN BY PROHIBIT PERS	202.360	0	
GJI	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	C-16-312448-1	1	51445	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DISCHG GUN W/ STRUCTIVEH W/ PROHIBIT A	202.287	0	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	TB 1,060,000.00			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	TAPP 2-8-2016 @0800 DC VIII			

\*OTHER JURISDICTION: PC - PROBABLE CAUSE BS - BONDSMAN SURRENDER BW - BENCH WARRANT AW - ARREST WARRANT RM - REMAND GJI - GRAND JURY INDICTMENT

TIME STAMP AT BOOKING  
ARRESTING OFFICER SIGNATURE *[Signature]* PRINTED NAME *C. Monk* P# *5162* AGENCY *LVMPD* \*SECTOR/BEAT OF ARREST  
\*TRANSPORTING OFFICER SIGNATURE PRINTED NAME P# AGENCY  
\*EMERGENCY CONTACT NAME  
\*RELATIONSHIP NAME  
\*PHONE NUMBER POSITION  
\*EMAIL ADDRESS AGENCY  
P# *0992855*  
DOC DIST P#  
P#  
REL REV P#

PID: 1:1 RT LT RI LI SCORE: 1:1N RT LT RI LI SCORE:  
☐ POLICE RECORDS COPY ☐ COURTS COPY ☐ DSD RECORDS COPY ☐ PROCESSING COPY  
TIME STAMP AT RELEASING

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DISTRICT COURT  
CLARK COUNTY, NEVADA

  
CLERK OF THE COURT

THE STATE OF NEVADA,

Plaintiff,

-vs-

SHAWN GLOVER  
ID#1950305

Defendant.

CASE NO: C-16-312448-1  
DEPT NO: VIII

WARRANT FOR ARREST

INDICTMENT WARRANT

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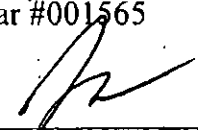
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GIVEN under my hand this 4th day of February, 2016.

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

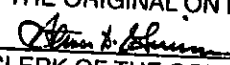
BY

  
DAVID STANTON  
Chief Deputy District Attorney  
Nevada Bar #3202

  
DISTRICT JUDGE  
DAVID BARKER  
BAIL \$ 1,060,000.-

DA# 15BGJ035X/16FN0004X/dd-GJ  
NLVPD EV#1600031  
5/12/1986; BMA; SS#: 530-19-6207;  
(TK)

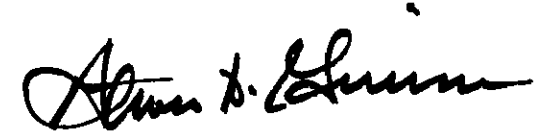
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DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

  
CLERK OF THE COURT

FEB 04 2016

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA



CLERK OF THE COURT

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
vs. ) GJ No. 15BGJ035X  
 ) DC No. C312448  
SHAWN GLOVER, aka Shawn Lynn )  
Glover, Jr., )  
 )  
Defendant. )  
 )

Taken at Las Vegas, Nevada

Wednesday, February 3, 2016

10:35 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

12:00 1 GRAND JURORS PRESENT ON FEBRUARY 3, 2016

2

3 APRIL SANSON, Foreperson

4 CRYSTAL HALL, Deputy Foreperson

12:00 5 ACACIA GUTIERREZ, Secretary

6 PAUL KRAIG, Assistant Secretary

7 CARRIE BIELAK

8 MARC CAREY

9 JEAN DANGLER

12:00 10 FRANCESCA GREEN

11 ELIZABETH HARWELL

12 CHRISTINA HERN

13 JOSEPH HUWYLER

14 WILLIAM LABIE

12:00 15 JEREMY LARSON

16 THOMAS RESHA

17 ANGELA SHARRON

18

19 Also present at the request of the Grand Jury:

12:00 20 William Flinn, Deputy District Attorney

21

22

23

24

25



12:00

1

INDEX OF WITNESSES

2

Examined

3

4

MIRANDA SUTTON

8

12:00

5

AKIRA VEASLEY

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SAYOKO WILSON

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12:00	1	<u>INDEX OF EXHIBITS</u>	
	2		
	3	<u>Grand Jury Exhibits</u>	<u>Identified</u>
	4	1 - PROPOSED INDICTMENT	6
12:00	5	2 - PHOTOGRAPH	9
	6	3 - PHOTOGRAPH	10
	7	4 - PHOTOGRAPH	10
	8	5 - PHOTOGRAPH	27
	9	6 - PHOTOGRAPH	48
12:00	10	7 - PHOTOGRAPH	47
	11	8 - PHOTOGRAPH	48
	12	9 - PHOTOGRAPH	50
	13	10 - PHOTOGRAPH	53
	14	11 - PHOTOGRAPH	55
12:00	15	12 - PHOTOGRAPH	55
	16	13 - PHOTOGRAPH	56
	17	14 - PHOTOGRAPH	57
	18	15 - PHOTOGRAPH	60
	19	16 - PHOTOGRAPH	61
12:00	20	17 - PHOTOGRAPH	62
	21	18 - PHOTOGRAPH	62
	22	19 - PHOTO OF X-RAY	60
	23	20 - JUDGMENT OF CONVICTION	67
	24		
	25		

12:00 1 LAS VEGAS, NEVADA, FEBRUARY 3, 2016

2 \* \* \* \* \*

3

4 DANETTE L. ANTONACCI,

12:00 5 having been first duly sworn to faithfully  
6 and accurately transcribe the following  
7 proceedings to the best of her ability.  
8

9 MR. FLINN: Good morning ladies and  
10:35 10 gentlemen of the Grand Jury. I am deputy district  
11 attorney William Flinn of the Clark County District  
12 Attorney's Office. I will be presenting Grand Jury case  
13 number 15BGJ035X, State of Nevada versus Shawn Glover.  
14 The defendant in this case is charged with the following  
10:35 15 crimes: Count 1, murder with use of a deadly weapon,  
16 alleging that the defendant did willfully, unlawfully,  
17 feloniously and with malice aforethought, kill Patrick  
18 Fleming, with use of a deadly weapon, a handgun, by  
19 shooting at and into the body of Patrick Fleming, the  
10:35 20 killing having been willful, deliberate and  
21 premeditated. Count 2, assault with a deadly weapon.  
22 That the defendant did willfully, unlawfully,  
23 feloniously and intentionally place another person,  
24 Miranda Sutton, in reasonable apprehension of immediate  
10:36 25 bodily harm and/or did willfully and unlawfully attempt

10:36 1 to use physical force against Miranda Sutton with use of  
2 a deadly weapon, specifically a handgun, by pointing  
3 said handgun at Miranda Sutton. Count 3, ownership or  
4 possession of firearm by prohibited person. That the  
10:36 5 defendant did willfully, unlawfully and feloniously own,  
6 or have in his possession and/or under his control,  
7 custody or control, a firearm, to-wit: a handgun, the  
8 defendant having been convicted of a felony in 2012,  
9 specifically a voluntary manslaughter with use of a  
10:36 10 deadly weapon, in case number C211880, in the Eighth  
11 Judicial District Court, Clark County, a felony under  
12 the state laws of Nevada. And Count 4, discharge of  
13 firearm from or within a structure or vehicle. That the  
14 defendant did willfully, unlawfully, maliciously, and  
10:37 15 feloniously, while in, on or under a structure, located  
16 at 4032 Smokey Fogg, Apartment 201, North Las Vegas,  
17 discharge a firearm within or from the structure, while  
18 being within an area designated by a city or a county  
19 ordinance as a populated area for the purpose of  
10:37 20 prohibiting the discharge of weapons.

21 The record will reflect that a copy of the  
22 proposed Indictment has been marked as Exhibit 1.

23 With the Grand Jury's permission I will  
24 begin my presentation of evidence. My first witness is  
10:37 25 Miranda Sutton.

10:38 1 THE FOREPERSON: Please remain standing and  
2 raise your right hand.

3 You do solemnly swear the testimony you are  
4 about to give upon the investigation now pending before  
10:39 5 this Grand Jury shall be the truth, the whole truth, and  
6 nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE FOREPERSON: Please be seated.

9 You are advised that you are here today to  
10:39 10 give testimony in the investigation pertaining to the  
11 offenses of murder with use of a deadly weapon, assault  
12 with a deadly weapon, ownership or possession of firearm  
13 by prohibited person, and discharge of firearm from or  
14 within a structure or vehicle, involving Shawn Glover.

10:39 15 Do you understand this advisement?

16 THE WITNESS: I can't hear.

17 THE FOREPERSON: Let me repeat it. Can you  
18 hear me okay?

19 THE WITNESS: I can hear you better.

10:39 20 THE FOREPERSON: Okay.

21 You are advised that you are here today to  
22 give testimony in the investigation pertaining to the  
23 offenses of murder with use of a deadly weapon, assault  
24 with a deadly weapon, ownership or possession of firearm  
10:39 25 by prohibited person, discharge of firearm from or

10:39 1 within a structure or vehicle, involving Shawn Glover.

2 Do you understand this advisement?

3 THE WITNESS: Yes.

4 THE FOREPERSON: Please state your first

10:40 5 and last name and spell both for the record.

6 THE WITNESS: Miranda Sutton.

7 M-I-R-A-N-D-A, S-U-T-T-O-N.

8 THE FOREPERSON: Thank you.

9 MIRANDA SUTTON,

10:40 10 having been first duly sworn by the Foreperson of the  
11 Grand Jury to testify to the truth, the whole truth,  
12 and nothing but the truth, testified as follows:

13

14 EXAMINATION

10:40 15

16 BY MR. FLINN:

17 Q. Miranda, I want to direct your attention to  
18 January 1st, 2016, this year. Can you hear me okay?

19 A. Yes.

10:40 20 Q. If you can't hear me at any time just  
21 please stop me and tell me and I'll speak up and make  
22 sure that you can hear. Okay?

23 A. Okay.

24 Q. On that day, January 1st, where were you

10:40 25 living at that time?

10:40 1 A. We were staying with my daughter Angela at  
2 4032 Smokey Fogg Avenue.

3 Q. Is there a apartment or unit number?

4 A. 201.

10:40 5 Q. And that's in North Las Vegas, Clark  
6 County?

7 A. Yes.

8 Q. Now you said -- is that a house?

9 A. It's a townhouse.

10:41 10 Q. Okay. So it's its own unit but attached to  
11 others?

12 A. Yes. Yes.

13 Q. And in this house, I want to explain, have  
14 you explain to the ladies and gentlemen of the Grand  
10:41 15 Jury a little bit about the layout of the house. So the  
16 first thing.

17 So showing you Exhibit 2. And I'll stand  
18 out of the way.

19 A. That's the front of the townhouse if you  
10:41 20 were standing in front of it.

21 Q. So on the left side of the picture, what  
22 are the ladies and gentlemen looking at there?

23 A. The garage.

24 Q. So that's the entrance to the garage?

10:41 25 A. Yes.

10:41 1 Q. And the unit is on this side of the  
2 building?

3 A. Yes.

4 Q. Now showing you Exhibit 3.

10:42 5 A. That's the front entrance of the townhouse.

6 Q. So next to these numbers there, that's the  
7 front door?

8 A. Yes.

9 Q. And showing you Exhibit 4.

10:42 10 A. That's the garage door.

11 Q. So that's inside the garage but the door to  
12 the actual townhouse from within the garage?

13 A. Yes.

14 Q. Could you explain a little bit, when you  
10:42 15 come in that, if you were to go in that garage door or  
16 the door to the townhouse from within the garage, what  
17 space is there on the other side of that door?

18 A. It's the little landing from the front door  
19 entrance.

10:42 20 Q. So it's a landing. And when you say a  
21 landing you mean a space before stairs?

22 A. Right.

23 Q. Now the front door and that door from  
24 within the garage, do they both go to that same landing?

10:43 25 A. Yes, it does.



10:43 1 Q. So there's no other space other than the  
2 landing if you were to walk in right there as we're  
3 looking at in that exhibit?

4 A. Right.

10:43 5 Q. So you walk in, there's a landing and then  
6 there's stairs?

7 A. Right.

8 Q. And the stairs go up into the rest of the  
9 town home?

10:43 10 A. It's a flight of stairs that goes straight  
11 up and there's another little landing and then there's  
12 another flight of stairs that go up.

13 Q. If I were to walk all the way up those  
14 stairs, what do I find? What's the general layout of  
10:43 15 the house once I get to the top of the stairs?

16 A. You'll step into the dining room. Right  
17 above that is the living room. Right here to the left  
18 is the kitchen. Then you have Angela's master bedroom  
19 and you have the boys' room on the opposite side.

10:43 20 Q. And I'll ask you to, I'll have you clarify  
21 who's who in just a minute. But you said you walk up  
22 there, at the top of the stairs there's the dining room,  
23 you said up above is the living room. Is it like risen  
24 up a little bit?

10:44 25 A. It's just one big room that's kind of

10:44 1 separated.

2 Q. So if I were to just keep walking through  
3 the dining room I would get to that living room?

4 A. Straight into the living room.

10:44 5 Q. But if I look off to my left, then that's  
6 the other rooms you were talking about?

7 A. Yes.

8 Q. Now whose house is this?

9 A. Angela, my daughter.

10:44 10 Q. So Angela is your daughter and this was her  
11 town home?

12 A. Yes.

13 Q. Who else was living there at that time?

14 A. Myself, my husband Patrick, 21 year old

10:44 15 daughter, Angela, we have twins, Michael and Jordan, and  
16 I have three grand babies there.

17 Q. You said that was Angela's house. Was any  
18 other -- do you have another adult daughter that was  
19 living there?

10:44 20 A. No. It was Angela's house but Akira, she's  
21 21, she came with us.

22 Q. So Akira was staying with you there as  
23 well?

24 A. Uh-huh.

10:45 25 Q. So the adults, you have Angela, you, your

10:45 1 husband Patrick -- and what's Patrick's last name?

2 A. Fleming.

3 Q. Patrick Fleming. And your other daughter  
4 Akira.

10:45 5 A. Uh-huh.

6 Q. And, I'm sorry, was there somebody else?

7 A. Shawn.

8 Q. Shawn. Who is Shawn in relationship to  
9 everyone?

10:45 10 A. He's the father of my grandchild.  
11 Angela's, he's Angela boyfriend.

12 Q. So of Angela's child, Angela's boyfriend  
13 Shawn?

14 A. Yes.

10:45 15 Q. What's Shawn's last name?

16 A. Glover.

17 Q. So Shawn Glover. So he and Angela, that's  
18 Angela's house, he's staying there on account of Angela  
19 and their child, and then you, your husband and your  
10:45 20 other daughter Akira are staying at that house.

21 A. Uh-huh.

22 Q. And then there's some small children there  
23 staying.

24 A. Yes.

10:45 25 Q. And this is all as of January 1st of this

10:46 1 year, that's kind of the set up of the house, right?

2 A. Yes.

3 Q. Now on that particular day, did there come  
4 a point where Patrick was gone but then returned to the  
10:46 5 house?

6 A. Yes. Angela had to be at work at  
7 10 o'clock so he went to drop her off. I believe he  
8 picked up his check and he returned.

9 Q. So he returned to the house. And so he's  
10:46 10 by himself at this time but now Angela is at work?

11 A. Right.

12 Q. Presumably. She's not there?

13 A. Right.

14 Q. So the people at the house are you,

10:46 15 Patrick --

16 A. Akira, Shawn and the kids.

17 Q. Shawn and the small kids?

18 A. Yes.

19 Q. Did anything happen in particular when

10:46 20 Patrick came home as far as did he have, did an argument  
21 develop?

22 A. There was an argument that developed  
23 between Patrick and Akira and myself.

24 Q. And so what were you guys arguing about?

10:47 25 A. Akira had wanted to go out the day before,

10:47 1 it was New Year's Eve, with her boyfriend, and Patrick  
2 said that she couldn't go out and he didn't want the guy  
3 in his car. And I kind of calmed him down and told him,  
4 you know, she's 21, let her go out and have fun, and he  
10:47 5 just said that he wanted her back by 11:30. She called  
6 from the theater saying that she wasn't going to be able  
7 to watch the movie or it started at a certain time, and  
8 I guess her friend walked her out to the car and got  
9 into the car with her. Patrick said that he had someone  
10:47 10 following her and watching her and he had a videotape of  
11 it and he wanted her to go downstairs with him to see  
12 what was on the video.

13 Q. So this is back at the house. About what  
14 time of the day is this? Is it still morning or  
10:48 15 afternoon?

16 A. It's mid afternoon. It's about  
17 11:30 almost.

18 Q. So just before afternoon, just before noon?

19 A. Yes, right before afternoon.

10:48 20 Q. And I just want to direct the Grand Jury  
21 that the witness has provided testimony regarding what  
22 some other people have said. Those statements are not  
23 offered for the truth of those statements, merely to  
24 provide context for the witness's testimony about events  
10:48 25 that followed.

10:48 1 Now Miranda, so you're at home, there's  
2 this argument involving you, Akira, Patrick, about what  
3 she did that night and this video. Where are you all  
4 when you're arguing?

10:48 5 A. Downstairs. We went downstairs to the  
6 basement.

7 Q. So downstairs, when you say basement, is  
8 that the garage?

9 A. The garage. The garage.

10:49 10 Q. That we saw in the photograph, the same  
11 garage?

12 A. Yes.

13 Q. So you go in the garage. And is it the  
14 three of you, you, Patrick and Akira?

10:49 15 A. Yes. They're down there -- first it was me  
16 and Patrick. We were getting into it about her being  
17 her age and her being responsible and not being like  
18 most typical kids her age. And I explained to him that,  
19 you know, he walked her back out to the car and he sat  
10:49 20 in the car with her and said good night. It wasn't  
21 anything else.

22 Q. When you say he, you're talking about the  
23 boyfriend?

24 A. The boyfriend, Akira and the boyfriend.

10:49 25 And Patrick's biggest argument was that she lied to him

10:49 1 and he said that's what they were talking about. And I  
2 said okay. He said can I talk to my daughter by myself,  
3 I said okay. I went upstairs to get a cigarette.

4 Q. So now just Patrick and Akira are down in  
10:49 5 the garage when you walked in?

6 A. Right.

7 Q. So you go into the house and go up those  
8 stairs?

9 A. Uh-huh. I grab a cigarette and I light it  
10:50 10 and I'm like okay, I forgot them in the house. My  
11 nerves are bad, I'm pacing for a second, and I go back  
12 downstairs. I was like what is going on.

13 Q. Back down to the garage?

14 A. I went back down to the garage where they  
10:50 15 were, Patrick and Akira were. And I'm like what's  
16 taking so long, what's going on. And he said oh no,  
17 we're talking about everything, we're getting it  
18 straightened out. And Shawn came to the door. And  
19 Shawn says my daughter Angela is on the phone, and I  
10:50 20 said Angela, I got this, I'll call you back. I handed  
21 him the phone and he left back out.

22 Q. So Shawn had come down into the garage,  
23 handed you the phone, you had that conversation and then  
24 he went back inside?

10:50 25 A. Yes.

10:50 1 Q. Okay. What happened next?

2 A. We're back in the garage -- me, Patrick and

3 Akira -- and Shawn comes back down and he says, asks me,

4 calls my name and asks me if he can talk to me and I

10:51 5 said sure. So we go upstairs. I'm like oh God, we're

6 sitting here arguing in the house, you know, it's going

7 to be something about us arguing or, you know, of that

8 nature. But he took me to the bedroom, he asked me do I

9 want him to handle it, do I want him to take care of it.

10:51 10 And I said no, I got this. And he said --

11 Q. I'm sorry. What did you think he was

12 talking about, what was your state of mind when he said

13 do you want me to take care of this?

14 A. I'm thinking that he's thinking that we're

10:51 15 down there arguing cause he stated he's down there

16 making her cry, I said no, they're down there screaming

17 at each other, I said it's nothing like that. He said

18 okay.

19 Q. Okay. So you say I got this. What

10:51 20 happened after you said that?

21 A. We walked out of the bedroom and Patrick

22 and Akira was coming up the stairs at that time. An

23 Patrick said what did you need to talk to her about.

24 Q. I'm sorry. So Akira is coming back up the

10:52 25 stairs?



10:52 1 A. With Patrick.

2 Q. With Patrick?

3 A. Uh-huh.

4 Q. And Patrick says something to who? Who is

10:52 5 he talking to?

6 A. Shawn. Asked him what did he need to talk  
7 to me about. And it's like the conversation kind of  
8 turned. Shawn, Shawn stated that he was just trying to  
9 talk to me. And --

10:52 10 Q. So did there come a point where the two of  
11 them decided that they were going to, that they needed  
12 to talk to each other?

13 A. Yes. It's like, almost felt like Patrick  
14 was trying to calm down the situation because he tried  
10:52 15 to grab Shawn by the elbows and say man it's not like  
16 that, and Shawn kind of reached back, you know, and was  
17 like man, you're too close to me. And Patrick's like  
18 what is this about. He was like well, you're down there  
19 fighting them, and he said no I'm not, it's not like

10:53 20 that. And Patrick said do we have a problem, let me and  
21 you go downstairs and talk. So Patrick started, Patrick  
22 looked at me, I looked at Patrick and I said Patrick,  
23 you don't need to talk to him about anything. Patrick  
24 grabbed me by the shoulder and said yes I do, I'm going

10:53 25 to go down here, talk to him man to man. Patrick

10:53 1 started down the stairs. Shawn went behind him. I  
2 turned around to go to Angela's bedroom to grab a Pamper  
3 for the baby.

4 Q. So Shawn went behind him as Patrick is  
10:53 5 already going down the stairs?

6 A. Yes.

7 Q. And then you turned around. Where were you  
8 facing now?

9 A. I was on my way back to Angela's room. I  
10:53 10 was right in front of her door. I was going in there to  
11 get stuff for the baby. I heard the shots and I looked  
12 straight at my daughter. She said mom, did you hear  
13 that. And I ran back to the first landing and I see  
14 Patrick laying down there.

10:54 15 Q. I'm going to stop you for just a second.  
16 Back up just a bit.

17 You said you heard the shots. What kind of  
18 noise did you hear? Could you describe the noise?

19 A. Three loud shots. Three gunshots.

10:54 20 Q. And you feel, you described them as  
21 gunshots. Do you have some knowledge that that, and  
22 that's just what it sounded like to you; was it a loud  
23 noise, something unlike anything you've ever heard? How  
24 could you describe it?

10:54 25 A. For me not to be able to hear, I heard

10:54 1 those three shots. And when I turned to my daughter she  
2 told me exactly, mommy, did you hear that. I know  
3 gunshots.

4 Q. And you heard three of those noises?

10:54 5 A. Yes.

6 Q. So then you turn around and you ran back to  
7 the stairs?

8 A. To the first landing. And as I'm looking  
9 down I'm seeing Patrick on the ground and Shawn is like,

10:54 10 he's over him trying to get out the garage door. He's  
11 like backing out of the garage door and he looks  
12 straight up at me.

13 Q. Was Patrick doing anything at that point?

14 A. He was just laying there.

10:55 15 Q. And what was Shawn doing as he was trying  
16 to -- he was going out through the garage door?

17 A. Shawn, it looked like he was trying to get  
18 out -- he couldn't get out the front door, it was like  
19 he was trying to get out the garage door. But I don't

10:55 20 know if I startled him when I looked down cause he  
21 looked up at me with the gun.

22 Q. So he had a gun, you could see that he had  
23 a gun in his hand?

24 A. I could see the gun.

10:55 25 Q. What color was the gun?

10:55 1 A. Black all I know.

2 Q. Did he have the gun, how was he holding the  
3 gun? Was it --

4 A. Like he had just finished shooting him and  
10:55 5 he looked up at me with it.

6 Q. So he looked up at you with it. And let  
7 the record reflect the witness has raised her hand and  
8 pointed her finger up, in an upward motion.

9 So was the gun pointed in your direction?

10:55 10 A. Yes, directly in my direction.

11 Q. Did he say anything at that point? Shawn  
12 when I say he.

13 A. I know he said don't tell on me. Something  
14 to the effect, on you and your kids you'll shut the fuck  
10:56 15 up.

16 Q. And what did you do when he said that?

17 A. I looked at him and said okay.

18 Q. What were you thinking when he said that?  
19 What was going through your head?

10:56 20 A. That he's standing there with a gun in his  
21 hand, that he had just shot my husband, that I was next.

22 Q. So what did Shawn do after he said that?  
23 Did you see?

24 A. He just slipped out the garage door.

10:56 25 Q. So that door from the landing into the

10:56 1 garage area?

2 A. Right.

3 Q. And you're still inside?

4 A. Yes.

10:56 5 Q. And is anyone else around you at that  
6 point?

7 A. Akira. Akira. I could feel her right  
8 behind me. Akira was the one that dialed 911 for me.

9 Q. So you said earlier that when you heard the  
10 noises, that Akira came and said did you hear that,  
11 something to that effect?

12 A. Akira was, we were both in the living room.  
13 They were on their way downstairs. All you could hear  
14 was them going down the stairs and you could hear,  
10:57 15 because they're in a stairwell, so the shots were real  
16 loud. I could hear the three shots.

17 Q. So as you went down those stairs to that  
18 landing and then made your observations, was Akira with  
19 you the whole time or did she come at a point later? If  
10:57 20 you know.

21 A. I do believe Akira came at a point later.  
22 I believe Akira was getting the phone and dialing 911.

23 Q. So she dialed 911. Did you or Akira talk  
24 to 911?

10:57 25 A. I talked to them.

10:57 1 Q. And what did you do after that or as you're  
2 doing that?

3 A. I -- the operator asked me if I could go  
4 down and help my husband and I said yes and I went down  
10:58 5 and I tried to perform CPR. When I got to my husband I  
6 knew he was gone.

7 Q. When you're done there with your husband  
8 Patrick and you say he's gone, could you observe just  
9 any visible injuries to him at that point? Is there  
10:58 10 anything you could actually see?

11 A. Yes, I could observe his head. I knew that  
12 he had got shot in his head.

13 Q. Could you see where on the head? Was it  
14 the front, the side?

10:58 15 A. It was near the back of the head. When I  
16 got to him I tried to pull him toward me to turn him  
17 over to do CPR and I was looking for the wound marks and  
18 I didn't see any in his immediate face so I knew.

19 Q. Could you see blood anywhere?

10:59 20 A. Yes.

21 Q. And you said you tried to pull him towards  
22 you and over so you could do CPR. So how was he  
23 positioned when you first saw him?

24 A. More on his side. It's like he was on a  
10:59 25 step, cause he's tall, and it's almost like he got shot

10:59 1 and he went straight down. Cause he was slumped over,  
2 his head was to the front door and his body was to his  
3 side, to one side, and I tried to pull him toward me to  
4 turn him on his back.

10:59 5 Q. And so while you're down there with him and  
6 you've been on the phone with 911, does there come a  
7 point where the police arrive?

8 A. Yes.

9 Q. How quickly after when you're down there?

10:59 10 A. When I tried to pull him over to me and I  
11 started to try to perform CPR, they were at the front  
12 door.

13 Q. So we're talking a very quick amount of  
14 time?

11:00 15 A. Yes, very quick.

16 Q. Did the police come in that front door?

17 A. They couldn't get through the front door,  
18 they had to come through the garage door.

19 Q. Why couldn't they get through the front?

11:00 20 A. Because Patrick was laying in front of the  
21 door.

22 Q. So they went around to the garage door  
23 entrance to the landing?

24 A. Uh-huh. Yes.

11:00 25 Q. And they came in that way?

11:00 1 A. Yes.

2 Q. And where did you go after the police got  
3 there?

4 A. They told me to go back up into the living  
11:00 5 room.

6 Q. And you did that?

7 A. I went back into the living room.

8 Q. So shortly after this happened, the police  
9 had arrived. Did they ask you some questions about what  
11:00 10 had happened?

11 A. They did.

12 Q. Did you tell them that somebody by the name  
13 of Hatch had shot Patrick?

14 A. Yes.

11:01 15 Q. And at that time were you attempting to  
16 avoid actually telling them what you meant by Hatch or  
17 who actually shot your husband?

18 A. Yes.

19 Q. Why were you doing that?

11:01 20 A. Because I was scared.

21 Q. So you then, so after that, and you told  
22 the police that at first, did you then go, did you  
23 eventually tell the police something else?

24 A. I told the police that day that I was

11:01 25 scared and in fear of my life. And they told me --



11:01 1 Q. So after that, I'm sorry to interrupt. So  
2 after that you eventually went and talked to the  
3 detective?

4 A. Yes.

11:01 5 Q. Was that the same day, the next day?

6 A. It was the next day.

7 Q. And you then told the detective what  
8 happened?

9 A. Yes, I went down to the station and talked  
11:02 10 with the detectives.

11 Q. And is what you told the detectives that  
12 day the same thing as you've just essentially testified  
13 to today?

14 A. Yes.

11:02 15 Q. One last. I'm going to show you Exhibit 5.  
16 Do you recognize the individual in that photograph?

17 A. I recognize him.

18 Q. Who is that?

19 A. That's Shawn Glover, the one that shot my  
11:02 20 husband.

21 Q. So in Exhibit 5, that's the individual you  
22 know as Shawn Glover who you just testified to about  
23 having shot your husband?

24 A. Yes.

11:03 25 MR. FLINN: I have no additional questions

11:03 1 at this time. Do the ladies and gentlemen of the Grand  
2 Jury have any questions for this witness?

3 BY A JUROR:

4 Q. By any chance did you know that Shawn had a  
11:03 5 gun?

6 A. No, ma'am, I did not. We were in the  
7 middle of finding another house. And -- no, I knew he  
8 had guns, but I did not know he had a gun on him that  
9 morning. Shawn put all the kids in the bedroom, he took  
11:04 10 the coats off the door, over the door, put all the kids  
11 in the bedroom, closed the door. Went and got the gun  
12 and then called me upstairs, he had the gun and I had no  
13 idea he had it.

14 MR. FLINN: And I'm going to direct the  
11:04 15 ladies and gentlemen of the Grand Jury that the way this  
16 has just testified as to things that were really outside  
17 of her personal observations, so I'd ask the grand  
18 jurors to disregard them so far as they are speculative.

19 Any additional questions?

11:04 20 BY THE FOREPERSON:

21 Q. Had Patrick and Shawn had prior instances  
22 of disagreements?

23 MR. FLINN: I'm going to direct the  
24 witness, I apologize, not to answer that question as it  
11:04 25 might elicit prior conduct that would be inadmissible at

11:05 1 this stage of the proceeding.

2 So you don't have to answer that question,  
3 Miranda.

4 Any additional questions?

11:05 5 THE FOREPERSON: All right. Miss Sutton,  
6 by law, these proceedings are secret and you are  
7 prohibited from disclosing to anyone anything that has  
8 transpired before us -- can you hear me okay?

9 THE WITNESS: Yes.

11:05 10 THE FOREPERSON: -- including evidence and  
11 statements presented to the Grand Jury, any event  
12 occurring or statement made in the presence of the Grand  
13 Jury, and information obtained by the Grand Jury.

14 Failure to comply with this admonition is a  
11:05 15 gross misdemeanor punishable by a year in the Clark  
16 County Detention Center and a \$2,000 fine. In addition,  
17 you may be held in contempt of court punishable by an  
18 additional \$500 fine and 25 days in the Clark County  
19 Detention Center.

11:05 20 Do you understand this admonition?

21 THE WITNESS: Yes, ma'am.

22 THE FOREPERSON: Thank you for your time.

23 THE WITNESS: Thank you.

24 THE FOREPERSON: You are excused.

11:05 25 THE WITNESS: Thank you.

11:06 1 MR. FLINN: Ladies and gentlemen, my next  
2 witness is Akira Veasley.

3 If you could stand right here for a moment,  
4 Akira.

11:06 5 THE FOREPERSON: Please raise your right  
6 hand.

7 You do solemnly swear the testimony you are  
8 about to give upon the investigation now pending before  
9 this Grand Jury shall be the truth, the whole truth, and  
11:06 10 nothing but the truth, so help you God?

11 THE WITNESS: Yes.

12 THE FOREPERSON: Please be seated.

13 You are advised that you are here today to  
14 give testimony in the investigation pertaining to the  
11:06 15 offenses of murder with use of a deadly weapon, assault  
16 with a deadly weapon, ownership or possession of firearm  
17 by prohibited person, discharge of firearm from or  
18 within a structure or vehicle, involving Shawn Glover.

19 Do you understand this advisement?

11:07 20 THE WITNESS: Yes.

21 THE FOREPERSON: Please state your first  
22 and last name and spell both for the record.

23 THE WITNESS: Akira Veasley. A-K-I-R-A,  
24 V-E-A-S-L-E-Y.

11:07 25 THE FOREPERSON: Thank you.

11:07 1 AKIRA VEASLEY,  
2 having been first duly sworn by the Foreperson of the  
3 Grand Jury to testify to the truth, the whole truth,  
4 and nothing but the truth, testified as follows:  
11:07 5  
6 EXAMINATION  
7  
8 BY MR. FLINN:  
9 Q. Akira, so I want to direct your attention  
11:07 10 to January 1st of this year 2016. Where were you living  
11 at the time?  
12 A. At Smokey Fogg.  
13 Q. Is it a house, apartment a townhouse?  
14 A. I think it's a townhouse.  
11:07 15 Q. And with other family members?  
16 A. Yes.  
17 Q. And that is located, that townhouse on  
18 Smokey Fogg, that's in North Las Vegas in Clark County,  
19 right?  
11:08 20 A. Yes.  
21 Q. So on January 1st, did there come a point  
22 where you're in a discussion or argument with your step  
23 dad Patrick?  
24 A. Yes.  
11:08 25 Q. Where did that take place in the house?

11:08 1 A. Downstairs in the garage. That's where we  
2 were arguing at.

3 Q. So when this started, was it just you and  
4 your dad arguing or what happened?

11:08 5 A. First it was me and my dad arguing  
6 downstairs in the garage and then my mom came downstairs  
7 and started arguing with us.

8 Q. And your mom, her name is Miranda?

9 A. Miranda, yes.

11:08 10 Q. So your mom and your dad. So the three of  
11 you were in the garage?

12 A. Yes.

13 Q. Arguing?

14 A. Yes.

11:08 15 Q. And what happens at that point with the  
16 three of you there?

17 A. We were arguing and then Shawn comes  
18 downstairs into the garage and he gives my mom a cell  
19 phone and said it was my sister Angela on the phone  
11:09 20 wanting to talk to her. He gave her the phone and she  
21 said we're just having an argument, I got this, and then  
22 she hung up the phone on her, and then Shawn went back  
23 up the stairs. And then --

24 Q. Let me stop you for just a second. So

11:09 25 Shawn, do you know Shawn's last name?

11:09 1 A. Glover.

2 Q. When you said -- so he came down, handed  
3 the phone to your mom, and then he went back out of the  
4 garage?

11:09 5 A. Yes.

6 Q. And I'd like to direct the ladies and  
7 gentlemen of the Grand Jury again, that the witness is  
8 testifying as to statements other individuals have made.

9 I direct you not to accept those statements for the

11:09 10 truth of the statements themselves, but merely to  
11 provide context to the witness's testimony as to the  
12 events that follow.

13 So after Shawn goes back in and presumably  
14 upstairs, cause there's no where else to go in there,  
11:10 15 right?

16 A. Uh-huh.

17 Q. What happens next?

18 A. We're still arguing and about two minutes  
19 later he comes back in the garage and he asked to talk  
11:10 20 to my mom.

21 Q. He being Shawn?

22 A. Shawn. Shawn asked to talk to my mom  
23 Miranda.

24 Q. So did they talk there or did they leave?

11:10 25 A. No, they left out of the garage and I was

11:10 1 still down there with my dad.

2 Q. Out of the garage into the house or out of  
3 the garage?

4 A. Into the house. Into the house, yes.

11:10 5 Q. So you're still down there with your dad  
6 Patrick?

7 A. Yes.

8 Q. And then your mom Miranda and Shawn went  
9 back into the house?

11:10 10 A. Yeah, I'm assuming up the stairs, uh-huh.

11 Q. And so you and your dad are still down  
12 there talking?

13 A. Yes.

14 Q. And what do you do next? What happens  
11:11 15 next?

16 A. We were talking, he told me he was sorry,  
17 and me and him, we go out of the garage up the stairs  
18 and then that's when him and my dad, Patrick and Shawn  
19 start arguing.

11:11 20 Q. So you and your dad go back up the stairs?

21 A. Yes.

22 Q. And you see Shawn is there?

23 A. Yeah, Shawn and my mom Miranda, they're  
24 there, and I guess they were just finishing up the

11:11 25 conversation that they were having and then that's when



11:11 1 my dad said why do you need to talk to my wife, to  
2 Shawn.

3 Q. And how did Shawn react to that?

4 A. He was upset. He was like I'm talking to  
11:11 5 your wife, not you. And then he goes you're trying to  
6 beat on your wife and your daughter in front of, in my  
7 baby mother's house, and my dad was like well, this is  
8 my daughter's house, these are my grandchildren too.  
9 And then the guy was just, Shawn, he was still upset and  
11:12 10 he was just like you're trying to beat on them in my  
11 baby's mom's house. And then my dad grabbed him by his  
12 elbows, like right here, and he goes, it's not like  
13 that, I'm just trying to have a conversation with my  
14 family.

11:12 15 MR. FLINN: And the record will reflect  
16 that the witness has just put her two hands out with her  
17 palms up.

18 THE WITNESS: Yeah, like he was grabbing  
19 the elbows, him by the elbows. And he said it's not  
11:12 20 like that, I'm just trying to have a conversation with  
21 my family. And then that's when my dad was like well,  
22 let's go downstairs and we'll talk about it like men.  
23 And then my dad starts going down the stairs and then  
24 Shawn starts going after him and I heard about five  
11:12 25 footsteps and then that's when I heard the gunshots.

11:12 1 BY MR. FLINN:

2 Q. So let me stop you for a minute and we'll  
3 kind of back up.

4 So you said you saw your dad going toward  
11:13 5 the stairs?

6 A. Yes.

7 Q. And he started to go down the stairs?

8 A. Yes.

9 Q. And Shawn went next?

11:13 10 A. Yes.

11 Q. Was he fairly close to your dad or always  
12 behind?

13 A. I think it was fairly close, but the way  
14 the stairs are you really can't see after they go like  
11:13 15 two steps down you can't see after.

16 Q. Okay.

17 A. So --

18 Q. And so you lost sight of them?

19 A. Yes.

11:13 20 Q. Okay. And then you heard what you  
21 described -- you heard how many --

22 A. I heard three --

23 Q. -- footsteps?

24 A. Oh, the footsteps, I heard five.

11:13 25 Q. So when you say five footsteps, like on the

11:13 1 stairs themselves?

2 A. On the stairs, yes. So like they were  
3 going down like five stairs and then that's when I heard  
4 the gunshots.

11:13 5 Q. And you described hearing gunshots. Could  
6 you describe the noises that you heard a little bit?

7 A. Just like boom, boom, boom. It was a pause  
8 after the first gunshot.

9 Q. So you hear one boom, a pause --

11:14 10 A. Yeah. And then two back to back.

11 Q. Two back to back?

12 A. Uh-huh.

13 Q. What did you do after you heard those?

14 A. Me and my mom, we ran to the stairs to go  
11:14 15 see what happened and that's when we seen my dad on the  
16 floor.

17 Q. Was your mom ahead of you or were you ahead  
18 of your mom as you went to the stairs?

19 A. I think she was ahead of me.

11:14 20 Q. And there's tissues right in front of you.

21 A. I think she was ahead of me. She was like  
22 kind of down there when he was threatening us.

23 Q. Okay. When you say he was threatening us,  
24 who is he?

11:14 25 A. Shawn.

11:14 1 Q. And did you hear some sort of threat?

2 A. I heard the threat. He said if you value  
3 you and your kids' life you won't tell on me, and he was  
4 just like don't tell on me, don't tell on me. And as he  
11:15 5 was saying that I was running up the stairs to go grab  
6 my phone so I could call the police. And then by the  
7 time I got back down the stairs he was gone already.

8 Q. So did you ever see Shawn, did you ever go  
9 far enough down the stairs to see Shawn down there?

11:15 10 A. Yeah, I could see him down there, yes.

11 Q. And then you heard his statements?

12 A. Yes.

13 Q. And you went back up the stairs?

14 A. Yes.

11:15 15 Q. Could you see whether he had a weapon at  
16 that point?

17 A. No, because I think as soon as he was  
18 saying it I was turning up the stairs to go back to go  
19 get my cell phone.

11:15 20 Q. So you just heard what he said?

21 A. Yes.

22 Q. And this was after you heard what you  
23 believed were gunshots?

24 A. Yes.

11:15 25 Q. And you saw your dad?

11:15 1 A. Yeah.

2 Q. Laying down there?

3 A. Yeah. And my mom, she was by my dad saying

4 no, why did you do this.

11:16 5 Q. Could you see if your dad was moving or

6 saying anything?

7 A. I think he was already dead because he

8 didn't say anything and I seen the blood and everything

9 already.

11:16 10 Q. Do you know if your dad Patrick is right or

11 left handed?

12 A. I think he's right handed.

13 Q. You've seen him write before?

14 A. Uh-huh.

11:16 15 Q. So you went back up, you got your phone,

16 came back down. And Shawn was gone?

17 A. No. I got my phone and I think my mom came

18 back up the stairs with me and I was calling the police

19 and I gave her the phone. She was sitting right there

11:17 20 and she was talking to them and that's when they told

21 her to go do the CPR. So she went down the stairs to my

22 dad and she started trying to do the CPR and I was right

23 behind her telling them like there's kids in here and

24 can you please hurry up and help cause I didn't know if

11:17 25 he was going to come back.

11:17 1 Q. So while you're done there and your mom's  
2 doing the CPR, does there come a time when the police  
3 arrived?

4 A. Yes, they arrived probably like a minute or  
11:17 5 two after. It was real quick. They arrived. And my  
6 dad, the way he was laying, they kind of like, they were  
7 trying to open the door but they kept hitting him so  
8 they had to walk over and --

9 Q. And when they got there did you go  
11:17 10 anywhere? Did you leave that --

11 A. No, they wouldn't let us leave. We had to  
12 stay there the whole time.

13 Q. But you didn't stay in the stairway?

14 A. Oh no, we went back up the stairs, yeah.

11:17 15 Q. Did you speak with officers about what had  
16 happened?

17 A. Yes.

18 Q. At your house there?

19 A. Yes.

11:18 20 Q. Now did you tell the officers at that time  
21 that somebody by the of Hatch had shot your dad but you  
22 didn't reveal who Hatch was to you or the person that  
23 had, who you testified today had shot your dad?

24 A. Yes.

11:18 25 Q. Was there a particular reason that you were

11:18 1 trying to avoid telling them what had happened?

2 A. Yeah, because I was scared and I didn't, I  
3 never been in these kind of situations before and I just  
4 didn't know what to do and he had threatened us so I  
11:18 5 didn't want to tell who it actually was.

6 Q. Did you go to the police --

7 A. Yes.

8 Q. -- shortly after that and clear things up?

9 A. Yes. Yes. The next day we went down to  
11:18 10 the police station and we gave our statements.

11 Q. To the best of your memory, knowing that  
12 that was awhile ago now, is your testimony today in line  
13 with what you told the detectives, you know, after this  
14 had happened?

11:19 15 A. Yes.

16 Q. I'm going to show you Exhibit 5. Do you  
17 recognize that individual?

18 A. Yes.

19 Q. And how do you recognize him? Who is that?

11:19 20 A. That's Shawn Glover. That's my sister's  
21 baby's father.

22 Q. So looking at Exhibit 5. Is that the same  
23 Shawn you were just talking about in your testimony?

24 A. Yes.

11:20 25 MR. FLINN: Ladies and gentlemen, I don't

11:20 1 have any additional questions at this time. Do the  
2 ladies and gentlemen of the Grand Jury have any  
3 questions?

4 BY A JUROR:

11:20 5 Q. Yeah. How did you come up with the name  
6 Hatch? What gave you that idea?

7 A. That's his nickname. That's the nickname  
8 that he goes by.

9 Q. That is Shawn Glover's nickname?

11:20 10 A. Yes, Shawn Glover's nickname.

11 BY A JUROR:

12 Q. Yes. How long have you known Shawn?

13 A. I've known him for awhile cause I went to  
14 my sister's baby shower and she has broughten him by our  
11:20 15 house when we did have our house before that one. And  
16 he was my friend on Facebook so I would see him that way  
17 also.

18 BY A JUROR:

19 Q. My question is, you said you heard one  
11:20 20 gunshot and then like two that followed.

21 A. Yes.

22 Q. By any chance do you know if Patrick had a  
23 gun?

24 A. No, I did not know if he had a gun. I know  
11:20 25 that, I didn't know he had a gun, if he had a gun or I



11:21 1 didn't know that Shawn had a gun. Because when we were  
2 arguing I didn't see anything. He just had his jacket  
3 on and regular clothes.

4 BY A JUROR:

11:21 5 Q. Did the argument you had with your  
6 stepfather Patrick ever at any point turn physical?

7 A. No.

8 THE FOREPERSON: Miss Veasley, by law,  
9 these proceedings are secret and you are prohibited from  
11:21 10 disclosing to anyone anything that has transpired before  
11 us, including evidence and statements presented to the  
12 Grand Jury, any event occurring or statement made in the  
13 presence of the Grand Jury, and information obtained by  
14 the Grand Jury.

11:21 15 Failure to comply with this admonition is a  
16 gross misdemeanor punishable by a year in the Clark  
17 County Detention Center and a \$2,000 fine. In addition,  
18 you may be held in contempt of court punishable by an  
19 additional \$500 fine and 25 days in the Clark County  
11:21 20 Detention Center.

21 Do you understand this admonition?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Thank you for your time.  
24 You're excused.

11:22 25 THE WITNESS: Thank you.

11:22 1 MR. FLINN: Ladies and gentlemen, my next  
2 witness is Detective Wilson.

3 THE WITNESS: Good morning.

4 THE FOREPERSON: Please raise your right  
11:22 5 hand.

6 You do solemnly swear the testimony you are  
7 about to give upon the investigation now pending before  
8 this Grand Jury shall be the truth, the whole truth, and  
9 nothing but the truth, so help you God?

11:22 10 THE WITNESS: I do.

11 THE FOREPERSON: Please be seated.

12 You are advised that you are here today to  
13 give testimony in the investigation pertaining to the  
14 offenses of murder with use of a deadly weapon, assault  
11:23 15 with a deadly weapon, ownership or possession of firearm  
16 by prohibited person, discharge of firearm from or  
17 within a structure or vehicle, involving Shawn Glover.

18 Do you understand this advisement?

19 THE WITNESS: Yes.

11:23 20 THE FOREPERSON: Please state your first  
21 and last name and spell both for the record.

22 THE WITNESS: Sayoko Wilson. S-A-Y-O-K-O,  
23 last is W-I-L-S-O-N.

24 THE FOREPERSON: Thank you.

11:23 25 SAYOKO WILSON,

11:23 1 having been first duly sworn by the Foreperson of the  
2 Grand Jury to testify to the truth, the whole truth,  
3 and nothing but the truth, testified as follows:  
4

11:23 5 EXAMINATION

6  
7 BY MR. FLINN:

8 Q. How are you employed?

9 A. I'm a detective with North Las Vegas Police  
11:23 10 Department.

11 Q. How long have you been employed with North  
12 Las Vegas?

13 A. Over 15 years.

14 Q. And how long as a detective?

11:23 15 A. Over ten.

16 Q. Now in your capacity as a detective, did  
17 you have occasion to respond on January the 1st, 2016 to  
18 a location in North Las Vegas, Clark County at 4032  
19 Smokey Fogg, apartment number 201?

11:24 20 A. Yes.

21 Q. What was the nature of that call? Why were  
22 you responding?

23 A. It came out as a shooting call.

24 Q. And are you assigned to a particular  
11:24 25 division?

11:24 1 A. I am. Robbery homicide.

2 Q. So there was a call for a shooting and you  
3 as a robbery homicide detective were called out to the  
4 scene?

11:24 5 A. Yes.

6 Q. And did you in fact arrive at that  
7 location?

8 A. I did.

9 Q. What did you observe when you first  
11:24 10 arrived?

11 A. When I first arrived they had, patrol  
12 officers had the crime scene taped off. Witnesses were  
13 being held in the upstairs apartment. That was  
14 basically the outside crime scene.

11:24 15 Q. Showing you Exhibit 2. Do you recognize  
16 that, Detective?

17 A. Yes, that's the scene.

18 Q. So that's where you arrived that day  
19 January 1st?

11:25 20 A. Yes.

21 Q. And Exhibit 3, front door of the same  
22 location?

23 A. Yes, it is.

24 Q. And Exhibit 4, garage entry to the town  
11:25 25 home in that same location?

11:25 1 A. Yes, it is.

2 Q. Which point did you -- did you eventually  
3 make entry into the house?

4 A. I did. I entered through the garage door.

11:25 5 Q. Through the door within the garage to the  
6 actual residence?

7 A. Correct.

8 Q. What did you observe when you entered that  
9 door?

11:25 10 A. Lying on the landing as you come in the  
11 door was a body of a black male.

12 Q. Showing you Exhibits 6, 7, and 8. Do you  
13 recognize those?

14 A. Yes, I do.

11:26 15 Q. How do you recognize them?

16 A. That was the male laying on the floor that  
17 was deceased inside the apartment.

18 Q. So I'm going to publish these to the Grand  
19 Jury.

11:26 20 Showing you Exhibit 7. So does that fairly  
21 and accurately depict the scene inside that garage door  
22 when you arrived?

23 A. Yes.

24 Q. And that's the individual lying on the

11:26 25 ground?

11:26 1 A. Correct.

2 Q. Were you able to identify that individual?

3 A. Yes, he was identified as Patrick Fleming.

4 Q. And through what means was he identified?

11:26 5 A. His wife Miranda Sutton and his daughter  
6 Akira Veasley.

7 Q. Showing you Exhibit 6. What are we looking  
8 at there, Detective?

9 A. That is the staircase going up to the  
11:27 10 living area of the apartment.

11 Q. So that's the same place, just with a  
12 different vantage point from higher up on the stairs?

13 A. Yes, that's the stairs looking down.

14 Q. And showing you Exhibit 8. What are we  
11:27 15 looking at there?

16 A. In this picture, item 1 that you're looking  
17 at is a spent casing. Two is a projectile. Three,  
18 there's a red lighter, you can see it poking out.

19 Q. We'll get into these in a little bit more  
11:28 20 detail. But when you say these numbers, that correlates  
21 to these numbers that are in the photograph from crime  
22 scene personnel?

23 A. Correct.

24 Q. And so those are just there to mark things  
11:28 25 so they can be referred to later?

11:28 1 A. Yes.

2 Q. So they've been placed there by police  
3 personnel?

4 A. Correct, yes.

11:28 5 Q. Now item that you noted, item 1, as a  
6 casing. What is a casing, Detective?

7 A. You have the bullet which is fired through  
8 the gun of course. The end part of that is a casing.  
9 The tip of the bullet is the projectile and when that's

11:28 10 fired the projectile goes out of the gun in the front,  
11 down the barrel, and the cartridge casing is ejected.  
12 So we know this is spent because the projectile is no  
13 longer in the casing.

14 Q. As a detective you have training and  
11:29 15 experience in dealing with firearms?

16 A. Yes.

17 Q. And so based on your training and  
18 experience, that's a spent casing marked by card number  
19 1?

11:29 20 A. Yes.

21 Q. Were you able, did you personally observe  
22 close up that casing marked in item number 1?

23 A. I did.

24 Q. Could you tell what caliber that was from?

11:29 25 A. It's a .40 caliber.

11:29 1 Q. Now close to where card 2 is in that  
2 photograph, do you see anything on the defendant's, I'm  
3 sorry, on the victim's person?

4 A. Yes. He had a Glock 19, just a  
11:29 5 9-millimeter handgun tucked into the waist of his pants,  
6 also holstered.

7 Q. So close there to item, to evidence card  
8 number 2 on the victim's person there is a firearm and  
9 you described it as holstered?

11:30 10 A. Yes.

11 Q. Is that holstered inside the pants or  
12 outside the pants?

13 A. It is inside the pants.

14 Q. Was that firearm subsequently removed from  
11:30 15 the victim and examined?

16 A. Yes.

17 Q. Did you look at that firearm?

18 A. I did.

19 Q. And you described it as what type of  
11:30 20 weapon?

21 A. It's a Glock 19.

22 Q. What caliber is the Glock 19?

23 A. It's a 9-millimeter.

24 Q. Showing you Exhibit 9. Is that what we're  
11:30 25 looking at there?



11:30 1 A. Yes, it is.

2 Q. Could you please tell the ladies and  
3 gentlemen of the Grand Jury what each of the items  
4 depicted there is?

11:30 5 A. The one on the left is the gun with the  
6 slide back. On the top is the magazine. And there is  
7 ammo inside of it. And then the holster.

8 Q. And the magazine of course goes into the  
9 gun and provides the ammunition?

11:31 10 A. Yes.

11 Q. And then that's the holster. Is that the  
12 holster that was removed from the victim?

13 A. Yes, it is.

14 Q. Now you said this gun is a 9 millimeter.

11:31 15 Can a .40 caliber bullet cartridge be fired in a  
16 9-millimeter gun?

17 A. No, it can't.

18 Q. Why is that?

19 A. Because the .40 caliber, the bullet is much  
11:31 20 larger than the 9-millimeter.

21 Q. So is it fair to say it just doesn't fit?

22 A. Correct.

23 Q. Too big, can't be shot through it?

24 A. Correct.

11:31 25 Q. When you examined the gun retrieved from

11:31 1 the victim, did you check to see whether there was any  
2 ammunition in the chamber of that weapon?

3 A. There was not.

4 Q. Now when I say in the chamber, what does  
11:31 5 that mean?

6 A. That would be in the chamber ready to fire  
7 once you pull the trigger.

8 Q. So if there's no ammunition in the chamber  
9 of the gun, could the gun be fired?

11:31 10 A. No.

11 Q. Nothing would come out of it, is that fair?

12 A. That's fair to say, yes.

13 Q. Is that because all the ammunition, there  
14 is either no ammunition in the gun or it's all still in  
11:32 15 the magazine?

16 A. Correct.

17 Q. Now to fire a Glock 19, do you have to do  
18 anything to the weapon to make it so that you can fire a  
19 projectile, to load a projectile, to load a bullet into  
11:32 20 the chamber?

21 A. Yes. You have to slide the, slide it back  
22 and then it chambers a round into the chamber ready to  
23 be fired.

24 Q. When you say slide it back, you're talking  
11:32 25 about part of the gun itself?

11:32 1 A. Correct.

2 Q. As we look in this picture here identified  
3 as the gun, is that metal part that's pulled back and  
4 away from the gun the slide?

11:32 5 A. That's the slide, yes.

6 Q. And is that what you do to the gun to see  
7 if anything is in the chamber?

8 A. Yes.

9 Q. To render it safe?

11:32 10 A. Yes.

11 Q. So when this gun was retrieved off of the  
12 victim there was simply no ammunition in the chamber?

13 A. No, there wasn't.

14 Q. I'm going to show you Exhibits 10, 11 and

11:33 15 12. Do you recognize those, Detective?

16 A. I do.

17 Q. Are those taken from this crime scene as  
18 well?

19 A. Yes, they are.

11:33 20 Q. And they fairly and accurately depict the  
21 scene as you observed it?

22 A. Yes.

23 Q. Showing you Exhibit 10. What are we  
24 looking at there, Detective?

11:33 25 A. That is the door mat which Patrick

11:33 1 Fleming's body was laying on top of.

2 Q. So in the previous photographs we saw a  
3 body. This is after that body has been removed?

4 A. Right.

11:34 5 Q. After Patrick's body has been taken away,  
6 this is what was left?

7 A. Yes.

8 Q. What items if any of evidentiary value did  
9 you discover when Patrick's body was removed?

11:34 10 A. We found a, you see item number 10, what  
11 appeared to be a bullet hole in the carpet. Also moving  
12 the carpet or lifting the carpet away, there was also a  
13 defect in the tile which appeared to me to be a gunshot.

14 Q. Did you find any other casings other than  
11:34 15 that one that was in card number 1 in the previous  
16 photograph?

17 A. Yes, we found another that was up towards  
18 the door and another that was along the north wall.

19 Q. And so three total and those were all  
11:34 20 impounded into evidence?

21 A. Yes, they were.

22 Q. Now before -- let me backtrack just a  
23 moment, Detective. Before Patrick's body was removed,  
24 did he have any, apparent to you in your training and  
11:35 25 experience, visible injuries?

11:35 1 A. Yes, he had a gunshot wound to the back of  
2 the head.

3 Q. Now going back forward after looking at the  
4 exhibit with the carpet. And that card, there's an  
11:35 5 evidence card 10 in that photograph. What is that  
6 marking?

7 A. That is marking the defect in the rug.

8 Q. So as we look at Exhibit 11, is that the  
9 same place we're looking at, just closer up?

11:35 10 A. Yes, it is.

11 Q. Is there anything remarkable around where  
12 the evidence card is there in that carpet?

13 A. We found bullet fragments inside the fibers  
14 of the carpet.

11:35 15 Q. So that's the carpet, any defect in the  
16 carpet and those fragments?

17 A. Yes.

18 Q. And showing you Exhibit 12. What are we  
19 looking at there?

11:36 20 A. That's the defect in the tile I was  
21 speaking of earlier when we lifted up the carpet.

22 Q. Now based on the defect in the tile and the  
23 carpet and the bullet fragments that were there and the  
24 structure of the room, of that landing space and the  
11:36 25 stairway, does that, based on your training and

11:36 1 experience, tell you anything generally about what  
2 direction a bullet would have been fired to cause that  
3 damage?

4 A. Yes, it was from above. So above downward.

11:36 5 Q. So in some manner the bullet must have been  
6 fired from above down to cause it to hit the floor and  
7 do that?

8 A. Yes.

9 Q. I'm going to show you Exhibits 13 and 14,  
11:37 10 Detective. Do you recognize those?

11 A. I do.

12 Q. How do you recognize them?

13 A. Those were on the person of Patrick Fleming  
14 and the contents of his pockets were emptied at the  
11:37 15 coroner's office prior to autopsy.

16 Q. So showing the ladies and gentlemen of the  
17 Grand Jury Exhibit 13. What are we looking at there?

18 A. That is his wallet, Patrick Fleming's  
19 wallet.

11:37 20 Q. So that was taken removed from his person  
21 after he was lying there on the floor?

22 A. Yes.

23 Q. And when you arrived, was Patrick Fleming,  
24 did he appear deceased?

11:37 25 A. Yes, he did.

11:38 1 Q. Exhibit 14, what are we looking at there?

2 A. That's the contents of his wallet, the  
3 money that was inside of his wallet.

4 Q. And so that's taken out of the wallet and  
11:38 5 pulled out, photographed. How much money did Patrick  
6 still have on his person?

7 A. There's approximately \$432.

8 Q. Now Detective, in your capacity as a  
9 detective and in your training and experience, are you  
11:39 10 familiar with autopsies?

11 A. Yes.

12 Q. You're not a doctor but you know what they  
13 are?

14 A. Yes, I do.

11:39 15 Q. And is it routine for, when someone has  
16 died and there's a police investigation, for you or the  
17 detectives to attend the autopsy?

18 A. Yes.

19 Q. So when you attend an autopsy for a  
11:39 20 decedent and you're investigating, what's the general  
21 purpose that you're there for at the autopsy?

22 A. We're there to look at anything of  
23 evidentiary value that can assist us in our  
24 investigation.

11:39 25 Q. So you watch the medical examiner perform

11:39 1 all their examinations, you watch taking off clothing,  
2 looking for things of evidentiary value, as well as  
3 anything that may be related to the death of that  
4 individual?

11:39 5 A. Yes.

6 Q. Is that fair --

7 A. That's fair.

8 Q. -- assessment?

9 A. Uh-huh.

11:39 10 Q. Now in regards to Patrick Fleming, who you  
11 said was deceased when you arrived at the scene there in  
12 North Las Vegas, did you attend an autopsy for Patrick  
13 Fleming?

14 A. I did.

11:40 15 Q. Now as you were watching the autopsy, were  
16 you able to see the body?

17 A. Yes.

18 Q. And is that the same, was that the same  
19 individual Patrick Fleming as the Patrick Fleming you  
11:40 20 saw on the floor on January 1st at that address?

21 A. Yes, it was.

22 Q. So you're in the autopsy room, you know you  
23 have the same person?

24 A. Yes.

11:40 25 Q. And you watched the medical examiner take



11:40 1 his clothing, do the medical examination, X-rays, things  
2 of all that nature?

3 A. Yes.

4 Q. Now as you were watching that, were you  
11:40 5 able to observe apparent wounds to the body of  
6 Mr. Fleming?

7 A. Yes, I was.

8 Q. And what particular wounds, if any, did you  
9 observe that based on your training and experience were  
11:41 10 significant to your investigation?

11 A. He had three gunshot wounds. Two of them  
12 were significant. The one to the back of his head that  
13 severed his brain stem. Also he had a gunshot wound to  
14 his right upper arm, the humerus area, which looking at  
11:41 15 the X-rays showed that it was completely broken.

16 Q. And where was the third gunshot located?

17 A. It was in his right groin area.

18 Q. So you described the gunshot to the back of  
19 the head. And based on your observations at the autopsy  
11:41 20 it was in the area of the brain stem. Did that appear  
21 to you, based on your training and experience, to be a  
22 fatal wound?

23 A. Yes.

24 Q. I'm going to show you Exhibits 15, 16, 17,  
11:42 25 18, and 19. Do you recognize those, Detective?

11:42 1 A. I do.

2 Q. How do you recognize them?

3 A. Those were taken at autopsy and they are of  
4 the gunshot wounds.

11:42 5 Q. What about Exhibit 19, are you familiar  
6 with that as well?

7 A. I am. That's the right upper arm.

8 Q. What type of photograph is that?

9 A. It's an X-ray.

11:43 10 Q. And were you present when those X-rays were  
11 taken at the autopsy or taken from the viewing with the  
12 doctors?

13 A. Yes, I was.

14 Q. Showing the Grand Jury Exhibit 15. What  
11:43 15 are we looking at there, Detective?

16 A. That's the gunshot wound to the back of his  
17 head.

18 Q. Now it appears that there's no hair there  
19 around a spot on the back of the head. Was that like  
11:43 20 that when the victim arrived or is that something as  
21 part of the autopsy procedure?

22 A. Right, it wasn't like that on scene. The  
23 coroner's office, they have to shave that to get a look  
24 at the wound.

11:43 25 Q. Showing Exhibit 16. What are we looking at

11:44 1 there?

2 A. That's a closer view of the gunshot wound.

3 Q. Was there anything, based on your training  
4 and experience and observation of gunshot wounds, that  
11:44 5 your observation told you about how close of range that  
6 gunshot came from?

7 A. Well, it wasn't a contact wound meaning the  
8 barrel of the gun against the head and I know that  
9 because there's no, they call it stippling, which is  
11:44 10 basically a dimpling or soot around the wound.

11 Q. Soot, that would be like from gunpowder?

12 A. Yes.

13 Q. Things burning basically from the firearm  
14 if it had been in exact contact with the skin when it  
11:44 15 was fired?

16 A. Correct.

17 Q. So is it fair to say that that tells you  
18 then while shot was not, the gun was not pressed against  
19 the head?

11:44 20 A. Correct.

21 Q. And is that the same gunshot wound you  
22 described earlier as having apparently gone to the brain  
23 stem and that could have been, was likely a fatal shot?

24 A. Yes.

11:45 25 Q. Showing you Exhibit 17. What are we

11:45 1 looking at there, Detective?

2 A. It's the gunshot wound to his right upper  
3 arm.

4 Q. And there's a hand with what appears to be  
11:45 5 some sort of scale in that photograph. Is that typical  
6 at an autopsy?

7 A. Yes, it is.

8 Q. What's that there to show?

9 A. The relative size of whatever it is we're  
11:45 10 looking at.

11 Q. So when we look at a picture we know what  
12 in real life the size of that item might be?

13 A. Yes.

14 Q. Showing you Exhibit 18. What are we  
11:45 15 looking at there?

16 A. That is also a gunshot wound on his upper  
17 arm.

18 Q. Is that the same arm, just the other side?

19 A. Yes, it is.

11:45 20 Q. So is it fair to say that those gunshot  
21 wounds, one on each side of the arm, that that would  
22 likely be, without regard to the direction of travel, an  
23 entry and an exit of a single shot?

24 A. Yes. We call that a through and through,  
11:46 25 entered and exited.

11:46 1 Q. So you're shot in the arm, the bullet went  
2 in, the bullet went out?

3 A. Yes.

4 Q. And showing you Exhibit 19. What are we  
11:46 5 looking at there, Detective?

6 A. This is the X-ray of that gunshot wound you  
7 just saw in his right upper arm and it's showing the  
8 bone is obviously broken.

9 Q. If you wouldn't mind, Detective, would you  
11:46 10 mind standing up and pointing on the screen or on the,  
11 sort of where you're talking about when you're referring  
12 to something being broken.

13 A. Right here.

14 Q. And that was visible to you that the bone  
11:47 15 there is broken?

16 A. Yes.

17 Q. And does it appear to be a significant,  
18 like is it a large break or how would you describe it?  
19 I know you're not a doctor. But just generally from  
11:47 20 your observation, what did you notice about it?

21 A. It was a complete break fracture.

22 Q. Now having observed that, and I'm sorry, is  
23 that the victim's right or left arm that we're  
24 looking --

11:47 25 A. The right arm.

11:47 1 Q. So that's his right arm. Is it significant  
2 to you in terms of your investigation regarding the  
3 firearm that was on the victim's person that you  
4 recovered, is it significant to you the injury to the  
11:47 5 arm, the broken arm as you described it?

6 A. Yes, that tells me, cause it was holstered  
7 in his right side, the grip's on the right so he was  
8 drawing, he could not have drawn that firearm with the  
9 broken arm.

11:48 10 Q. So the firearm is secured on the person in  
11 a holster. You earlier testified there's no round in  
12 the chamber. And then you see the break in the arm. So  
13 you're saying that that victim couldn't have done  
14 anything with his arm to get that gun?

11:48 15 A. No.

16 Q. If he were right handed?

17 A. Correct.

18 Q. Or reaching with the right hand?

19 A. Correct.

11:48 20 Q. Now did you, Detective, interview witnesses  
21 to the shooting of Mr. Fleming?

22 A. Yes, I did.

23 Q. And you conducted interviews with those  
24 persons. Was that at the police station or where did

11:48 25 you do that?

11:48 1 A. One was on scene and the others were at the  
2 police department.

3 Q. And did you identify a suspect based on the  
4 evidence and conversations with those witnesses?

11:49 5 A. I did.

6 Q. What was the name of that person?

7 A. Shawn Glover.

8 Q. And showing you Exhibit 5. Do you  
9 recognize that?

11:49 10 A. I do.

11 Q. And in Exhibit 5, how do you recognize it?  
12 Who is that individual?

13 A. That is a photograph of Shawn Glover.

14 Q. So that's the Shawn Glover that you're  
11:49 15 referring to from your investigation?

16 A. Yes.

17 Q. That was directed by the witnesses in this  
18 case and the other evidence you may have recovered?

19 A. Yes.

11:50 20 Q. Detective, based on your training and  
21 experience and your examination of the evidence, the  
22 scene, Mr. Fleming and the autopsy, do you have a  
23 reason, was it readily apparent to you based on your  
24 training and experience as to what caused Mr. Fleming's  
11:50 25 death?

11:50 1 A. Yes.

2 Q. And what was that?

3 A. Gunshot wound.

4 MR. FLINN: I have no additional questions

11:50 5 for this witness. Do the ladies and gentlemen and

6 gentlemen of the Grand Jury have any questions?

7 BY A JUROR:

8 Q. Yes. Maybe I missed it. I thought you  
9 said that there was three gunshot wounds to Mr. Fleming.

11:51 10 A. Yes. There was one to the back of his  
11 head, the one to the right arm and also his right groin  
12 area.

13 Q. Okay.

14 BY A JUROR:

11:51 15 Q. By any chance do you know which shot was  
16 first?

17 A. No, I cannot tell you that.

18 Q. One more. Were there, during the autopsy  
19 did you notice any bruising on his hands?

11:51 20 A. No.

21 THE FOREPERSON: Detective Wilson, by law,  
22 these proceedings are secret and you are prohibited from  
23 disclosing to anyone anything that has transpired before  
24 us, including evidence and statements presented to the  
11:51 25 Grand Jury, any event occurring or statement made in the



11:51 1 presence of the Grand Jury, and information obtained by  
2 the Grand Jury.

3 Failure to comply with this admonition is a  
4 gross misdemeanor punishable by a year in the Clark  
11:51 5 County Detention Center and a \$2,000 fine. In addition,  
6 you may be held in contempt of court punishable by an  
7 additional \$500 fine and 25 days in the Clark County  
8 Detention Center.

9 Do you understand this admonition?

11:51 10 THE WITNESS: Yes, I do.

11 THE FOREPERSON: Thank you for your time.

12 THE WITNESS: Thanks.

13 MR. FLINN: Ladies and gentlemen, the  
14 record will reflect that marked as Exhibit 20 is a  
11:52 15 Judgment of Conviction for District Court, Clark County,  
16 Nevada, dated May 2, 2012, case number C211880, State of  
17 Nevada versus Shawn Glover, for the felony crime of  
18 voluntary manslaughter with use of a deadly weapon.

19 With that, that concludes my presentation  
11:52 20 of evidence for today. If at any point before voting  
21 the Grand Jury would require additional documents or  
22 other evidence, please ask me and I will return to  
23 present that evidence if it is available and appropriate  
24 for presentation.

11:53 25 With that I will exit and allow you all to

11:53 1 deliberate.

2 (At this time, all persons, other than  
3 members of the Grand Jury, exit the room at 11:53 a.m.  
4 and return at 11:57 a.m.)

11:57 5 THE FOREPERSON: Mr. District Attorney, by  
6 a vote of 12 or more grand jurors a true bill has been  
7 returned against defendant Shawn Glovers charging the  
8 crimes of murder with use of a deadly weapon, assault  
9 with a deadly weapon, ownership or possession of firearm  
11:57 10 by prohibited person, and discharge of firearm from or  
11 within a structure or vehicle, in Grand Jury case  
12 number 15BGJ035X. We instruct you to prepare an  
13 Indictment in conformance with the proposed Indictment  
14 previously submitted to us.

11:57 15 (Proceedings concluded.)

16 --oo0oo--

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**REPORTER'S CERTIFICATE**

**STATE OF NEVADA**       )  
                                  :  
**COUNTY OF CLARK**       ): Ss

I, Danette L. Antonacci, C.C.R. 222, do  
hereby certify that I took down in Shorthand (Stenotype)  
all of the proceedings had in the before-entitled matter  
at the time and place indicated and thereafter said  
shorthand notes were transcribed at and under my  
direction and supervision and that the foregoing  
transcript constitutes a full, true, and accurate record  
of the proceedings had.

Dated at Las Vegas, Nevada,  
February 16, 2016.

/s/ Danette L. Antonacci

\_\_\_\_\_  
Danette L. Antonacci, C.C.R. 222

11:57

1

## AFFIRMATION

2

Pursuant to NRS 239B.030

3

4

The undersigned does hereby affirm that the  
preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER  
15BGJ035X:

11:57

5

6

7

8

  X   Does not contain the social security number of any  
person,

9

11:57

10

-OR-

11

       Contains the social security number of a person as  
required by:

12

13

A. A specific state or federal law, to-  
wit: NRS 656.250.

14

-OR-

11:57

15

16

B. For the administration of a public program  
or for an application for a federal or  
state grant.

17

18

/s/ Danette L. Antonacci

19

\_\_\_\_\_  
Signature

2-16-16

\_\_\_\_\_  
Date

11:57

20

21

Danette L. Antonacci

\_\_\_\_\_  
Print Name

22

23

Official Court Reporter

\_\_\_\_\_  
Title

24

25

	—	50/22 52/17 59/25 60/5 63/4
<b>BY A JUROR: [7]</b> 28/2 42/3 42/10 42/17 43/3 66/6 66/13	--oo0oo [1] 68/16 -OR [2] 70/10 70/14	<b>1st [8]</b> 8/18 8/24 13/25 31/10 31/21 45/17 46/19 58/20
<b>BY MR. FLINN: [4]</b> 8/14 31/6 35/25 45/5	.	<b>2</b>
<b>BY THE FOREPERSON: [1]</b> 28/19	.40 [3] 49/25 51/15 51/19 .40 caliber [3] 49/25 51/15 51/19	<b>2-16-16 [1]</b> 70/18 <b>20 [1]</b> 67/14 <b>201 [3]</b> 6/16 9/4 45/19
<b>MR. FLINN: [10]</b> 5/7 27/24 28/13 28/22 29/25 35/14 41/24 43/25 66/3 67/12	/	<b>2012 [2]</b> 6/8 67/16
<b>THE FOREPERSON:</b> <b>[23]</b> 6/25 7/7 7/16 7/19 8/3 8/7 29/4 29/9 29/21 29/23 30/4 30/11 30/20 30/24 43/7 43/22 44/3 44/10 44/19 44/23 66/20 67/10 68/4	/s [2] 69/17 70/18	<b>2016 [7]</b> 1/14 2/1 5/1 8/18 31/10 45/17 69/15
<b>THE WITNESS: [21]</b> 7/6 7/15 7/18 8/2 8/5 29/8 29/20 29/22 29/24 30/10 30/19 30/22 35/17 43/21 43/24 44/2 44/9 44/18 44/21 67/9 67/11	<b>1</b> <b>10 [4]</b> 53/14 53/23 54/10 55/5 <b>10 o'clock [1]</b> 14/7 <b>10:35 [1]</b> 1/15 <b>11 [2]</b> 53/14 55/8 <b>11:30 [1]</b> 15/5 <b>11:30 almost [1]</b> 15/17 <b>11:53 [1]</b> 68/3 <b>11:57 [1]</b> 68/4 <b>12 [3]</b> 53/15 55/18 68/6 <b>13 [2]</b> 56/9 56/17 <b>14 [2]</b> 56/9 57/1 <b>15 [3]</b> 45/13 59/24 60/14 <b>15BGJ035X [4]</b> 1/7 5/13 68/12 70/5 <b>16 [4]</b> 59/24 60/25 69/15 70/18 <b>17 [2]</b> 59/24 61/25 <b>18 [2]</b> 59/25 62/14 <b>19 [7]</b> 50/4 50/21	<b>21 [3]</b> 12/14 12/21 15/4 <b>222 [3]</b> 1/25 69/6 69/18 <b>239B.030 [1]</b> 70/2 <b>25 [3]</b> 29/18 43/19 67/7
<b>\$</b>		<b>4</b>
<b>\$2,000 [3]</b> 29/16 43/17 67/5		<b>4032 [3]</b> 6/16 9/2 45/18
<b>\$432 [1]</b> 57/7		<b>6</b>
<b>\$500 [3]</b> 29/18 43/19 67/7		<b>656.250 [1]</b> 70/13
		<b>9</b>
		<b>9 millimeter [1]</b> 51/14
		<b>9-millimeter [4]</b> 50/5 50/23 51/16 51/20
		<b>911 [5]</b> 23/8 23/22 23/23 23/24 25/6

<b>A</b>	44/18	<b>also</b> [8] 2/19
<b>a.m</b> [3] 1/15 68/3 68/4	<b>affirm</b> [1] 70/4	42/17 50/6 54/11
<b>ability</b> [1] 5/7	<b>AFFIRMATION</b> [1] 70/1	54/12 59/13 62/16
<b>able</b> [6] 15/6 20/25 48/2 49/21 58/16 59/5	<b>aforethought</b> [1] 5/17	66/11
<b>about</b> [33]	<b>after</b> [23] 18/20 22/22 24/1 25/9 26/2 26/8 26/21 27/1 27/2 33/13 35/24 36/14 36/15 37/8 37/13 38/22 40/5 41/8 41/13 54/3 54/5 55/3 56/21	<b>am</b> [3] 5/10 46/1 60/7
<b>above</b> [5] 11/17 11/23 56/4 56/4 56/6	<b>afternoon</b> [4] 15/15 15/16 15/18 15/19	<b>ammo</b> [1] 51/7
<b>ACACIA</b> [1] 2/5	<b>again</b> [1] 33/7	<b>ammunition</b> [6] 51/9 52/2 52/8 52/13 52/14 53/12
<b>accept</b> [1] 33/9	<b>against</b> [4] 6/1 61/8 61/18 68/7	<b>amount</b> [1] 25/13
<b>account</b> [1] 13/18	<b>age</b> [2] 16/17 16/18	<b>and/or</b> [2] 5/25 6/6
<b>accurate</b> [1] 69/12	<b>ago</b> [1] 41/12	<b>ANGELA</b> [14] 2/17 9/1 12/9 12/10 12/15 12/25 13/11 13/17 13/18 14/6 14/10 17/19 17/20 32/19
<b>accurately</b> [3] 5/6 47/21 53/20	<b>ahead</b> [4] 37/17 37/17 37/19 37/21	<b>Angela's</b> [9] 11/18 12/17 12/20 13/11 13/12 13/12 13/18 20/2 20/9
<b>actual</b> [2] 10/12 47/6	<b>aka</b> [1] 1/8	<b>another</b> [7] 5/23 11/11 11/12 12/18 28/7 54/17 54/18
<b>actually</b> [4] 24/10 26/16 26/17 41/5	<b>Akira</b> [30]	<b>answer</b> [2] 28/24 29/2
<b>addition</b> [3] 29/16 43/17 67/5	<b>all</b> [16] 11/13 13/25 16/3 22/1 23/13 28/9 28/10 29/5 52/13 52/14 54/19 58/1 59/2 67/25 68/2 69/8	<b>Antonacci</b> [7] 1/25 5/4 69/6 69/17 69/18 70/18 70/21
<b>additional</b> [9] 27/25 28/19 29/4 29/18 42/1 43/19 66/4 67/7 67/21	<b>alleging</b> [1] 5/16	<b>any</b> [26]
<b>address</b> [1] 58/20	<b>allow</b> [1] 67/25	<b>anyone</b> [4] 23/5 29/7 43/10 66/23
<b>administration</b> [1] 70/15	<b>almost</b> [3] 15/17 19/13 24/25	<b>anything</b> [22] 14/19 16/21 19/23 20/23 21/13 22/11 24/10 29/7 39/6 39/8 43/2 43/10 50/2 52/18 53/7
<b>admonition</b> [6] 29/14 29/20 43/15 43/21 67/3 67/9	<b>along</b> [1] 54/18	
<b>adult</b> [1] 12/18	<b>already</b> [4] 20/5 38/7 39/7 39/9	
<b>adults</b> [1] 12/25		
<b>advised</b> [4] 7/9 7/21 30/13 44/12		
<b>advisement</b> [4] 7/15 8/2 30/19		

<p><b>A</b></p> <p><b>anything...</b> [7] 55/11 56/1 57/22 58/3 61/3 64/14 66/23</p> <p><b>anywhere</b> [2] 24/19 40/10</p> <p><b>apartment</b> [7] 6/16 9/3 31/13 45/19 46/13 47/17 48/10</p> <p><b>apologize</b> [1] 28/24</p> <p><b>apparent</b> [3] 54/24 59/5 65/23</p> <p><b>apparently</b> [1] 61/22</p> <p><b>appear</b> [3] 56/24 59/20 63/17</p> <p><b>appeared</b> [2] 54/11 54/13</p> <p><b>appears</b> [2] 60/18 62/4</p> <p><b>application</b> [1] 70/15</p> <p><b>apprehension</b> [1] 5/24</p> <p><b>appropriate</b> [1] 67/23</p> <p><b>approximately</b> [1] 57/7</p> <p><b>APRIL</b> [1] 2/3</p> <p><b>are</b> [50]</p> <p><b>area</b> [8] 6/18 6/19 23/1 48/10 59/14 59/17 59/20 66/12</p> <p><b>arguing</b> [14] 14/24 16/4 18/6 18/7 18/15 32/2 32/4 32/5 32/7</p>	<p>32/13 32/17 33/18 34/19 43/2</p> <p><b>argument</b> [7] 14/20 14/22 16/2 16/25 31/22 32/21 43/5</p> <p><b>arm</b> [17] 59/14 60/7 62/3 62/17 62/18 62/21 63/1 63/7 63/23 63/25 64/1 64/5 64/5 64/9 64/12 64/14 66/11</p> <p><b>around</b> [8] 20/2 20/7 21/6 23/5 25/22 55/11 60/19 61/10</p> <p><b>arrive</b> [2] 25/7 46/6</p> <p><b>arrived</b> [11] 26/9 40/3 40/4 40/5 46/10 46/11 46/18 47/22 56/23 58/11 60/20</p> <p><b>as</b> [55]</p> <p><b>ask</b> [4] 11/20 26/9 28/17 67/22</p> <p><b>asked</b> [5] 18/8 19/6 24/3 33/19 33/22</p> <p><b>asks</b> [2] 18/3 18/4</p> <p><b>assault</b> [6] 5/21 7/11 7/23 30/15 44/14 68/8</p> <p><b>assessment</b> [1] 58/8</p> <p><b>assigned</b> [1] 45/24</p> <p><b>assist</b> [1] 57/23</p> <p><b>Assistant</b> [1] 2/6</p>	<p><b>assuming</b> [1] 34/10</p> <p><b>attached</b> [1] 9/10</p> <p><b>attempt</b> [1] 5/25</p> <p><b>attempting</b> [1] 26/15</p> <p><b>attend</b> [3] 57/17 57/19 58/12</p> <p><b>attention</b> [2] 8/17 31/9</p> <p><b>attorney</b> [3] 2/20 5/11 68/5</p> <p><b>Attorney's</b> [1] 5/12</p> <p><b>autopsies</b> [1] 57/10</p> <p><b>autopsy</b> [14] 56/15 57/17 57/19 57/21 58/12 58/15 58/22 59/19 60/3 60/11 60/21 62/6 65/22 66/18</p> <p><b>available</b> [1] 67/23</p> <p><b>Avenue</b> [1] 9/2</p> <p><b>avoid</b> [2] 26/16 41/1</p> <p><b>away</b> [3] 53/4 54/5 54/12</p> <p><b>aways</b> [1] 36/11</p> <p><b>awhile</b> [2] 41/12 42/13</p> <p><b>B</b></p> <p><b>babies</b> [1] 12/16</p> <p><b>baby</b> [4] 20/3 20/11 35/7 42/14</p> <p><b>baby's</b> [2] 35/11 41/21</p> <p><b>back</b> [51]</p> <p><b>backing</b> [1] 21/11</p>
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<b>B</b>	<b>begin</b> [1] 6/24	13/11 13/12 15/1
<b>backtrack</b> [1] 54/22	<b>behind</b> [5] 20/1 20/4 23/8 36/12 39/23	16/23 16/24 16/24
<b>bad</b> [1] 17/11	<b>being</b> [7] 6/18 16/16 16/17 16/17	<b>boys'</b> [1] 11/19
<b>barrel</b> [2] 49/11 61/8	33/21 46/13 63/12	<b>brain</b> [3] 59/13 59/20 61/22
<b>based</b> [10] 49/17 55/22 55/25 59/9 59/19 59/21 61/3 65/3 65/20 65/23	<b>believe</b> [3] 14/7 23/21 23/22	<b>break</b> [3] 63/18 63/21 64/12
<b>basement</b> [2] 16/6 16/7	<b>believed</b> [1] 38/23	<b>broken</b> [6] 59/15 63/8 63/12 63/15 64/5 64/9
<b>basically</b> [3] 46/14 61/10 61/13	<b>best</b> [2] 5/7 41/11	<b>broughten</b> [1] 42/14
<b>be</b> [30]	<b>better</b> [1] 7/19	<b>bruising</b> [1] 66/19
<b>beat</b> [2] 35/6 35/10	<b>between</b> [1] 14/23	<b>building</b> [1] 10/2
<b>because</b> [12] 19/14 23/15 25/20 26/20 38/17 39/7 41/2 43/1 49/12 51/19 52/13 61/9	<b>BIELAK</b> [1] 2/7	<b>bullet</b> [12] 49/7 49/9 51/15 51/19 52/19 54/11 55/13 55/23 56/2 56/5 63/1 63/2
<b>bedroom</b> [6] 11/18 18/8 18/21 20/2 28/9 28/11	<b>big</b> [2] 11/25 51/23	<b>burning</b> [1] 61/13
<b>been</b> [18] 5/5 5/20 6/8 6/22 8/10 25/6 31/2 41/3 45/1 45/11 49/2 54/3 54/5 56/2 56/5 61/14 61/23 68/6	<b>biggest</b> [1] 16/25	<b>C</b>
<b>before</b> [18] 7/4 10/21 14/25 15/18 15/18 15/19 29/8 30/8 39/13 41/3 42/15 43/10 44/7 54/22 54/23 66/23 67/20 69/8	<b>bill</b> [1] 68/6	<b>C.C.R</b> [3] 1/25 69/6 69/18
<b>before-entitled</b> [1] 69/8	<b>bit</b> [6] 9/15 10/14 11/24 20/16 37/6 48/19	<b>C211880</b> [2] 6/10 67/16
	<b>black</b> [2] 22/1 47/11	<b>C312448</b> [1] 1/7
	<b>blood</b> [2] 24/19 39/8	<b>caliber</b> [5] 49/24 49/25 50/22 51/15 51/19
	<b>bodily</b> [1] 5/25	<b>call</b> [7] 17/20 38/6 45/21 45/23 46/2 61/9 62/24
	<b>body</b> [11] 5/19 25/2 47/11 54/1 54/3 54/3 54/5 54/9 54/23 58/16 59/5	<b>called</b> [3] 15/5 28/12 46/3
	<b>bone</b> [2] 63/8 63/14	<b>calling</b> [1] 39/18
	<b>boom</b> [4] 37/7 37/7 37/7 37/9	<b>calls</b> [1] 18/4
	<b>both</b> [5] 8/5 10/24 23/12 30/22 44/21	<b>calm</b> [1] 19/14
	<b>boyfriend</b> [6]	<b>calmed</b> [1] 15/3
		<b>came</b> [12] 12/21



<b>C</b>	21/20 24/25 25/1 33/14 39/24 42/13 56/2 56/6 64/6	<b>clear</b> [1] 41/8 <b>close</b> [7] 19/17 36/11 36/13 49/22 50/1 50/7 61/5 <b>closed</b> [1] 28/11 <b>closer</b> [2] 55/9 61/2 <b>clothes</b> [1] 43/3 <b>clothing</b> [2] 58/1 59/1 <b>coats</b> [1] 28/10 <b>color</b> [1] 21/25 <b>come</b> [14] 10/15 14/3 17/22 19/10 23/19 25/6 25/16 25/18 31/21 39/25 40/2 42/5 47/10 52/11 <b>comes</b> [3] 18/3 32/17 33/19 <b>coming</b> [2] 18/22 18/24 <b>complete</b> [1] 63/21 <b>completely</b> [1] 59/15 <b>comply</b> [3] 29/14 43/15 67/3 <b>concluded</b> [1] 68/15 <b>concludes</b> [1] 67/19 <b>conduct</b> [1] 28/25 <b>conducted</b> [1] 64/23 <b>conformance</b> [1] 68/13 <b>constitutes</b> [1] 69/12 <b>contact</b> [2] 61/7 61/14
<b>came...</b> [11] 14/20 17/18 23/10 23/21 25/25 32/6 33/2 39/16 39/17 45/23 61/6 <b>can</b> [13] 7/17 7/19 8/18 8/22 17/2 18/4 29/8 39/24 48/18 48/25 51/15 52/18 57/23 <b>can't</b> [6] 7/16 8/20 36/14 36/15 51/17 51/23 <b>cannot</b> [1] 66/17 <b>capacity</b> [2] 45/16 57/8 <b>car</b> [5] 15/3 15/8 15/9 16/19 16/20 <b>card</b> [7] 49/18 50/1 50/7 54/15 55/4 55/5 55/12 <b>care</b> [2] 18/9 18/13 <b>CAREY</b> [1] 2/8 <b>carpet</b> [10] 54/11 54/12 54/12 55/4 55/12 55/14 55/15 55/16 55/21 55/23 <b>CARRIE</b> [1] 2/7 <b>cartridge</b> [2] 49/11 51/15 <b>case</b> [7] 5/12 5/14 6/10 65/18 67/16 68/11 70/4 <b>casing</b> [8] 48/17 49/6 49/6 49/8 49/11 49/13 49/18 49/22 <b>casings</b> [1] 54/14 <b>cause</b> [10] 18/15	<b>caused</b> [1] 65/24 <b>cell</b> [2] 32/18 38/19 <b>Center</b> [6] 29/16 29/19 43/17 43/20 67/5 67/8 <b>certain</b> [1] 15/7 <b>CERTIFICATE</b> [1] 69/1 <b>certify</b> [1] 69/7 <b>chamber</b> [9] 52/2 52/4 52/6 52/8 52/20 52/22 53/7 53/12 64/12 <b>chambers</b> [1] 52/22 <b>chance</b> [3] 28/4 42/22 66/15 <b>charged</b> [1] 5/14 <b>charging</b> [1] 68/7 <b>check</b> [2] 14/8 52/1 <b>child</b> [2] 13/12 13/19 <b>children</b> [1] 13/22 <b>CHRISTINA</b> [1] 2/12 <b>cigarette</b> [2] 17/3 17/9 <b>city</b> [1] 6/18 <b>clarify</b> [1] 11/20 <b>CLARK</b> [14] 1/2 5/11 6/11 9/5 29/15 29/18 31/18 43/16 43/19 45/18 67/4 67/7 67/15 69/4	

<b>C</b>	45/18 67/5 67/7 67/15 69/4	<b>days [3]</b> 29/18 43/19 67/7
<b>contain [1]</b> 70/8	<b>course [2]</b> 49/8	<b>DC [1]</b> 1/7
<b>Contains [1]</b> 70/11	51/8	<b>dead [1]</b> 39/7
<b>contempt [3]</b> 29/17 43/18 67/6	<b>court [7]</b> 1/1 6/11 29/17 43/18 67/6 67/15 70/23	<b>deadly [16]</b> 5/15 5/18 5/21 6/2 6/10 7/11 7/12 7/23 7/24 30/15 30/16 44/14 44/15 67/18 68/8 68/9
<b>contents [2]</b> 56/14 57/2	<b>CPR [7]</b> 24/5 24/17 24/22 25/11 39/21 39/22 40/2	<b>dealing [1]</b> 49/15
<b>context [2]</b> 15/24 33/11	<b>crime [5]</b> 46/12 46/14 48/21 53/17 67/17	<b>death [2]</b> 58/3 65/25
<b>control [2]</b> 6/6 6/7	<b>crimes [2]</b> 5/15 68/8	<b>deceased [3]</b> 47/17 56/24 58/11
<b>conversation [5]</b> 17/23 19/7 34/25 35/13 35/20	<b>cry [1]</b> 18/16	<b>decendent [1]</b> 57/20
<b>conversations [1]</b> 65/4	<b>CRYSTAL [1]</b> 2/4	<b>decided [1]</b> 19/11
<b>convicted [1]</b> 6/8	<b>custody [1]</b> 6/7	<b>defect [5]</b> 54/13 55/7 55/15 55/20 55/22
<b>CONVICTION [2]</b> 4/23 67/15	<b>D</b>	<b>defendant [8]</b> 1/9 5/14 5/16 5/22 6/5 6/8 6/14 68/7
<b>copy [1]</b> 6/21	<b>dad [25]</b>	<b>defendant's [1]</b> 50/2
<b>coroner's [2]</b> 56/15 60/23	<b>damage [1]</b> 56/3	<b>deliberate [2]</b> 5/20 68/1
<b>Correct [12]</b> 47/7 48/1 48/23 49/4 51/22 51/24 52/16 53/1 61/16 61/20 64/17 64/19	<b>Danette [7]</b> 1/25 5/4 69/6 69/17 69/18 70/18 70/21	<b>department [2]</b> 45/10 65/2
<b>correlates [1]</b> 48/20	<b>DANGLER [1]</b> 2/9	<b>depict [2]</b> 47/21 53/20
<b>could [27]</b>	<b>Date [1]</b> 70/19	<b>depicted [1]</b> 51/4
<b>couldn't [5]</b> 15/2 21/18 25/17 25/19 64/13	<b>dated [2]</b> 67/16 69/14	<b>deputy [3]</b> 2/4 2/20 5/10
<b>Count [4]</b> 5/15 5/21 6/3 6/12	<b>daughter [13]</b> 9/1 12/9 12/10 12/15 12/18 13/3 13/20 17/2 17/19 20/12 21/1 35/6 48/5	<b>describe [4]</b> 20/18 20/24 37/6 63/18
<b>Count 3 [1]</b> 6/3	<b>daughter's [1]</b> 35/8	<b>described [8]</b> 20/20 36/21 37/5 50/9 50/19 59/18
<b>county [15]</b> 1/2 5/11 6/11 6/18 9/6 29/16 29/18 31/18 43/17 43/19	<b>day [11]</b> 8/24 14/3 14/25 15/14 26/24 27/5 27/5 27/6 27/12 41/9 46/18	

<b>D</b>	22/10	15/11 16/5 16/5
<b>described...</b> [2] 61/22 64/5	<b>disagreements</b> [1] 28/22	16/7 17/12 19/21
<b>designated</b> [1] 6/18	<b>discharge</b> [8] 6/12 6/17 6/20	23/13 32/1 32/6
<b>detail</b> [1] 48/20	7/13 7/25 30/17	32/6 32/18 35/22
<b>detective</b> [25]	44/16 68/10	<b>downward</b> [1] 56/4
<b>detectives</b> [4] 27/10 27/11 41/13	<b>disclosing</b> [3] 29/7 43/10 66/23	<b>drawing</b> [1] 64/8
57/17	<b>discover</b> [1] 54/9	<b>drawn</b> [1] 64/8
<b>Detention</b> [6] 29/16 29/19 43/17	<b>discussion</b> [1] 31/22	<b>drop</b> [1] 14/7
43/20 67/5 67/8	<b>disregard</b> [1] 28/18	<b>duly</b> [4] 5/5 8/10
<b>develop</b> [1] 14/21	<b>district</b> [7] 1/1	31/2 45/1
<b>developed</b> [1] 14/22	2/20 5/10 5/11	<b>during</b> [1] 66/18
<b>dialed</b> [2] 23/8	6/11 67/15 68/5	<b>E</b>
23/23	<b>division</b> [1] 45/25	<b>each</b> [4] 18/17
<b>dialing</b> [1] 23/22	<b>do</b> [71]	19/12 51/3 62/21
<b>did</b> [86]	<b>doctor</b> [2] 57/12	<b>earlier</b> [4] 23/9
<b>didn't</b> [12] 15/2	63/19	55/21 61/22 64/11
24/18 39/8 39/24	<b>doctors</b> [1] 60/12	<b>effect</b> [2] 22/14
40/13 40/22 41/2	<b>documents</b> [1] 67/21	23/11
41/4 41/5 42/25	<b>does</b> [9] 10/25	<b>EIGHTH</b> [2] 1/1
43/1 43/2	25/6 40/2 47/20	6/10
<b>died</b> [1] 57/16	52/4 55/25 63/17	<b>either</b> [1] 52/14
<b>different</b> [1] 48/12	70/4 70/8	<b>ejected</b> [1] 49/11
<b>dimpling</b> [1] 61/10	<b>doesn't</b> [1] 51/21	<b>elbows</b> [4] 19/15
<b>dining</b> [3] 11/16	<b>doing</b> [5] 21/13	35/12 35/19 35/19
11/22 12/3	21/15 24/2 26/19	<b>elicit</b> [1] 28/25
<b>direct</b> [7] 8/17	40/2	<b>ELIZABETH</b> [1] 2/11
15/20 28/14 28/23	<b>don't</b> [7] 19/23	<b>else</b> [6] 12/13
31/9 33/6 33/9	21/19 22/13 29/2	13/6 16/21 23/5
<b>directed</b> [1] 65/17	38/4 38/4 41/25	26/23 33/14
<b>direction</b> [5] 22/9 22/10 56/2	<b>done</b> [3] 24/7	<b>employed</b> [2] 45/8
62/22 69/11	40/1 64/13	45/11
<b>directly</b> [1]	<b>door</b> [37]	<b>emptied</b> [1] 56/14
	<b>down</b> [47]	<b>end</b> [1] 49/8
	<b>downstairs</b> [12]	<b>enough</b> [1] 38/9
		<b>entered</b> [3] 47/4
		47/8 62/25
		<b>entitled</b> [1] 69/8
		<b>entrance</b> [4] 9/24
		10/5 10/19 25/23

<b>E</b> <b>entry</b> [3] 46/24 47/3 62/23 <b>essentially</b> [1] 27/12 <b>Eve</b> [1] 15/1 <b>event</b> [3] 29/11 43/12 66/25 <b>events</b> [2] 15/24 33/12 <b>eventually</b> [3] 26/23 27/2 47/2 <b>ever</b> [4] 20/23 38/8 38/8 43/6 <b>everyone</b> [1] 13/9 <b>everything</b> [2] 17/17 39/8 <b>evidence</b> [14] 6/24 29/10 43/11 50/7 54/20 55/5 55/12 65/4 65/18 65/21 66/24 67/20 67/22 67/23 <b>evidentiary</b> [3] 54/8 57/23 58/2 <b>exact</b> [1] 61/14 <b>exactly</b> [1] 21/2 <b>examination</b> [5] 8/14 31/6 45/5 59/1 65/21 <b>examinations</b> [1] 58/1 <b>examined</b> [3] 3/2 50/15 51/25 <b>examiner</b> [2] 57/25 58/25 <b>excused</b> [2] 29/24 43/24 <b>exhibit</b> [31] <b>Exhibit 1</b> [1] 6/22	<b>Exhibit 10</b> [1] 53/23 <b>Exhibit 11</b> [1] 55/8 <b>Exhibit 12</b> [1] 55/18 <b>Exhibit 13</b> [1] 56/17 <b>Exhibit 14</b> [1] 57/1 <b>Exhibit 15</b> [1] 60/14 <b>Exhibit 16</b> [1] 60/25 <b>Exhibit 17</b> [1] 61/25 <b>Exhibit 18</b> [1] 62/14 <b>Exhibit 19</b> [2] 60/5 63/4 <b>Exhibit 2</b> [2] 9/17 46/15 <b>Exhibit 20</b> [1] 67/14 <b>Exhibit 3</b> [2] 10/4 46/21 <b>Exhibit 4</b> [2] 10/9 46/24 <b>Exhibit 5</b> [6] 27/15 27/21 41/16 41/22 65/8 65/11 <b>Exhibit 6</b> [1] 48/7 <b>Exhibit 7</b> [1] 47/20 <b>Exhibit 8</b> [1] 48/14 <b>EXHIBITS</b> [6] 4/1 4/3 47/12 53/14 56/9 59/24 <b>exit</b> [3] 62/23	67/25 68/3 <b>exited</b> [1] 62/25 <b>experience</b> [10] 49/15 49/18 54/25 56/1 57/9 59/9 59/21 61/4 65/21 65/24 <b>explain</b> [3] 9/13 9/14 10/14 <b>explained</b> [1] 16/18 <hr/> <b>F</b> <b>face</b> [1] 24/18 <b>Facebook</b> [1] 42/16 <b>facing</b> [1] 20/8 <b>fact</b> [1] 46/6 <b>Failure</b> [3] 29/14 43/15 67/3 <b>fair</b> [7] 51/21 52/11 52/12 58/6 58/7 61/17 62/20 <b>fairly</b> [4] 36/11 36/13 47/20 53/20 <b>faithfully</b> [1] 5/5 <b>familiar</b> [2] 57/10 60/5 <b>family</b> [3] 31/15 35/14 35/21 <b>far</b> [3] 14/20 28/18 38/9 <b>fatal</b> [2] 59/22 61/23 <b>father</b> [2] 13/10 41/21 <b>fear</b> [1] 26/25 <b>February</b> [4] 1/14 2/1 5/1 69/15 <b>federal</b> [2] 70/12
---	--	---

<b>F</b>	<b>first</b> [19] 5/5 6/24 8/4 8/10 9/16 16/15 20/13 21/8 24/23 26/22 30/21 31/2 32/5 37/8 44/20 45/1 46/9 46/11 66/16	2/3 2/4 8/10 31/2 45/1
<b>federal...</b> [1] 70/15		<b>forgot</b> [1] 17/10
<b>feel</b> [2] 20/20 23/7		<b>forward</b> [1] 55/3
<b>feloniously</b> [4] 5/17 5/23 6/5 6/15		<b>found</b> [3] 54/10 54/17 55/13
<b>felony</b> [3] 6/8 6/11 67/17	<b>fit</b> [1] 51/21	<b>fracture</b> [1] 63/21
<b>felt</b> [1] 19/13	<b>five</b> [4] 35/24 36/24 36/25 37/3	<b>fragments</b> [3] 55/13 55/16 55/23
<b>fibers</b> [1] 55/13	<b>Fleming</b> [15] 5/18 5/19 13/2 13/3 48/3 56/13 56/23 58/10 58/13 58/19 58/19 59/6 64/21 65/22 66/9	<b>FRANCESCA</b> [1] 2/10
<b>fighting</b> [1] 19/19	<b>Fleming's</b> [3] 54/1 56/18 65/24	<b>friend</b> [2] 15/8 42/16
<b>filed</b> [1] 70/4	<b>flight</b> [2] 11/10 11/12	<b>front</b> [19] 9/19 9/20 10/5 10/7 10/18 10/23 20/10 21/18 24/14 25/2 25/11 25/16 25/17 25/19 25/20 35/6 37/20 46/21 49/10
<b>find</b> [2] 11/14 54/14	<b>Flinn</b> [2] 2/20 5/11	<b>fuck</b> [1] 22/14
<b>finding</b> [1] 28/7	<b>floor</b> [5] 37/16 47/16 56/6 56/21 58/20	<b>full</b> [1] 69/12
<b>fine</b> [6] 29/16 29/18 43/17 43/19 67/5 67/7	<b>Fogg</b> [5] 6/16 9/2 31/12 31/18 45/19	<b>fun</b> [1] 15/4
<b>finger</b> [1] 22/8	<b>follow</b> [1] 33/12	<b>G</b>
<b>finished</b> [1] 22/4	<b>followed</b> [2] 15/25 42/20	<b>garage</b> [40]
<b>finishing</b> [1] 34/24	<b>following</b> [3] 5/6 5/14 15/10	<b>gave</b> [4] 32/20 39/19 41/10 42/6
<b>fire</b> [3] 52/6 52/17 52/18	<b>follows</b> [3] 8/12 31/4 45/3	<b>general</b> [2] 11/14 57/20
<b>firearm</b> [21] 6/4 6/7 6/13 6/17 7/12 7/13 7/24 7/25 30/16 30/17 44/15 44/16 50/8 50/14 50/17 61/13 64/3 64/8 64/10 68/9 68/10	<b>footsteps</b> [4] 35/25 36/23 36/24 36/25	<b>generally</b> [2] 56/1 63/19
<b>firearms</b> [1] 49/15	<b>force</b> [1] 6/1	<b>gentlemen</b> [15] 5/10 9/14 9/22 28/1 28/15 30/1 33/7 41/25 42/2 44/1 51/3 56/16 66/5 66/6 67/13
<b>fired</b> [8] 49/7 49/10 51/15 52/9 52/23 56/2 56/6 61/15	<b>foregoing</b> [1] 69/11	<b>get</b> [14] 11/15 12/3 17/3 20/11
	<b>Foreperson</b> [5]	

<b>G</b>	<b>grab</b> [4] 17/9 19/15 20/2 38/5	<b>H</b>
<b>get...</b> [10] 21/10 21/17 21/18 21/19 25/17 25/19 38/19 48/19 60/23 64/14	<b>grabbed</b> [2] 19/24 35/11	<b>had</b> [49]
<b>getting</b> [3] 16/16 17/17 23/22	<b>grabbing</b> [1] 35/18	<b>hair</b> [1] 60/18
<b>give</b> [7] 7/4 7/10 7/22 30/8 30/14 44/7 44/13	<b>grand</b> [39]	<b>HALL</b> [1] 2/4
<b>gives</b> [1] 32/18	<b>grandchild</b> [1] 13/10	<b>hand</b> [8] 7/2 21/23 22/7 22/21 30/6 44/5 62/4 64/18
<b>GJ</b> [1] 1/7	<b>grandchildren</b> [1] 35/8	<b>handed</b> [6] 17/20 17/23 33/2 39/11 39/12 64/16
<b>Glock</b> [4] 50/4 50/21 50/22 52/17	<b>grant</b> [1] 70/16	<b>handgun</b> [5] 5/18 6/2 6/3 6/7 50/5
<b>GLOVER</b> [17] 1/8 1/8 5/13 7/14 8/1 13/16 13/17 27/19 27/22 30/18 33/1 41/20 44/17 65/7 65/13 65/14 67/17	<b>GREEN</b> [1] 2/10	<b>handle</b> [1] 18/9
<b>Glover's</b> [2] 42/9 42/10	<b>grip's</b> [1] 64/7	<b>hands</b> [2] 35/16 66/19
<b>Glovers</b> [1] 68/7	<b>groin</b> [2] 59/17 66/11	<b>happen</b> [1] 14/19
<b>go</b> [34]	<b>gross</b> [3] 29/15 43/16 67/4	<b>happened</b> [10] 18/1 18/20 26/8 26/10 27/8 32/4 37/15 40/16 41/1 41/14
<b>God</b> [4] 7/6 18/5 30/10 44/9	<b>ground</b> [2] 21/9 47/25	<b>happens</b> [3] 32/15 33/17 34/14
<b>goes</b> [7] 11/10 33/13 35/5 35/12 42/8 49/10 51/8	<b>guess</b> [2] 15/8 34/24	<b>harm</b> [1] 5/25
<b>going</b> [27]	<b>gun</b> [36]	<b>HARWELL</b> [1] 2/11
<b>gone</b> [6] 14/4 24/6 24/8 38/7 39/16 61/22	<b>gunpowder</b> [1] 61/11	<b>has</b> [13] 6/22 15/21 22/7 28/16 29/7 35/16 42/14 43/10 54/3 54/5 57/15 66/23 68/6
<b>good</b> [3] 5/9 16/20 44/3	<b>guns</b> [1] 28/8	<b>Hatch</b> [5] 26/13 26/16 40/21 40/22 42/6
<b>got</b> [15] 15/8 17/20 18/10 18/19 24/5 24/12 24/16 24/25 26/2 28/11 32/21 38/7 39/15 39/17 40/9	<b>gunshot</b> [20] 37/8 42/20 54/13 55/1 59/11 59/13 59/16 59/18 60/4 60/16 61/2 61/4 61/6 61/21 62/2 62/16 62/20 63/6 66/3 66/9	<b>have</b> [44] <b>having</b> [11] 5/5 5/20 6/8 8/10 27/23 31/2 32/21 34/25 45/1 61/22 63/22
	<b>gunshots</b> [7] 20/19 20/21 21/3 35/25 37/4 37/5 38/23	<b>he</b> [123]
	<b>GUTIERREZ</b> [1] 2/5	
	<b>guy</b> [2] 15/2 35/9	
	<b>guys</b> [1] 14/24	

<b>H</b>	<b>higher [1]</b> 48/12	<b>I</b>
<b>he's [12]</b> 13/10	<b>him [41]</b>	<b>I'd [2]</b> 28/17
13/11 13/18 14/9	<b>himself [1]</b> 14/10	33/6
18/14 18/15 21/10	<b>his [42]</b>	<b>I'll [5]</b> 8/21
21/10 22/20 24/8	<b>hit [1]</b> 56/6	9/17 11/20 11/20
24/25 39/12	<b>hitting [1]</b> 40/7	17/20
<b>head [14]</b> 22/19	<b>holding [1]</b> 22/2	<b>I'm [29]</b>
24/11 24/12 24/13	<b>hole [1]</b> 54/11	<b>I've [1]</b> 42/13
24/15 25/2 55/2	<b>holster [4]</b> 51/7	<b>idea [2]</b> 28/13
59/12 59/19 60/17	51/11 51/12 64/11	42/6
60/19 61/8 61/19	<b>holstered [4]</b>	<b>identified [4]</b>
66/11	50/6 50/9 50/11	4/3 48/3 48/4
<b>hear [17]</b> 7/16	64/6	53/2
7/18 7/19 8/18	<b>home [5]</b> 11/9	<b>identify [2]</b> 48/2
8/20 8/22 20/12	12/11 14/20 16/1	65/3
20/18 20/25 21/2	46/25	<b>immediate [2]</b>
23/10 23/13 23/14	<b>homicide [2]</b> 46/1	5/24 24/18
23/16 29/8 37/9	46/3	<b>impounded [1]</b>
38/1	<b>house [31]</b>	54/20
<b>heard [20]</b> 20/11	<b>how [19]</b> 20/23	<b>inadmissible [1]</b>
20/17 20/23 20/25	22/2 24/22 25/9	28/25
21/4 23/9 35/24	35/3 36/21 41/19	<b>including [3]</b>
35/25 36/20 36/21	42/5 42/12 45/8	29/10 43/11 66/24
36/22 36/24 37/3	45/11 45/14 47/15	<b>INDEX [2]</b> 3/1 4/1
37/6 37/13 38/2	56/12 57/5 60/2	<b>indicated [1]</b>
38/11 38/20 38/22	61/5 63/18 65/11	69/9
42/19	<b>huh [11]</b> 12/24	<b>INDICTMENT [4]</b>
<b>hearing [1]</b> 37/5	13/5 13/21 17/9	4/4 6/22 68/13
<b>held [4]</b> 29/17	19/3 25/24 33/16	68/13
43/18 46/13 67/6	34/10 37/12 39/14	<b>individual [8]</b>
<b>help [5]</b> 7/6 24/4	58/9	27/16 27/21 41/17
30/10 39/24 44/9	<b>humerus [1]</b> 59/14	47/24 48/2 58/4
<b>her [34]</b>	<b>hung [1]</b> 32/22	58/19 65/12
<b>here [12]</b> 7/9	<b>hurry [1]</b> 39/24	<b>individuals [1]</b>
7/21 11/17 18/6	<b>husband [10]</b>	33/8
19/25 30/3 30/13	12/14 13/1 13/19	<b>information [3]</b>
35/12 39/23 44/12	22/21 24/4 24/5	29/13 43/13 67/1
53/2 63/13	24/7 26/17 27/20	<b>injuries [2]</b> 24/9
<b>hereby [2]</b> 69/7	27/23	54/25
70/4	<b>HUWYLER [1]</b> 2/13	<b>injury [1]</b> 64/4
<b>HERN [1]</b> 2/12		<b>inside [10]</b> 10/11

<b>I</b> <b>inside...</b> [9] 17/24 23/3 47/17 47/21 50/11 50/13 51/7 55/13 57/3 <b>instances</b> [1] 28/21 <b>instruct</b> [1] 68/12 <b>intentionally</b> [1] 5/23 <b>interrupt</b> [1] 27/1 <b>interview</b> [1] 64/20 <b>interviews</b> [1] 64/23 <b>investigating</b> [1] 57/20 <b>investigation</b> [12] 7/4 7/10 7/22 30/8 30/14 44/7 44/13 57/16 57/24 59/10 64/2 65/15 <b>involving</b> [5] 7/14 8/1 16/2 30/18 44/17 <b>is</b> [122] <b>it</b> [93] <b>it's</b> [26] <b>item</b> [7] 48/16 49/5 49/5 49/22 50/7 54/10 62/12 <b>items</b> [2] 51/3 54/8 <b>its</b> [1] 9/10 <b>itself</b> [1] 52/25	8/24 13/25 31/10 31/21 45/17 46/19 58/20 <b>January 1st</b> [7] 8/18 8/24 13/25 31/10 31/21 46/19 58/20 <b>JEAN</b> [1] 2/9 <b>JEREMY</b> [1] 2/15 <b>Jordan</b> [1] 12/15 <b>JOSEPH</b> [1] 2/13 <b>Jr</b> [1] 1/8 <b>JUDGMENT</b> [2] 4/23 67/15 <b>JUDICIAL</b> [2] 1/1 6/11 <b>jurors</b> [3] 2/1 28/18 68/6 <b>Jury</b> [34] <b>Jury's</b> [1] 6/23 <b>just</b> [45]	20/21 <b>known</b> [2] 42/12 42/13 <b>KRAIG</b> [1] 2/6
<b>J</b> <b>jacket</b> [1] 43/2 <b>January</b> [8] 8/18	<b>K</b> <b>keep</b> [1] 12/2 <b>kept</b> [1] 40/7 <b>kids</b> [7] 14/16 14/17 16/18 22/14 28/9 28/10 39/23 <b>kids'</b> [1] 38/3 <b>kill</b> [1] 5/17 <b>killing</b> [1] 5/20 <b>kind</b> [10] 11/25 14/1 15/3 19/7 19/16 20/17 36/3 37/22 40/6 41/3 <b>kitchen</b> [1] 11/18 <b>knew</b> [4] 24/6 24/11 24/18 28/7 <b>know</b> [30] <b>knowing</b> [1] 41/11 <b>knowledge</b> [1]	<b>L</b> <b>LABIE</b> [1] 2/14 <b>ladies</b> [14] 5/9 9/14 9/22 28/1 28/15 30/1 33/6 41/25 42/2 44/1 51/2 56/16 66/5 67/13 <b>landing</b> [14] 10/18 10/20 10/21 10/24 11/2 11/5 11/11 20/13 21/8 22/25 23/18 25/23 47/10 55/24 <b>large</b> [1] 63/18 <b>larger</b> [1] 51/20 <b>LARSON</b> [1] 2/15 <b>Las</b> [10] 1/13 5/1 6/16 9/5 31/18 45/9 45/12 45/18 58/12 69/14 <b>last</b> [8] 8/5 13/1 13/15 27/15 30/22 32/25 44/21 44/23 <b>later</b> [4] 23/19 23/21 33/19 48/25 <b>law</b> [4] 29/6 43/8 66/21 70/12 <b>laws</b> [1] 6/12 <b>laying</b> [7] 20/14 21/14 25/20 39/2 40/6 47/16 54/1 <b>layout</b> [2] 9/15 11/14 <b>leave</b> [3] 33/24 40/10 40/11



<b>L</b>	<b>looked [9]</b> 19/22 19/22 20/11 21/17 21/20 21/21 22/5 22/6 22/17	<b>marking [2]</b> 55/6 55/7
<b>left [9]</b> 9/21 11/17 12/5 17/21 33/25 39/11 51/5 54/6 63/23	<b>looking [25]</b>	<b>marks [1]</b> 24/17
<b>let [8]</b> 7/17 15/4 19/20 22/6 32/24 36/2 40/11 54/22	<b>looks [1]</b> 21/11	<b>master [1]</b> 11/18
<b>let's [1]</b> 35/22	<b>lost [1]</b> 36/18	<b>mat [1]</b> 53/25
<b>lied [1]</b> 16/25	<b>loud [3]</b> 20/19 20/22 23/16	<b>matter [1]</b> 69/8
<b>life [3]</b> 26/25 38/3 62/12	<b>lying [3]</b> 47/10 47/24 56/21	<b>may [6]</b> 29/17 43/18 58/3 65/18 67/6 67/16
<b>lifted [1]</b> 55/21	<b>Lynn [1]</b> 1/8	<b>Maybe [1]</b> 66/8
<b>lifting [1]</b> 54/12	<b>M</b>	<b>me [52]</b>
<b>light [1]</b> 17/9	<b>M-I-R-A-N-D-A [1]</b> 8/7	<b>mean [2]</b> 10/21 52/5
<b>lighter [1]</b> 48/18	<b>ma'am [2]</b> 28/6 29/21	<b>meaning [1]</b> 61/7
<b>like [48]</b>	<b>made [5]</b> 23/18 29/12 33/8 43/12 66/25	<b>means [1]</b> 48/4
<b>likely [2]</b> 61/23 62/22	<b>magazine [3]</b> 51/6 51/8 52/15	<b>meant [1]</b> 26/16
<b>line [1]</b> 41/12	<b>make [3]</b> 8/21 47/3 52/18	<b>medical [3]</b> 57/25 58/25 59/1
<b>little [7]</b> 9/15 10/14 10/18 11/11 11/24 37/6 48/19	<b>making [1]</b> 18/16	<b>members [2]</b> 31/15 68/3
<b>living [12]</b> 8/25 11/17 11/23 12/3 12/4 12/13 12/19 23/12 26/4 26/7 31/10 48/10	<b>male [2]</b> 47/11 47/16	<b>memory [1]</b> 41/11
<b>load [2]</b> 52/19 52/19	<b>malice [1]</b> 5/17	<b>men [1]</b> 35/22
<b>located [3]</b> 6/15 31/17 59/16	<b>maliciously [1]</b> 6/14	<b>merely [2]</b> 15/23 33/10
<b>location [4]</b> 45/18 46/7 46/22 46/25	<b>man [4]</b> 19/15 19/17 19/25 19/25	<b>metal [1]</b> 53/3
<b>long [4]</b> 17/16 42/12 45/11 45/14	<b>manner [1]</b> 56/5	<b>Michael [1]</b> 12/15
<b>longer [1]</b> 49/13	<b>manslaughter [2]</b> 6/9 67/18	<b>mid [1]</b> 15/16
<b>look [7]</b> 12/5 50/17 53/2 55/8 57/22 60/23 62/11	<b>many [1]</b> 36/21	<b>middle [1]</b> 28/7
	<b>MARC [1]</b> 2/8	<b>might [2]</b> 28/25 62/12
	<b>mark [1]</b> 48/24	<b>millimeter [5]</b> 50/5 50/23 51/14 51/16 51/20
	<b>marked [4]</b> 6/22 49/18 49/22 67/14	<b>mind [3]</b> 18/12 63/9 63/10
		<b>minute [3]</b> 11/21 36/2 40/4
		<b>minutes [1]</b> 33/18
		<b>Miranda [15]</b> 5/24 6/1 6/3 6/25 8/6 8/9 8/17 16/1

<b>M</b>	68/5	42/7 42/9 42/10
<b>Miranda...</b> [7] 29/3 32/8 32/9 33/23 34/8 34/23 48/5	<b>Mr. Fleming</b> [4] 59/6 64/21 65/22 66/9	<b>night</b> [2] 16/3 16/20
<b>misdemeanor</b> [3] 29/15 43/16 67/4	<b>Mr. Fleming's</b> [1] 65/24	<b>no</b> [36]
<b>Miss</b> [2] 29/5 43/8	<b>much</b> [2] 51/19 57/5	<b>noise</b> [3] 20/18 20/18 20/23
<b>Miss Sutton</b> [1] 29/5	<b>murder</b> [6] 5/15 7/11 7/23 30/15 44/14 68/8	<b>noises</b> [3] 21/4 23/10 37/6
<b>Miss Veasley</b> [1] 43/8	<b>must</b> [1] 56/5	<b>noon</b> [1] 15/18
<b>missed</b> [1] 66/8	<b>my</b> [59]	<b>north</b> [8] 6/16 9/5 31/18 45/9 45/11 45/18 54/18 58/12
<b>mom</b> [15] 20/12 32/6 32/8 32/10 32/18 33/3 33/20 33/22 34/8 34/23 37/14 37/17 37/18 39/3 39/17	<b>myself</b> [3] 12/14 14/23 17/2	<b>not</b> [22] 14/12 15/22 16/17 19/15 19/19 19/19 20/25 28/6 28/8 28/24 33/9 35/5 35/12 35/19 42/24 52/3 57/12 61/18 61/18 63/19 64/8 70/8
<b>mom's</b> [2] 35/11 40/1	<b>N</b>	<b>noted</b> [1] 49/5
<b>moment</b> [2] 30/3 54/23	<b>name</b> [12] 8/5 13/1 13/15 18/4 26/12 30/22 32/8 32/25 42/5 44/21 65/6 70/21	<b>notes</b> [1] 69/10
<b>mommy</b> [1] 21/2	<b>nature</b> [3] 18/8 45/21 59/2	<b>nothing</b> [8] 7/6 8/12 18/17 30/10 31/4 44/9 45/3 52/11
<b>money</b> [2] 57/3 57/5	<b>near</b> [1] 24/15	<b>notice</b> [2] 63/20 66/19
<b>more</b> [4] 24/24 48/19 66/18 68/6	<b>need</b> [4] 18/23 19/6 19/23 35/1	<b>now</b> [30]
<b>morning</b> [4] 5/9 15/14 28/9 44/3	<b>needed</b> [1] 19/11	<b>NRS</b> [2] 70/2 70/13
<b>most</b> [1] 16/18	<b>nerves</b> [1] 17/11	<b>number</b> [14] 5/13 6/10 9/3 45/19 49/18 49/22 50/8 54/10 54/15 67/16 68/12 70/4 70/8 70/11
<b>mother's</b> [1] 35/7	<b>NEVADA</b> [10] 1/2 1/5 1/13 5/1 5/13 6/12 67/16 67/17 69/3 69/14	<b>number 1</b> [1] 49/22
<b>motion</b> [1] 22/8	<b>never</b> [1] 41/3	<b>number 10</b> [1]
<b>movie</b> [1] 15/7	<b>New</b> [1] 15/1	
<b>moving</b> [2] 39/5 54/11	<b>next</b> [12] 10/6 18/1 22/21 27/5 27/6 30/1 33/17 34/14 34/15 36/9 41/9 44/1	
<b>Mr.</b> [6] 59/6 64/21 65/22 65/24 66/9 68/5	<b>nickname</b> [4] 42/7	
<b>Mr. District</b> [1]		

<b>N</b>	<b>oh [4]</b> 17/16 18/5 36/24 40/14	25/10 28/10 40/8 45/13 45/15
<b>number 10...</b> [1] 54/10	<b>okay [18]</b> 7/18 7/20 8/18 8/22 8/23 9/10 17/2 17/3 17/10 18/1 18/18 18/19 22/17 29/8 36/16 36/20 37/23 66/13	<b>own [2]</b> 6/5 9/10 <b>ownership [6]</b> 6/3 7/12 7/24 30/16 44/15 68/9
<b>number 15BGJ035X</b> [1] 68/12		
<b>number 201 [1]</b> 45/19		
<b>numbers [3]</b> 10/6 48/20 48/21		
<b>O</b>	<b>old [1]</b> 12/14 <b>once [2]</b> 11/15 52/7	<b>P</b>
<b>o'clock [1]</b> 14/7	<b>one [16]</b> 11/25 23/8 25/3 27/15 27/19 37/9 42/15 42/19 51/5 54/15 59/12 62/21 65/1 66/10 66/11 66/18	<b>pacing [1]</b> 17/11 <b>palms [1]</b> 35/17 <b>Pamper [1]</b> 20/2 <b>pants [4]</b> 50/5 50/11 50/12 50/13
<b>observation [3]</b> 61/4 61/5 63/20		<b>part [4]</b> 49/8 52/25 53/3 60/21
<b>observations [3]</b> 23/18 28/17 59/19		<b>particular [5]</b> 14/3 14/19 40/25 45/24 59/8
<b>observe [7]</b> 24/8 24/11 46/9 47/8 49/21 59/5 59/9	<b>oo0oo [1]</b> 68/16	<b>Patrick [54]</b>
<b>observed [2]</b> 53/21 63/22	<b>open [1]</b> 40/7	<b>Patrick's [6]</b> 13/1 16/25 19/17 54/5 54/9 54/23
<b>obtained [3]</b> 29/13 43/13 67/1	<b>operator [1]</b> 24/3	<b>patrol [1]</b> 46/11
<b>obviously [1]</b> 63/8	<b>opposite [1]</b> 11/19	<b>PAUL [1]</b> 2/6
<b>occasion [1]</b> 45/17	<b>ordinance [1]</b> 6/19	<b>pause [2]</b> 37/7 37/9
<b>occurring [3]</b> 29/12 43/12 66/25	<b>other [18]</b> 10/17 11/1 11/1 12/6 12/18 13/3 13/20 15/22 18/17 19/12 31/15 33/8 54/14 54/14 62/18 65/18 67/22 68/2	<b>pending [3]</b> 7/4 30/8 44/7
<b>off [6]</b> 12/5 14/7 28/10 46/12 53/11 58/1	<b>others [2]</b> 9/11 65/1	<b>people [2]</b> 14/14 15/22
<b>offenses [4]</b> 7/11 7/23 30/15 44/14	<b>our [4]</b> 41/10 42/14 42/15 57/23	<b>perform [3]</b> 24/5 25/11 57/25
<b>offered [1]</b> 15/23	<b>out [30]</b>	<b>permission [1]</b> 6/23
<b>office [3]</b> 5/12 56/15 60/23	<b>outside [3]</b> 28/16 46/14 50/12	<b>person [19]</b> 5/23 6/4 7/13 7/25 30/17 40/22 44/16 50/3 50/8 56/13 56/20 57/6 58/23 64/3 64/10 65/6 68/10 70/8 70/11
<b>officers [3]</b> 40/15 40/20 46/12	<b>over [9]</b> 21/10 24/17 24/22 25/1	
<b>Official [1]</b> 70/23		

<b>P</b>	19/10 21/13 22/11	14/12 33/13
<b>personal</b> [1] 28/17	23/6 23/19 23/21	<b>previous</b> [2] 54/2 54/15
<b>personally</b> [1] 49/21	24/9 25/7 31/21	<b>previously</b> [1] 68/14
<b>personnel</b> [2] 48/22 49/3	32/15 38/16 43/6	<b>Print</b> [1] 70/21
<b>persons</b> [2] 64/24 68/2	47/2 48/12 67/20	<b>prior</b> [3] 28/21 28/25 56/15
<b>pertaining</b> [4] 7/10 7/22 30/14 44/13	<b>pointed</b> [2] 22/8 22/9	<b>probably</b> [1] 40/4
<b>phone</b> [15] 17/19 17/21 17/23 23/22 25/6 32/19 32/19 32/20 32/22 33/3 38/6 38/19 39/15 39/17 39/19	<b>pointing</b> [2] 6/2 63/10	<b>problem</b> [1] 19/20
<b>PHOTO</b> [1] 4/22	<b>poking</b> [1] 48/18	<b>procedure</b> [1] 60/21
<b>photograph</b> [26]	<b>police</b> [17] 25/7 25/16 26/2 26/8 26/22 26/23 26/24	<b>proceeding</b> [1] 29/1
<b>photographed</b> [1] 57/5	38/6 39/18 40/2 41/6 41/10 45/9 49/2 57/16 64/24 65/2	<b>proceedings</b> [8] 1/19 5/7 29/6 43/9 66/22 68/15 69/8 69/13
<b>photographs</b> [1] 54/2	<b>populated</b> [1] 6/19	<b>program</b> [1] 70/15
<b>physical</b> [2] 6/1 43/6	<b>positioned</b> [1] 24/23	<b>prohibited</b> [9] 6/4 7/13 7/25 29/7 30/17 43/9 44/16 66/22 68/10
<b>picked</b> [1] 14/8	<b>possession</b> [7] 6/4 6/6 7/12 7/24 30/16 44/15 68/9	<b>prohibiting</b> [1] 6/20
<b>picture</b> [4] 9/21 48/16 53/2 62/11	<b>preceding</b> [1] 70/4	<b>projectile</b> [6] 48/17 49/9 49/10 49/12 52/19 52/19
<b>place</b> [5] 5/23 31/25 48/11 55/9 69/9	<b>premeditated</b> [1] 5/21	<b>proposed</b> [3] 4/4 6/22 68/13
<b>placed</b> [1] 49/2	<b>prepare</b> [1] 68/12	<b>provide</b> [2] 15/24 33/11
<b>Plaintiff</b> [1] 1/6	<b>presence</b> [3] 29/12 43/13 67/1	<b>provided</b> [1] 15/21
<b>please</b> [13] 7/1 7/8 8/4 8/21 30/5 30/12 30/21 39/24 44/4 44/11 44/20 51/2 67/22	<b>present</b> [4] 2/1 2/19 60/10 67/23	<b>provides</b> [1] 51/9
<b>pockets</b> [1] 56/14	<b>presentation</b> [3] 6/24 67/19 67/24	<b>public</b> [1] 70/15
<b>point</b> [16] 14/4	<b>presented</b> [3] 29/11 43/11 66/24	<b>publish</b> [1] 47/18
	<b>presenting</b> [1] 5/12	<b>pull</b> [5] 24/16 24/21 25/3 25/10 52/7
	<b>pressed</b> [1] 61/18	<b>pulled</b> [2] 53/3
	<b>presumably</b> [2]	

<b>P</b>	<b>real</b> [3] 23/15 40/5 62/12	54/23 56/20
<b>pulled...</b> [1] 57/5	<b>really</b> [2] 28/16 36/14	<b>render</b> [1] 53/9
<b>punishable</b> [6] 29/15 29/17 43/16 43/18 67/4 67/6	<b>reason</b> [2] 40/25 65/23	<b>repeat</b> [1] 7/17
<b>purpose</b> [2] 6/19 57/21	<b>reasonable</b> [1] 5/24	<b>Reported</b> [1] 1/25
<b>Pursuant</b> [1] 70/2	<b>recognize</b> [14] 27/16 27/17 41/17 41/19 46/15 47/13 47/15 53/15 56/10 56/12 59/25 60/2 65/9 65/11	<b>Reporter</b> [1] 70/23
<b>put</b> [3] 28/9 28/10 35/16	<b>record</b> [8] 6/21 8/5 22/7 30/22 35/15 44/21 67/14 69/12	<b>REPORTER'S</b> [2] 1/19 69/1
<b>Q</b>	<b>recovered</b> [2] 64/4 65/18	<b>request</b> [1] 2/19
<b>question</b> [3] 28/24 29/2 42/19	<b>red</b> [1] 48/18	<b>require</b> [1] 67/21
<b>questions</b> [9] 26/9 27/25 28/2 28/19 29/4 42/1 42/3 66/4 66/6	<b>referred</b> [1] 48/25	<b>required</b> [1] 70/11
<b>quick</b> [3] 25/13 25/15 40/5	<b>referring</b> [2] 63/11 65/15	<b>RESHA</b> [1] 2/16
<b>quickly</b> [1] 25/9	<b>reflect</b> [4] 6/21 22/7 35/15 67/14	<b>residence</b> [1] 47/6
<b>R</b>	<b>regard</b> [1] 62/22	<b>respond</b> [1] 45/17
<b>raise</b> [3] 7/2 30/5 44/4	<b>regarding</b> [2] 15/21 64/2	<b>responding</b> [1] 45/22
<b>raised</b> [1] 22/7	<b>regards</b> [1] 58/10	<b>responsible</b> [1] 16/17
<b>ran</b> [3] 20/13 21/6 37/14	<b>regular</b> [1] 43/3	<b>rest</b> [1] 11/8
<b>range</b> [1] 61/5	<b>related</b> [1] 58/3	<b>retrieved</b> [2] 51/25 53/11
<b>ray</b> [3] 4/22 60/9 63/6	<b>relationship</b> [1] 13/8	<b>return</b> [2] 67/22 68/4
<b>rays</b> [3] 59/1 59/15 60/10	<b>relative</b> [1] 62/9	<b>returned</b> [4] 14/4 14/8 14/9 68/7
<b>reached</b> [1] 19/16	<b>remain</b> [1] 7/1	<b>reveal</b> [1] 40/22
<b>reaching</b> [1] 64/18	<b>remarkable</b> [1] 55/11	<b>right</b> [44]
<b>react</b> [1] 35/3	<b>removed</b> [6] 50/14 51/12 54/3 54/9	<b>risen</b> [1] 11/23
<b>readily</b> [1] 65/23		<b>robbery</b> [2] 46/1 46/3
<b>ready</b> [2] 52/6 52/22		<b>room</b> [16] 11/16 11/17 11/19 11/22 11/23 11/25 12/3 12/3 12/4 20/9 23/12 26/5 26/7 55/24 58/22 68/3
		<b>rooms</b> [1] 12/6
		<b>round</b> [2] 52/22 64/11

<b>R</b>	46/12 46/14 46/17	<b>she's [3]</b> 12/20
<b>routine [1]</b> 57/15	47/21 48/22 53/17	14/12 15/4
<b>rug [1]</b> 55/7	53/21 58/11 60/22	<b>shooting [5]</b> 5/19
<b>running [1]</b> 38/5	65/1 65/22	22/4 45/23 46/2
<b>S</b>	<b>screaming [1]</b>	64/21
	18/16	<b>shorthand [2]</b>
<b>S-A-Y-O-K-O [1]</b>	<b>screen [1]</b> 63/10	69/7 69/10
44/22	<b>seated [3]</b> 7/8	<b>shortly [2]</b> 26/8
<b>S-U-T-T-O-N [1]</b>	30/12 44/11	41/8
8/7	<b>second [3]</b> 17/11	<b>shot [15]</b> 22/21
<b>safe [1]</b> 53/9	20/15 32/24	24/12 24/25 26/13
<b>said [53]</b>	<b>secret [3]</b> 29/6	26/17 27/19 27/23
<b>same [14]</b> 10/24	43/9 66/22	40/21 40/23 51/23
16/10 27/5 27/12	<b>Secretary [2]</b> 2/5	61/18 61/23 62/23
41/22 46/21 46/25	2/6	63/1 66/15
48/11 55/9 58/18	<b>secured [1]</b> 64/10	<b>shots [6]</b> 20/11
58/18 58/23 61/21	<b>security [2]</b> 70/8	20/17 20/19 21/1
62/18	70/11	23/15 23/16
<b>SANSON [1]</b> 2/3	<b>see [27]</b>	<b>shoulder [1]</b>
<b>sat [1]</b> 16/19	<b>seeing [1]</b> 21/9	19/24
<b>saw [7]</b> 16/10	<b>seen [3]</b> 37/15	<b>show [6]</b> 27/15
24/23 36/4 38/25	39/8 39/13	41/16 53/14 56/9
54/2 58/20 63/7	<b>separated [1]</b>	59/24 62/8
<b>say [18]</b> 10/20	12/1	<b>showed [1]</b> 59/15
16/7 16/22 18/19	<b>set [1]</b> 14/1	<b>shower [1]</b> 42/14
19/15 22/11 22/12	<b>severed [1]</b> 59/13	<b>showing [19]</b> 9/17
24/8 36/25 37/23	<b>shall [3]</b> 7/5	10/4 10/9 46/15
39/8 48/20 51/21	30/9 44/8	47/12 47/20 48/7
52/4 52/12 52/24	<b>SHARRON [1]</b> 2/17	48/14 50/24 53/23
61/17 62/20	<b>shave [1]</b> 60/23	55/18 56/16 60/14
<b>saying [6]</b> 15/6	<b>SHAWN [66]</b>	60/25 61/25 62/14
38/5 38/18 39/3	<b>Shawn's [2]</b> 13/15	63/4 63/7 65/8
39/6 64/13	32/25	<b>shut [1]</b> 22/14
<b>Sayoko [2]</b> 44/22	<b>she [21]</b> 12/21	<b>side [11]</b> 9/21
44/25	15/2 15/5 15/6	10/1 10/17 11/19
<b>says [3]</b> 17/19	16/3 16/25 20/12	24/14 24/24 25/3
18/3 19/4	21/1 23/19 23/23	25/3 62/18 62/21
<b>scale [1]</b> 62/5	32/20 32/22 37/19	64/7
<b>scared [3]</b> 26/20	37/21 37/21 39/3	<b>sight [1]</b> 36/18
26/25 41/2	39/19 39/20 39/21	<b>Signature [1]</b>
<b>scene [12]</b> 46/4	39/22 42/14	70/19

<b>S</b>	18/7 19/4 20/23 22/13 23/11 26/23 60/20 63/12	9/20 22/20 63/10
<b>significant</b> [5] 59/10 59/12 63/17 64/1 64/4	<b>soon</b> [1] 38/17	<b>start</b> [1] 34/19
<b>simply</b> [1] 53/12	<b>soot</b> [2] 61/10 61/11	<b>started</b> [8] 15/7 19/21 20/1 25/11 32/3 32/7 36/7 39/22
<b>single</b> [1] 62/23	<b>sorry</b> [7] 13/6 18/11 18/24 27/1 34/16 50/3 63/22	<b>startled</b> [1] 21/20
<b>sister</b> [1] 32/19	<b>sort</b> [3] 38/1 62/5 63/11	<b>starts</b> [2] 35/23 35/24
<b>sister's</b> [2] 41/20 42/14	<b>sounded</b> [1] 20/22	<b>state</b> [11] 1/5 5/13 6/12 8/4 18/12 30/21 44/20 67/16 69/3 70/12 70/16
<b>sitting</b> [2] 18/6 39/19	<b>space</b> [4] 10/17 10/21 11/1 55/24	<b>stated</b> [2] 18/15 19/8
<b>situation</b> [1] 19/14	<b>speak</b> [2] 8/21 40/15	<b>statement</b> [3] 29/12 43/12 66/25
<b>situations</b> [1] 41/3	<b>speaking</b> [1] 55/21	<b>statements</b> [10] 15/22 15/23 29/11 33/8 33/9 33/10 38/11 41/10 43/11 66/24
<b>size</b> [2] 62/9 62/12	<b>specific</b> [1] 70/12	<b>station</b> [3] 27/9 41/10 64/24
<b>skin</b> [1] 61/14	<b>specifically</b> [2] 6/2 6/9	<b>stay</b> [2] 40/12 40/13
<b>slide</b> [6] 51/6 52/21 52/21 52/24 53/4 53/5	<b>speculative</b> [1] 28/18	<b>staying</b> [5] 9/1 12/22 13/18 13/20 13/23
<b>slipped</b> [1] 22/24	<b>spell</b> [3] 8/5 30/22 44/21	<b>stem</b> [3] 59/13 59/20 61/23
<b>slumped</b> [1] 25/1	<b>spent</b> [3] 48/17 49/12 49/18	<b>Stenotype</b> [1] 69/7
<b>small</b> [2] 13/22 14/17	<b>spot</b> [1] 60/19	<b>step</b> [3] 11/16 24/25 31/22
<b>Smokey</b> [5] 6/16 9/2 31/12 31/18 45/19	<b>Ss</b> [1] 69/3	<b>stepfather</b> [1] 43/6
<b>so</b> [131]	<b>stage</b> [1] 29/1	<b>steps</b> [1] 36/15
<b>social</b> [2] 70/8 70/11	<b>staircase</b> [1] 48/9	<b>still</b> [9] 15/14
<b>solemnly</b> [3] 7/3 30/7 44/6	<b>stairs</b> [39]	
<b>some</b> [7] 13/22 15/22 20/21 26/9 38/1 56/5 62/5	<b>stairway</b> [2] 40/13 55/25	
<b>somebody</b> [3] 13/6 26/12 40/21	<b>stairwell</b> [1] 23/15	
<b>someone</b> [2] 15/9 57/15	<b>stand</b> [2] 9/17 30/3	
<b>something</b> [8]	<b>standing</b> [4] 7/1	

<b>S</b>	57/4 60/3 60/11 60/11	15/21 15/24 30/7 30/14 33/11 41/12 41/23 44/6 44/13
<b>still...</b> [8] 23/3 33/18 34/1 34/5 34/11 35/9 52/14 57/6	<b>taking</b> [2] 17/16 58/1	<b>than</b> [4] 11/1 51/20 54/14 68/2
<b>stippling</b> [1] 61/9	<b>talk</b> [16] 17/2 18/4 18/23 19/6 19/9 19/12 19/21 19/23 19/25 23/23 32/20 33/19 33/22 33/24 35/1 35/22	<b>Thank</b> [9] 8/8 29/22 29/23 29/25 30/25 43/23 43/25 44/24 67/11
<b>stop</b> [4] 8/21 20/15 32/24 36/2	<b>talked</b> [3] 23/25 27/2 27/9	<b>Thanks</b> [1] 67/12
<b>straight</b> [5] 11/10 12/4 20/12 21/12 25/1	<b>talking</b> [14] 12/6 16/22 17/1 17/17 18/12 19/5 25/13 34/12 34/16 35/4 39/20 41/23 52/24 63/11	<b>that</b> [265] <b>that's</b> [49] <b>theater</b> [1] 15/6 <b>their</b> [3] 13/19 23/13 58/1
<b>straightened</b> [1] 17/18	<b>tall</b> [1] 24/25	<b>them</b> [18] 17/10 19/11 19/19 20/20 23/14 23/25 26/12 26/16 28/18 35/10 36/18 39/20 39/23 41/1 47/15 56/12 59/11 60/2
<b>structure</b> [9] 6/13 6/15 6/17 7/14 8/1 30/18 44/17 55/24 68/11	<b>taped</b> [1] 46/12	<b>themselves</b> [2] 33/10 37/1
<b>stuff</b> [1] 20/11	<b>tell</b> [13] 8/21 22/13 26/12 26/23 38/3 38/4 38/4 40/20 41/5 49/24 51/2 56/1 66/17	<b>then</b> [42] <b>there</b> [91] <b>there's</b> [20] 11/1 11/5 11/6 11/11 11/11 11/22 13/22 16/1 33/14 37/20 39/23 48/18 52/8 55/4 57/7 57/16 60/18 61/9 62/4 64/11
<b>submitted</b> [1] 68/14	<b>telling</b> [3] 26/16 39/23 41/1	<b>thereafter</b> [1] 69/9
<b>subsequently</b> [1] 50/14	<b>tells</b> [2] 61/17 64/6	<b>these</b> [10] 10/6 29/6 35/8 41/3 43/9 47/18 48/19 48/20 48/21 66/22
<b>supervision</b> [1] 69/11	<b>ten</b> [1] 45/15	<b>they</b> [42]
<b>sure</b> [2] 8/22 18/5	<b>terms</b> [1] 64/2	
<b>suspect</b> [1] 65/3	<b>testified</b> [8] 8/12 27/12 27/22 28/16 31/4 40/23 45/3 64/11	
<b>Sutton</b> [8] 5/24 6/1 6/3 6/25 8/6 8/9 29/5 48/5	<b>testify</b> [3] 8/11 31/3 45/2	
<b>swear</b> [3] 7/3 30/7 44/6	<b>testifying</b> [1] 33/8	
<b>sworn</b> [4] 5/5 8/10 31/2 45/1	<b>testimony</b> [12] 7/3 7/10 7/22	
<b>T</b>		
<b>take</b> [4] 18/9 18/13 31/25 58/25		
<b>taken</b> [8] 1/13 53/17 54/5 56/20		

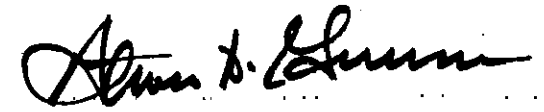


<b>T</b>	21/16 22/19 25/17	9/19 10/5 10/12
<b>they're</b> [4] 16/15	25/18 25/19 47/4	10/16 31/13 31/14
18/16 23/15 34/23	47/5 48/4 49/7	31/17
<b>they've</b> [1] 49/2	51/23 62/24 62/24	<b>training</b> [10]
<b>thing</b> [2] 9/16	<b>tile</b> [3] 54/13	49/14 49/17 54/24
27/12	55/20 55/22	55/25 57/9 59/9
<b>things</b> [6] 28/16	<b>time</b> [22] 8/20	59/21 61/3 65/20
41/8 48/24 58/2	8/25 12/13 14/10	65/24
59/1 61/13	15/7 15/14 18/22	<b>transcribe</b> [1]
<b>think</b> [9] 18/11	23/19 25/14 26/15	5/6
31/14 36/13 37/19	28/1 29/22 31/11	<b>transcribed</b> [1]
37/21 38/17 39/7	38/7 40/2 40/12	69/10
39/12 39/17	40/20 42/1 43/23	<b>transcript</b> [3]
<b>thinking</b> [3]	67/11 68/2 69/9	1/19 69/12 70/4
18/14 18/14 22/18	<b>tip</b> [1] 49/9	<b>transpired</b> [3]
<b>third</b> [1] 59/16	<b>tissues</b> [1] 37/20	29/8 43/10 66/23
<b>this</b> [56]	<b>Title</b> [1] 70/23	<b>travel</b> [1] 62/22
<b>THOMAS</b> [1] 2/16	<b>to-wit</b> [1] 6/7	<b>tried</b> [6] 19/14
<b>those</b> [23] 11/13	<b>today</b> [8] 7/9	24/5 24/16 24/21
15/22 15/23 17/7	7/21 27/13 30/13	25/3 25/10
21/1 21/4 23/17	40/23 41/12 44/12	<b>trigger</b> [1] 52/7
33/9 37/13 47/13	67/20	<b>true</b> [2] 68/6
48/24 53/15 53/17	<b>told</b> [12] 15/3	69/12
54/19 55/16 56/10	21/2 26/4 26/21	<b>truth</b> [20] 7/5
56/13 59/25 60/3	26/24 26/25 27/7	7/5 7/6 8/11 8/11
60/10 62/20 64/23	27/11 34/16 39/20	8/12 15/23 30/9
65/4	41/13 61/5	30/9 30/10 31/3
<b>thought</b> [1] 66/8	<b>too</b> [3] 19/17	31/3 31/4 33/10
<b>threat</b> [2] 38/1	35/8 51/23	44/8 44/8 44/9
38/2	<b>took</b> [3] 18/8	45/2 45/2 45/3
<b>threatened</b> [1]	28/9 69/7	<b>try</b> [1] 25/11
41/4	<b>top</b> [4] 11/15	<b>trying</b> [13] 19/8
<b>threatening</b> [2]	11/22 51/6 54/1	19/14 21/10 21/15
37/22 37/23	<b>total</b> [1] 54/19	21/17 21/19 35/5
<b>three</b> [14] 12/16	<b>toward</b> [3] 24/16	35/10 35/13 35/20
16/14 20/19 20/19	25/3 36/4	39/22 40/7 41/1
21/1 21/4 23/16	<b>towards</b> [2] 24/21	<b>tucked</b> [1] 50/5
32/10 32/16 36/22	54/17	<b>turn</b> [4] 21/6
48/17 54/19 59/11	<b>town</b> [3] 11/9	24/16 25/4 43/6
66/9	12/11 46/24	<b>turned</b> [4] 19/8
<b>through</b> [13] 12/2	<b>townhouse</b> [8] 9/9	20/2 20/7 21/1

<b>T</b>	60/7 62/2 62/16 63/7	<b>victim's</b> [4] 50/3 50/8 63/23 64/3
<b>turning</b> [1] 38/18	<b>upset</b> [2] 35/4 35/9	<b>video</b> [2] 15/12 16/3
<b>twins</b> [1] 12/15	<b>upstairs</b> [5] 17/3 18/5 28/12 33/14 46/13	<b>videotape</b> [1] 15/10
<b>two</b> [10] 19/10 33/18 35/16 36/15 37/10 37/11 40/5 42/20 48/17 59/11	<b>upward</b> [1] 22/8	<b>view</b> [1] 61/2
<b>type</b> [2] 50/19 60/8	<b>us</b> [12] 12/21 18/7 29/8 32/7 37/22 37/23 40/11 41/4 43/11 57/23 66/24 68/14	<b>viewing</b> [1] 60/11
<b>typical</b> [2] 16/18 62/5		<b>visible</b> [3] 24/9 54/25 63/14
<b>U</b>		<b>voluntary</b> [2] 6/9 67/18
<b>uh</b> [11] 12/24 13/5 13/21 17/9 19/3 25/24 33/16 34/10 37/12 39/14 58/9	<b>use</b> [11] 5/15 5/18 6/1 6/1 6/9 7/11 7/23 30/15 44/14 67/18 68/8	<b>vote</b> [1] 68/6
<b>uh-huh</b> [11] 12/24 13/5 13/21 17/9 19/3 25/24 33/16 34/10 37/12 39/14 58/9	<b>V</b>	<b>voting</b> [1] 67/20
<b>under</b> [4] 6/6 6/11 6/15 69/10	<b>V-E-A-S-L-E-Y</b> [1] 30/24	<b>W</b>
<b>undersigned</b> [1] 70/4	<b>value</b> [4] 38/2 54/8 57/23 58/2	<b>W-I-L-S-O-N</b> [1] 44/23
<b>understand</b> [7] 7/15 8/2 29/20 30/19 43/21 44/18 67/9	<b>vantage</b> [1] 48/12	<b>waist</b> [1] 50/5
<b>unit</b> [3] 9/3 9/10 10/1	<b>Veasley</b> [5] 30/2 30/23 31/1 43/8 48/6	<b>walk</b> [5] 11/2 11/5 11/13 11/21 40/8
<b>unlawfully</b> [5] 5/16 5/22 5/25 6/5 6/14	<b>Vegas</b> [10] 1/13 5/1 6/16 9/5 31/18 45/9 45/12 45/18 58/12 69/14	<b>walked</b> [4] 15/8 16/19 17/5 18/21
<b>unlike</b> [1] 20/23	<b>vehicle</b> [6] 6/13 7/14 8/1 30/18 44/17 68/11	<b>walking</b> [1] 12/2
<b>up</b> [45]	<b>versus</b> [2] 5/13 67/17	<b>wall</b> [1] 54/18
<b>upon</b> [3] 7/4 30/8 44/7	<b>very</b> [2] 25/13 25/15	<b>wallet</b> [5] 56/18 56/19 57/2 57/3 57/4
<b>upper</b> [5] 59/14	<b>victim</b> [6] 50/15 51/12 52/1 53/12 60/20 64/13	<b>want</b> [9] 8/17 9/13 15/2 15/20 18/9 18/9 18/13 31/9 41/5
		<b>wanted</b> [3] 14/25 15/5 15/11
		<b>wanting</b> [1] 32/20
		<b>was</b> [163]
		<b>wasn't</b> [5] 15/6 16/20 53/13 60/22 61/7
		<b>watch</b> [3] 15/7

<b>W</b>	<b>when [57]</b>	<b>WILLIAM [3]</b> 2/14
<b>watch... [2]</b>	<b>where [20]</b> 8/24	2/20 5/11
57/25 58/1	14/4 16/3 17/14	<b>Wilson [4]</b> 44/2
<b>watched [1]</b> 58/25	19/10 20/7 24/13	44/22 44/25 66/21
<b>watching [3]</b>	25/7 26/2 31/10	<b>wit [2]</b> 6/7 70/13
15/10 58/15 59/4	31/22 31/25 32/1	<b>within [12]</b> 6/13
<b>way [9]</b> 9/18	33/14 46/18 50/1	6/17 6/18 7/14
11/13 20/9 23/13	55/11 59/16 63/11	8/1 10/12 10/16
25/25 28/15 36/13	64/24	10/24 30/18 44/17
40/6 42/16	<b>whether [2]</b> 38/15	47/5 68/11
<b>we [45]</b>	52/1	<b>without [1]</b> 62/22
<b>we'll [3]</b> 35/22	<b>which [7]</b> 47/2	<b>witness [10]</b> 6/24
36/2 48/19	49/7 53/25 54/13	15/21 22/7 28/2
<b>we're [14]</b> 11/2	59/14 61/9 66/15	28/24 30/2 33/7
17/17 17/17 18/2	<b>while [5]</b> 6/15	35/16 44/2 66/5
18/5 18/14 25/13	6/17 25/5 40/1	<b>witness's [2]</b>
32/21 33/18 50/24	61/18	15/24 33/11
55/9 57/22 62/9	<b>who [15]</b> 11/21	<b>witnesses [5]</b> 3/1
63/23	12/13 13/8 19/4	46/12 64/20 65/4
<b>weapon [20]</b> 5/15	19/4 26/17 27/18	65/17
5/18 5/21 6/2	27/22 37/24 40/22	<b>won't [1]</b> 38/3
6/10 7/11 7/12	40/23 41/5 41/19	<b>work [2]</b> 14/6
7/23 7/24 30/15	58/10 65/12	14/10
30/16 38/15 44/14	<b>who's [1]</b> 11/21	<b>would [11]</b> 12/3
44/15 50/20 52/2	<b>whole [8]</b> 7/5	28/25 42/16 52/6
52/18 67/18 68/8	8/11 23/19 30/9	52/11 56/2 61/11
68/9	31/3 40/12 44/8	62/21 63/9 63/18
<b>weapons [1]</b> 6/20	45/2	67/21
<b>Wednesday [1]</b>	<b>whose [1]</b> 12/8	<b>wouldn't [2]</b>
1/14	<b>why [6]</b> 25/19	40/11 63/9
<b>well [8]</b> 12/23	26/19 35/1 39/4	<b>wound [14]</b> 24/17
19/18 35/7 35/21	45/21 51/18	55/1 59/13 59/22
53/18 58/2 60/6	<b>wife [4]</b> 35/1	60/16 60/24 61/2
61/7	35/5 35/6 48/5	61/7 61/10 61/21
<b>went [28]</b>	<b>will [7]</b> 5/12	62/2 62/16 63/6
<b>were [61]</b>	6/21 6/23 35/15	66/3
<b>what [83]</b>	67/14 67/22 67/25	<b>wounds [7]</b> 59/5
<b>what's [7]</b> 11/14	<b>willful [1]</b> 5/20	59/8 59/11 60/4
13/1 13/15 17/15	<b>willfully [5]</b>	61/4 62/21 66/9
17/16 57/20 62/8	5/16 5/22 5/25	<b>write [1]</b> 39/13
<b>whatever [1]</b> 62/9	6/5 6/14	

<div><div>X</div><div>X-rays [3] 59/1 59/15 60/10</div><div>Y</div><div>yeah [10] 34/10 34/23 35/18 37/10 38/10 39/1 39/3 40/14 41/2 42/5</div><div>year [7] 8/18 12/14 14/1 29/15 31/10 43/16 67/4</div><div>Year's [1] 15/1</div><div>years [1] 45/13</div><div>yes [144]</div><div>you [363]</div><div>you'll [2] 11/16 22/14</div><div>you're [28]</div><div>you've [4] 20/23 25/6 27/12 39/13</div><div>your [72]</div></div>		
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**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**  
CLERK OF THE COURTState of Nevada

PLAINTIFF

-VS-

Shawn Glover

DEFENDANT

CASE NO: C-16-312448-1DEPT. NO: 8MEDIA REQUEST AND ORDER ALLOWING  
CAMERA ACCESS TO COURT PROCEEDINGS\* Please fax to (702) 671-4548 to ensure that  
the request will be processed as quickly as possible.Guy DeMarco (name), of 8 News NOW (media organization),

hereby requests permission to broadcast, record, photograph or televise proceedings in the above-entitled case in

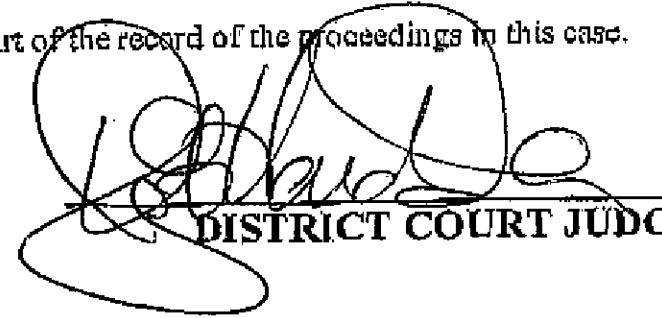
Dept. No. 8, the Honorable Judge Douglas Smith Presiding, on the 8 day of  
February, 2016

I hereby certify that I am familiar with, and will comply with Supreme Court Rules 229-246, inclusive. If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

Dated this 4 day of February, 2016SIGNATURE: PHONE: 702-792-8870

\*\*\*\*\*

**IT IS HEREBY ORDERED THAT:**☐ The media request is denied because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.☐ The media request is denied for the following reasons: \_\_\_\_\_☒ The media request is granted. The requested media access remains in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise notified. This order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion of any party to the action. Media access may be revoked if it is shown that access is distracting the participants, impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.☐ OTHER: \_\_\_\_\_**IT IS FURTHER ORDERED** that this document shall be made a part of the record of the proceedings in this case.Dated this 8TH day of FEBRUARY, 2016  
DISTRICT COURT JUDGE *ja*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

State of Nevada

PLAINTIFF

-VS-

Shawn Glover

DEFENDANT

CASE NO: C-16-312448-1

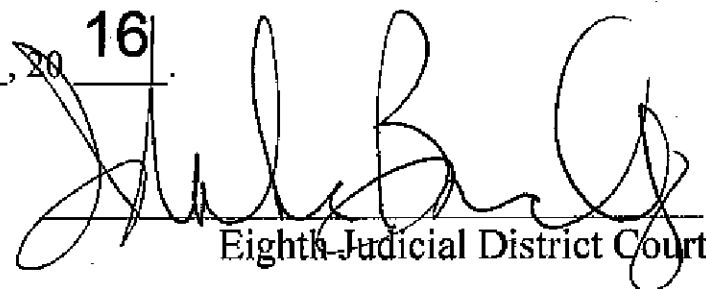
DEPT. NO: 8

NOTIFICATION OF  
MEDIA REQUEST

**TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:**

You are hereby notified pursuant to Supreme Court Rules 229-246, inclusive, that media representatives from KLAS have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 8th day of February, 2016.

  
Eighth Judicial District Court

**CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION**

I hereby certify that on the 8th day of February, 2016, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-246, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

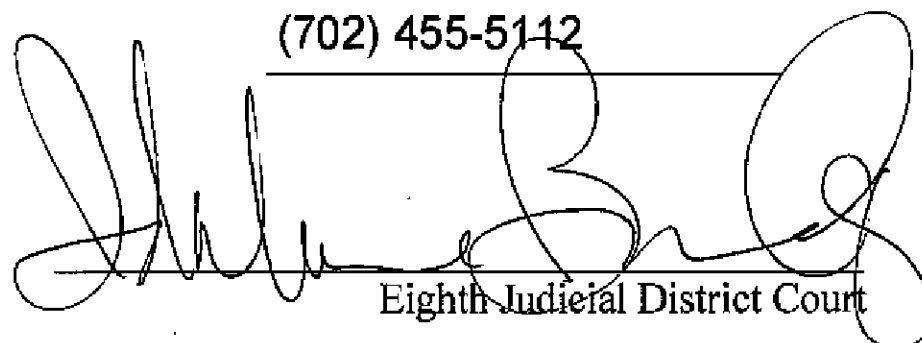
District Attorney

(702) 455-2294

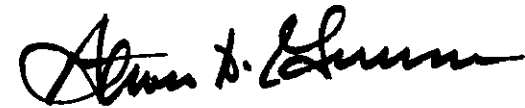
Defendant

Public Defender

(702) 455-5112

  
Eighth Judicial District Court

JESS R. MARCHESE, ESQ.  
Nevada Bar No. 8175  
601 S. Las Vegas Boulevard  
Las Vegas, NV 89101  
(702) 385-5377 Fax (702) 474-4210  
Attorney for Defendant



CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

Case No.: C312448  
Dept. No. VIII

v.

SHAWN GLOVER,

Defendant.

**SUBSTITUTION OF COUNSEL**

I hereby accept the representation of Defendant SHAWN GLOVER in place and instead of  
CLARK COUNTY PUBLIC DEFENDER.

DATED: February 20, 2016

**MARCHESE LAW OFFICES**

By:

  
\_\_\_\_\_  
Jess R. Marchese, Esq. (SBN 8175)  
Attorney for Defendant

I hereby consent to the substitution of JESS R. MARCHESE, ESQ. in place and instead of  
CLARK COUNTY PUBLIC DEFENDER.

DATED: February 20, 2016

By:

  
\_\_\_\_\_  
SHAWN GLOVER

1 I hereby acknowledge the substitution of JESS R. MARCHESE, ESQ as counsel of record and  
2 will relinquish a copy of the file as soon as practicable to his office.

3 DATED THIS 02 Day of March, 2016.

4 By: 

5 CLARK COUNTY PUBLIC DEFENDER

6 RECEIPT OF COPY

7 I, the undersigned, acknowledge that on the 2 day of MAR 2016, I  
8 received a true copy and correct copy of Defendant's SUBSTITUTION OF COUNSEL.  
9

10  
11 By: 

12 CLARK COUNTY DISTRICT ATTORNEY  
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CLERK OF THE COURT

JESS R. MARCHESE, ESQ.  
Nevada bar # 8175  
JESS R. MARCHESE, PC.  
601 S. Las Vegas Boulevard  
Las Vegas, Nevada 89101  
(702) 385-5377 Fax (702) 474-4210  
Attorney for Defendant

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

SHAWN GLOVER,

Defendant.

CASE NO. C-16-312448-1  
DEPT NO. VIII

**MOTION TO WITHDRAW AS COUNSEL**

Comes Now JESS R. MARCHESE, ESQ., counsel of record for the above-named defendant, SHAWN GLOVER, and moves the court for an Order allowing him to withdraw as counsel of record.

This motion is made and based upon the attached Points and Authorities, the affidavit of Jess R. Marchese, Esq., the papers and pleadings on file herein, together with the arguments of counsel to be heard at the time of the hearing on this matter.

DATED: April 5, 2016

**JESS R. MARCHESE, PC.**

By: 

Jess R. Marchese, Esq. (SBN 8175)  
601 S. Las Vegas Boulevard  
Las Vegas, NV 89101  
(702) 385-5377 Fax (702) 474-4210  
Attorney for Defendant

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**NOTICE OF MOTION**

TO: THE STATE OF NEVADA, Plaintiff; and

TO: CLARK COUNTY DISTRICT ATTORNEY

YOU AND EACH OF YOU will please take notice that a **MOTION TO WITHDRAW AS COUNSEL** will come on for hearing before the above-entitled Court on the 18 day of April, 2016, at the hour of 8:00 am a.m. in the above-referenced court.

DATED: April 5, 2016

**JESS R. MARCHESE, PC.**

By: 

Jess R. Marchese, Esq. (SBN 8175)  
601 S. LV Boulevard  
Las Vegas, NV 89101  
(702) 385-5377 Fax (702) 474-4210  
Attorney for Defendant

**POINTS AND AUTHORITIES**

Eighth Judicial District Court Rule 7.40 provides that counsel may be changed only by order of the court upon written motion. Counsel for the Defendant hereby seeks an order allowing him to withdraw from representing the Defendant in the instant case based upon the fact that the Defendant has failed to fulfill her contractual obligations.

As can be seen from the attached affidavit of counsel, the Defendant has not fulfilled his contractual obligations; therefore, counsel seeks an order from this Court allowing him to withdraw from representing the Defendant.

Based on the foregoing, counsel respectfully requests that this Court allow him to withdraw from representing the defendant in the instant case.

DATED: April 5, 2016

**JESS R. MARCHESE, PC.**

By: 

Jess R. Marchese, Esq. (SBN 8175)  
Attorney for Defendant

AFFIDAVIT OF JESS R. MARCHESE, ESQ.

STATE OF NEVADA )  
 ) ss:  
COUNTY OF CLARK )

JESS R. MARCHESE, ESQ., being first duly sworn, deposes and says:

1. That I am a licensed attorney practicing law in the State of Nevada and that I represent the Defendant, SHAWN GLOVER, in the above-entitled matter.
2. That I have personal knowledge of the facts contained in this Affidavit and am competent to testify as to those facts.
3. That Affiant entered into a specific agreement with the Defendant regarding the scope of representation and the defendant has failed to live up to the terms of said agreement. Further, Mr. Glover has indicated he is hiring alternative counsel.
4. Based upon the above, counsel asks that this court allow him to withdraw as counsel of record.
5. That the last known address on file for the Defendant is 330 S. Casino Center Blvd., Las Vegas, Nevada 89101.

EXECUTED: April 5, 2016

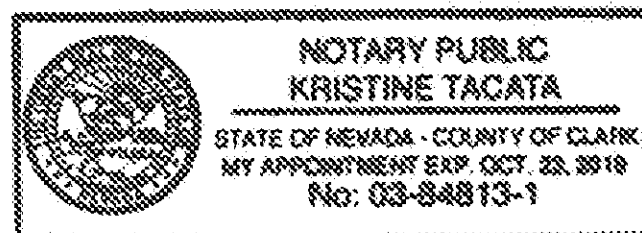
By:

JESS R. MARCHESE, ESQ.

SUBSCRIBED AND SWORN to before me

this 5 day of APRIL, 2016

NOTARY PUBLIC



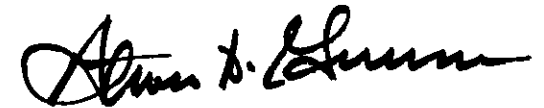
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Mr. Shawn Glover #1950305  
330 S. Casino Center Blvd.  
Las Vegas, Nevada. 89101

**Employee of Jess R. Marchese, Esq.**

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By: \_\_\_\_\_  
Clark County District Attorney's Office



CLERK OF THE COURT

0205  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J BASHOR, CHIEF DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 384-1969  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

v.

SHAWN GLOVER,

Defendant.

CASE NO. C-16-312448-1

DEPT. NO. VIII

DATE: May 23, 2016  
TIME: 8:00 a.m.

**MOTION FOR SETTING OF REASONABLE BAIL**

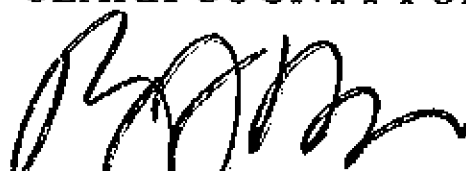
COMES NOW, the Defendant, SHAWN GLOVER, by and through his attorney,  
RYAN J BASHOR, Deputy Public Defender, and moves this Honorable Court for the setting of bail  
in a reasonable amount.

This Motion is based upon the attached Declaration of Counsel, any documents  
attached hereto, argument of Counsel and any information provided to the Court at the time set for  
hearing this motion.

DATED this 9<sup>th</sup> of May, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By



RYAN J. BASHOR, #11914  
Deputy Public Defender

## DECLARATION

RYAN J BASHOR makes the following declaration:

1. That I am an attorney duly licensed to practice law in the State of Nevada; that I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.

2. That Mr. Glover is a life long resident of Las Vegas.

3. That Mr. Glover has a child and family residing in the community.

4. That Mr. Glover is presumed innocent of the alleged offense.

5. That Mr. Glover has one prior felony conviction for Voluntary Manslaughter in which he successfully completed parole.

6. That Mr. Glover is indigent and any bail amount would be a substantial hardship on himself, family, and friends.

7. That Mr. Glover respectfully requests bail in the amount of \$100,000 cash or surety.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 9<sup>th</sup> day of May, 2016.

  
\_\_\_\_\_  
RYAN J. BASHOR

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**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion For Own  
Recognizance Release, Or, In The Alternative, For Setting Of Reasonable Bail will be heard on May  
23, 2016, at 8:00 am in District Court Dept 8.

DATED this 9<sup>th</sup> day of May, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:   
\_\_\_\_\_  
RYAN J BASHOR, #11914  
Chief Deputy Public Defender

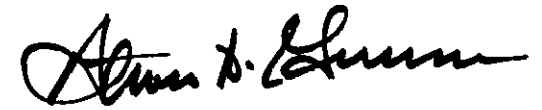
**CERTIFICATE OF ELECTRONIC SERVICE**

A COPY of the above and foregoing MOTION was served via electronic e-filing to  
the District Attorney's Office on this 9<sup>th</sup> day of May, 2016.

By: S. RUANO  
\_\_\_\_\_  
An employee of the Clark County Public  
Defender's Office

CLARK COUNTY PUBLIC DEFENDER

By: *Ryan J Bashor*  
RYAN J BASHOR, #11914  
Deputy Public Defender



CLERK OF THE COURT

**OPPS**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
DAVID L. STANTON  
Chief Deputy District Attorney  
Nevada Bar #003202  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

SHAWN GLOVER,  
#1950305

Defendant.

CASE NO: C-16-312448-1

DEPT NO: VIII

**STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR SETTING OF  
REASONABLE BAIL**

DATE OF HEARING: 5/23/16  
TIME OF HEARING: 8:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through DAVID L. STANTON, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Setting of Reasonable Bail.

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 POINTS AND AUTHORITIES

2 The instant Motion should be denied in its entirety and a “no bail” status should remain  
3 in effect. The two fundamental reasons for bail (or no bail) is for (1) the protection of the  
4 community; (2) risk of flight. Here, these tow concerns could not be more prominent and  
5 applicable than as applied to the instant Defendant.

6 The jury trial ended in a hung jury and a mistrial was declared. A resolution was had  
7 wherein the Defendant pled guilty to voluntary manslaughter. He is an incredibly violent  
8 person.

9 In the instant case, the victim’s family had invited Defendant into their home to assist  
10 him to “get back on his feet.” On the evening in question, Defendant intervened in a family  
11 argument and when confronted by the patriarch of the family that his behavior was  
12 inappropriate, he executed the victim. This was done while the victim’s wife and daughter  
13 were inside the home.

14 If that were not enough, Defendant, with a gun in his hand, made expressed threats to  
15 witnesses/victims and told them not to “snitch” on him otherwise they and/or their families  
16 would be hurt. Miranda Sutton testified as follows in this regard:

17 A: Like he [Defendant] had just finished shooting [the victim] and he looked  
18 at me with it [the gun].

19 Q: So he looked up at you with it. And let the record reflect the witness has  
20 raised her hand and pointed her finger up, in an upward position.

21 So was the gun pointed in your direction?

22 A: Yes, directly in my direction.

23 Q: Did he say anything at that point? Shawn when I say he.

24 A: I know he said don’t tell on me. Something to that effect, on you and  
25 your kids you’ll shut the fuck up.

26 Q: What were you thinking when he said that? What was going through your  
27 head?

28 A: That he’s standing there with a gun in his hand, that he just shot my  
husband, that I was next.

GJTr. pg. 22.

25 Ms. Sutton’s daughter, Akira Veasley, also was present inside the home when the  
26 Defendant executed the victim. She testified under oath that she too heard the post-murder  
27 threats: “I heard the threat. He [Defendant] said if you value you and your kids’ life you won’t  
28 tell on me ...” GJTr. pg. 38, lns 2-7.

1 **CONCLUSION**

2 Defendant is a threat to others, this community and to the victim's in this case. He  
3 should remain on a "no bail" status.

4 DATED this 11th day of May, 2016.

5 Respectfully submitted,

6 STEVEN B. WOLFSON  
7 Clark County District Attorney  
8 Nevada Bar #001565

9 BY 

10 DAVID L. STANTON  
11 Chief Deputy District Attorney  
12 Nevada Bar #003202

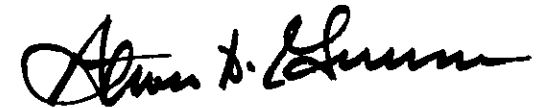
13 **CERTIFICATE OF ELECTRONIC FILING**

14 I hereby certify that service of the above and foregoing was made this 11 day of May,  
15 2016, by Electronic Filing to:

16 RYAN BASHOR, Deputy Public Defender  
17 E-mail: [bashorj@clarkcountynv.gov](mailto:bashorj@clarkcountynv.gov)

18   
19 Secretary for the District Attorney's Office

20 DS/tgd/MVU



CLERK OF THE COURT

0026  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

v.

SHAWN GLOVER,

Defendant,

CASE NO. C-16-312448-1

DEPT. NO. VIII

DATE: November 2, 2016  
TIME: 8:00 a.m.

**MOTION TO CONTINUE TRIAL DATE**


COMES NOW the Defendant, SHAWN GLOVER, by and through his attorney, RYAN J. BASHOR, Deputy Public Defender, and respectfully moves this court for an order vacating the November 2, 2016 trial date and requesting a new trial setting on a date convenient to the court.

This Motion is made based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, Memorandum of Points and Authorities in support hereof, and oral argument at the time set for hearing this Motion.

DATED this 21<sup>st</sup> day of October, 2016.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By

  
\_\_\_\_\_  
RYAN J. BASHOR, #11914  
Deputy Public Defender

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## DECLARATION

RYAN J. BASHOR makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That the crime in which Mr. Glover is charged carries the possible punishment of life in prison without the possibility of parole. The crime, should he be convicted, requires a penalty hearing in front of the empaneled jury.

3. That investigation and mitigation gathering remain outstanding.

4. That the State was contacted on October 19, 2016 that the defense would be seeking a continuance. The State has no objection to the instant motion.

5. That pursuant to AKDT No. 411 I have an obligation to provide zealous and quality representation at all stages of criminal proceedings

6. That this motion is not made for undue delay.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 21st day of October, 2016.

  
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RYAN J. BASHOR

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**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION TO CONTINUE  
TRIAL DATE will be heard on November 2, 2016, at 8:00 a.m. in District Court, Department VIII.

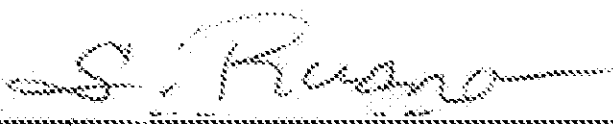
DATED this 21<sup>st</sup> day of October, 2016.

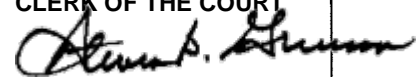
PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:   
\_\_\_\_\_  
RYAN J. BASHOR, #11914  
Deputy Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of the above and forgoing MOTION was served via  
electronic e-filing to the Clark County District Attorney's Office at [motions@clarkcountysda.com](mailto:motions@clarkcountysda.com) on  
this 21<sup>st</sup> day of October, 2016

By:   
\_\_\_\_\_  
An employee of the  
Clark County Public Defender's Office



MOT  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-16-312448-1
	)	
v.	)	DEPT. NO. VIII
	)	
SHAWN GLOVER,	)	
	)	
Defendant,	)	DATE:
	)	TIME: 8:00 a.m.

**MOTION TO COMPEL PRODUCTION OF DISCOVERY & BRADY MATERIAL**

Defendant, SHAWN GLOVER, through counsel, RYAN J. BASHOR, Deputy Public Defender, hereby requests this Honorable Court to order the State of Nevada to produce the discovery and Brady material discussed herein **at least 30 days before trial** pursuant to NRS 174.235; NRS 174.285; Kyles v. Whitley, 514 U.S. 419 (1995); Brady v. Maryland, 373 U.S. 83 (1963) (and their progeny).

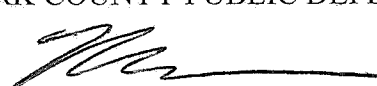
This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel and Memorandum of Points and Authorities, and oral argument at the time set for hearing this Motion.

DATED this 15<sup>th</sup> day of May, 2017.

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:   
RYAN J. BASHOR, #11914  
Deputy Public Defender

By:   
ROBERT E. O'BRIEN, #10944  
Deputy Public Defender

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1. I am an attorney licensed to practice law in the State of Nevada and I am a  
 e Defender for the Clark County Public Defender's Office, counsel of record for  
 AAWN GLOVER, in the present matter;

2. I make this Declaration in support of Mr. Glover's Motion for Production

3. I am more than 18 years of age and am competent to testify as to the

I declare under penalty of perjury that the foregoing is true and correct. (NRS

EXECUTED this 13 day of May, 2017.

RYAN J BASHOR





- Voluntary Statement from Loren Mendoza (1 pg);
- Voluntary Statement from Michael Reyes (1 pg);
- Social Media Scan (4 pg);
- Crime Scene Photos Thumbnails (15 pg);
- Judgment of Conviction from case no. C211880 (2 pg);

On June 30, 2016, two weeks after the original trial setting in this matter, defense counsel received a “thumb drive” from the State, which contained significant amounts of new, relevant material. That packet contained the following:

- Coolpad 3320A Forensic Report (16 pg);
- Angela Burke Phone Forensic Report (537 pg);
- Shawn Glover Phone Forensic Report (1111 pg);
- Autopsy Photos (210 photos);
- Crime Scene Photos (312 photos);
- Transcript of Akira Veasley Statement (17 pg);
- Audio Recording of Akira Veasley Statement;
- Transcript of Miranda Sutton Statement (17 pg);
- Audio Recording of Miranda Sutton Statement;
- Video from Interrogation Room (Cam A);
- Video from Interrogation Room (Cam B);
- Audio Recording from Interrogation Room.

## ARGUMENT

Prior to trial, prosecutors are required to disclose both inculpatory and exculpatory information within their actual or constructive possession.

### I. Prosecutors must Disclose *Inculpatory* Evidence

NRS 174.235 requires prosecutors to disclose evidence “within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known,” including:

- The defendant’s written or recorded statements or confessions,
- Any witness’s written or recorded statements the prosecuting attorney intends to call during the witness during the State’s case in chief,
- Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case,<sup>1</sup> and
- Books, papers, documents, tangible objects, or copies thereof, which the prosecuting attorney intends to introduce during the State’s case in chief.

NRS 174.235(1)(a)-(c).

#### A. Prosecutors must disclose all inculpatory evidence, regardless of whether the material is intended for use in the government’s case in chief

Prosecutors may not lawfully withhold inculpatory information from the defense simply because they do not intend to present the information in the government’s case-in-chief. State v. Harrington, 9 Nev. 91, 94 (1873); People v. Carter, 312 P.2d 665, 675 (Cal.1957); People v. Bunyard, 756 P.2d 795, 809 (Cal. 1988). Any holding to the contrary would allow prosecutors to engage in unfair surprise by withholding inculpatory material from the government’s case-in-chief, only to surprise the defense by using it in rebuttal. Thus, prosecutors must disclose all

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<sup>1</sup> This includes medical data, imaging, films, reports and slides, histological, colposcopic, or otherwise. The right to counsel guaranteed by the Sixth Amendment obligates defense counsel to conduct “an adequate pre-trial investigation into . . . medical evidence.” Gersten v. Senkowski, 426 F.3d 588, 605 (2d Cir. 2005). This duty includes obtaining and reviewing pertinent medical imaging even if the testing reveals no significant findings. Id. at 605, 607-10 (discussing the exculpatory nature of “normal” medical examinations in cases in which a complainant alleges physical harm). Thus, the discovery obligations set forth in NRS 174.235(2) require prosecutors to disclose physical imaging and testing.

1 inculpatory evidence of which they are actually or constructively aware, including material not  
2 necessarily intended for introduction in the prosecution's case-in-chief.

3 B. Fundamental fairness requires that NRS 174.235 be interpreted to encompass all  
4 statements made by a defendant, regardless of whether they are reduced to writing or  
5 recorded

6 While NRS 174.235 obligates prosecutors to disclose a defendant's written or recorded  
7 statements, fundamental fairness requires disclosure of unrecorded statements and statements for  
8 which a defendant can be held vicariously liable.<sup>2</sup> Courts have recognized the fundamental  
9 fairness involved in "granting the accused equal access to his own words, no matter how the  
10 government came by them." U.S. v. Caldwell, 543 F.2d 1333, 1353 (D.D.C. 1974). This  
11 includes allowing an accused access to his unrecorded words, including adoptive or vicarious  
12 admissions. Since these admissions are admissible at trial whether recorded or not, NRS  
13 174.235 must be construed to require pretrial disclosure of any unrecorded statements or  
14 admissions, including those for which the defendant can be held vicariously liable.

## 15 **II. Prosecutors Must Disclose Exculpatory Evidence as Required by the U.S. and** 16 **Nevada Constitutions**

17 The United States and Nevada Constitutions require prosecutors to disclose all  
18 exculpatory information of which they are actually or constructively aware. U.S. Const. Amend.  
19 V, VI, XIV; Nev. Const. Art. 1, Sect. 8; Brady v. Maryland, 373 U.S. 83 (1963); Kyles v.  
20 Whitley, 514 U.S. 419, (1995). A prosecutor's failure to disclose exculpatory evidence violates  
21 the Due Process Clause. Jimenez v. State, 112 Nev. 610, 618 (1996). A due process violation  
22 occurs when exculpatory evidence is withheld, regardless of the prosecution's motive. Jimenez,  
23 112 Nev. 610.

24 ///

25 ///

26 ///

27 <sup>2</sup> NRS 51.035(3)(a)-(e) provides that a defendant can be held vicariously liable for  
28 statements made by third parties. See also Fields v. State, 129 Nev. 785 (2009) (finding  
evidence of defendant's silence following wife's complaint that she was in jail because of his  
conduct admissible as an adoptive admission).

1       A. Brady Places Broad Disclosure Obligations on Prosecutors, Questions About Which Must  
2       Be Resolved In Favor Of Disclosure

3       Exculpatory evidence is information favorable to the defendant that is material to the  
4       issue of guilt or punishment. U.S. v. Bagley, 473 U.S. 667, 675 (1985). Evidence is material  
5       and favorable to the accused if its non-disclosure undermines confidence in the outcome of the  
6       trial. Kyles, 514 U.S. at 434-35. This evidence must be disclosed even in the absence of a Brady  
7       request.<sup>3</sup> Bagley, 473 U.S. at 680-82.

8       Ultimately, prosecutors are tasked with a “broad duty of disclosure.” Strickler, 527 U.S.  
9       at 281; cf. U.S. v. Agurs, 427 U.S. 97, 108 (1976) (holding that “the prudent prosecutor will  
10      resolve doubtful questions in favor of disclosure”). As the Nevada Supreme Court has  
11      explained:

12             Due process does not require simply the disclosure of “exculpatory” evidence.  
13             Evidence also must be disclosed if it provides grounds for the defense to attack the  
14             reliability, thoroughness, and good faith of the police investigation, to impeach the  
15             credibility of the state’s witnesses, or to bolster the defense case against  
                prosecutorial attacks. Furthermore, “discovery in a criminal case is not limited to  
                investigative leads or reports that are admissible in evidence.” Evidence “need not  
                have been independently admissible to have been material.”

16      Mazzan v. Warden, 116 Nev. 48, 67 (2000) (internal citations omitted). Thus, any question as to  
17      whether certain material, information, or evidence falls within the purview of Brady should be  
18      resolved in favor of disclosure. Agurs, 427 U.S. at 108; see also Kyles, 514 U.S. at 439 (“a  
19      prosecutor anxious about tacking too close to the wind will disclose a favorable piece of  
20      evidence.”).

21      ///

22      ///

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23             <sup>3</sup> However, a specific Brady request changes the standard of review on appeal. When a  
24      defendant makes a specific request, a reversal is warranted when “there exists a reasonable  
25      *possibility* that the claimed evidence would have affected the judgment of the trier of fact.”  
26      Jimenez, 112 Nev. 619; State v. Bennett, 119 Nev. 589 (2003). However, absent a specific  
27      request, reversal is warranted, “if there exists a reasonable *probability* that, had the evidence  
28      been disclosed, the result of the proceeding would have been different.” Bagley, 473 U.S. at  
        667, 682, 685; Pennsylvania v. Ritchie, 480 U.S. 39, 57 (1986). A reasonable probability is a  
        probability sufficient to undermine confidence in the outcome. Bagley, 473 U.S. at 678, 685;  
        Ritchie, 480 U.S. at 57.

1 B. Favorable Evidence Includes Impeachment Information

2 The Due Process Clause of the Fifth and Fourteenth Amendments requires prosecutors to  
3 disclose “any information about its witnesses that could cast doubt on their credibility.” U.S. v.  
4 Jennings, 960 F.2d 1488, 1490 (9th Cir. 1992). A witness can be attacked by “revealing possible  
5 biases, prejudices, or ulterior motives of the witnesses as they may relate directly to issues or  
6 personalities in the case at hand. The partiality of a witness is . . . always relevant [to]  
7 discrediting the witness and affecting the weight of his testimony.” Davis, 415 U.S. at 316; see  
8 also Lobato v. State, 120 Nev. 512 (2004) (discussing the nine basic modes of impeachment).  
9 Accordingly, favorable evidence includes impeachment information pertaining to all government  
10 witnesses. Giglio v. U.S., 405 U.S. 150, 154 (1972); Youngblood v. West Virginia, 547 U.S.  
11 867 (2006); U.S. v. Bagley, 473 U.S. at 676 (requiring disclosure of all impeachment evidence).

12 *1. Impeachment information includes cooperation agreements and benefits*

13 Impeachment information includes all cooperation agreements between a government  
14 witness and prosecutors. Giglio v. U.S., 405 U.S. 150, 154 (1972) (requiring disclosure of  
15 cooperation agreement between government witness and prosecutors). It also includes benefits  
16 provided to a government witness, regardless of whether an explicit deal is outlined. Browning  
17 v. State, 120 Nev. 347, 369 (2004). It is the witness’s own anticipation of reward, not the intent  
18 of the prosecutor, which gives rise to the required disclosure. Moore v. Kemp, 809 F.2d 702,  
19 726, 729-30 (11th Cir. 1987); Duggan v. State, 778 S.W.2d 465, 468 (Tex. Crim. App. 1989)  
20 (noting that agreements need not be express or formal arrangements, and recognizing favorable  
21 treatment that is merely implied, suggested, insinuated, or inferred to be of possible benefit to a  
22 witness constitutes proper material for impeachment).

23 Notably, benefits are not limited to agreements made in relation to the case in which they  
24 are sought. Jimenez, 112 Nev. at 622-23. Benefits include evidence that a witness acted as a  
25 paid informant on one or more occasions. State v. Bennett, 119 Nev. 589, 603 (2003).  
26 Additionally, benefits include travel and lodging compensation, immigration assistance of any  
27 kind, whether actual or anticipatory, as well as counseling, treatment, or other assistance  
28

1 provided to any witness. These benefits are relevant to issues regarding possible bias,  
2 credibility, and motive to lie, all of which constitute impeachment evidence. Davis v. Alaska,  
3 415 U.S. 308 (1974).

4 *2. A witness's criminal history constitutes impeachment information*

5 Impeachment information includes evidence relating to a witness's criminal history.  
6 Briggs v. Raines, 652 F.2d 862, 865-66 (9th Cir. 1981). Under Brady, prosecutors must produce  
7 criminal histories useful to demonstrating a witness's history of, or propensity for, a relevant  
8 character trait. Id. Prosecutors must also produce criminal histories disclosing a witness's bias,  
9 prejudice or motive to lie. Davis, 415 U.S. at 354.

10 A witness's entire criminal record should be disclosed, even if it is more than ten years  
11 old. Moore, 809 F.2d 702. Prosecutors are often under the mistaken impression that they must  
12 disclose only felony convictions within the last ten years that can be utilized for impeachment  
13 under NRS 50.095. However, in Davis, the U.S. Supreme Court found that a witness can be  
14 attacked by "revealing possible biases, prejudices, or ulterior motives . . . . The partiality of a  
15 witness is . . . always relevant [to] discrediting the witness and affecting the weight of his  
16 testimony." 415 U.S. at 354 (internal quotations omitted). The Davis Court found that the  
17 policy interest in protecting offender records must yield to the defendant's right to cross-examine  
18 as to bias. Id. at 356; see also Lobato v. State, 120 Nev. 512 (2004), discussing the "nine basic  
19 modes of impeachment." Therefore, even juvenile records, misdemeanors, and older criminal  
20 records may yield information relevant to many forms of impeachment other than that outlined in  
21 NRS 50.095.

22 Prosecutors must also produce criminal history information maintained by law  
23 enforcement agencies other than the North Las Vegas Police Department, such as the federal  
24 government's National Crime Information Center ("NCIC") database.<sup>4</sup> "[K]nowledge [of the

25 <sup>4</sup> Federal law permits disclosure of NCIC information under circumstances such as those  
26 here. 28 C.F.R. Chapter 1 addresses the U.S. Dept. of Justice and Criminal Justice Information  
27 Systems. 28 C.F.R. Sec. 20.33 sets forth the instances in which NCIC information may be  
28 disclosed. It provides for NCIC disclosure "(1) To criminal justice agencies for criminal justice  
purposes . . . ." 28 C.F.R. Sec. 20.3(g) defines criminal justice agencies as *inter alia* courts.  
Additionally, 28 C.F.R. Sec. 20.3 defines the "[a]dministration of criminal justice" to include the

1 NCIC database] may be imputed to the prosecutor, or a duty to search may be imposed, in cases  
2 where a search for readily available background information is routinely performed, such as  
3 routine criminal background checks of witnesses.” Odle v. Calderon, 65 F. Supp. 2d 1065, 1072  
4 (N.D. Cal. 1999), rev’d on other grounds by Odle v. Woodford, 238 F.3d 1084 (9th Cir. 2001).  
5 A prosecutor’s lack of knowledge regarding a witness’s criminal history does not relieve the  
6 prosecutorial obligation to obtain and produce that information. Martinez v. Wainwright, 621  
7 F.2d 184, 187-89 (5th Cir. 1980) (defendant entitled to criminal records of state-government  
8 witnesses, including data obtainable from the FBI; prosecutor’s lack of awareness of alleged  
9 victim’s criminal history did not excuse duty to obtain and produce rap sheet).

10 Requiring prosecutors to run background checks on their witnesses is not a novel  
11 proposition. See U.S. v. Perdomo, 929 F.2d 967 (3d Cir. 1991) (adopting 5th Circuit’s rationale  
12 in requiring government to obtain complete criminal history on prosecution witnesses). It is the  
13 prosecutor’s “obligation to make a thorough inquiry of all enforcement agencies that had a  
14 potential connection with the witnesses . . . .” U.S. v. Thornton, 1 F.3d 149 (3d Cir. 1993). If the  
15 witness has no criminal history, the prosecutor is not required to produce the NCIC printout, as it  
16 need not disclose a lack of criminal history. U.S. v. Blood, 435 F.3d 612, 627 (6th Cir. 2006).  
17 Thus, prosecutors must run a thorough background check on every witness they intend to call,  
18 and produce all criminal history information to the defense.

19 *3. Impeachment information includes evidence contradicting a government witness’s*  
20 *statement*

21 Impeachment evidence encompasses prior inconsistent statements and other evidence that  
22 contradicts government witnesses. Accordingly, prosecutors must disclose prior inconsistent  
23 statements by prosecution witnesses. Lay v. State, 116 Nev. 1185, 1199 (2000). Prosecutors  
24 must also disclose other evidence contradicting the testimony of government witnesses. Rudin v.  
25 State, 120 Nev. 121, 139 (2004).

26 “performance of any of the following activities . . . adjudication . . . .” Therefore, the C.F.R.  
27 authorizes prosecutors to access and disclose NCIC data pursuant to Court order as part of a  
28 criminal case adjudication.

1           4. *Confidential records must be disclosed if they contain impeachment information*

2           Impeachment evidence can derive from privileged or confidential material. When this  
3 occurs, the privileged or confidential nature of the material at issue must yield to a defendant's  
4 constitutionally secured right to confront and cross-examine those who testify against him.  
5 Davis, 415 U.S. at 356 (finding the State's interest in maintaining confidentiality of juvenile  
6 records must yield to defendant's right to cross-examine as to bias); see also U.S. v. Nixon, 418  
7 U.S. 683, 713 (1974) (generalized assertion of privilege must yield to demonstrated, specific  
8 need for evidence in a pending criminal case). Thus, prosecutors must obtain and disclose  
9 privileged and confidential records when the records contain information bearing on witness  
10 credibility.<sup>5</sup>

11           This includes mental health records. U.S. v. Lindstrom, 698 F.2d 1154, 1166-67 (11th  
12 Cir. 1983); U.S. v. Robinson, 583 F.3d 1265, 1271-74 (10th Cir. 2009); Wyman v. State, 125  
13 Nev. 592, 607-08 (2009). It also includes Child Protective Services (or the functional  
14 equivalent) and school records. See Pennsylvania v. Ritchie, 480 U.S. 39, 60 (1987) (defendant  
15 entitled to *in camera* review of Child and Youth Services records<sup>6</sup>); and State v. Cardall, 982  
16 P.3d 79, 86 (Utah 1999) (defendant entitled to complainant's school psychological records  
17 indicating she had propensity to lie and had fabricated prior rape allegations). It further includes  
18 adult and juvenile parole, probation, jail, and prison records. U.S. v. Strifler, 851 F.2d 1197,  
19 1201 (9th Cir. 1988); Carriger v. Stewart, 132 F.3d 463, 479-82 (9th Cir. 1997) (requiring  
20 production of Department of Corrections file on principle government witness); Davis, 415 U.S.  
21 at 356; see also Bennett, 119 Nev. at 603 (2003) (failure to disclose co-conspirator's juvenile  
22 records in penalty hearing amounted to Brady violation). Thus, prosecutors cannot refuse

23  
24           <sup>5</sup> At a minimum, otherwise confidential or privileged material must be submitted to the  
25 Court for an *in camera* review to determine materiality. Pennsylvania v. Ritchie, 480 U.S. 39, 60  
(1987).

26           <sup>6</sup> The Ritchie Court held that the State cannot claim privilege to refuse disclosure of CPS  
27 records, unless there is a statutory scheme that forbids any use, including disclosure to a  
28 prosecutor, of such records. Ritchie, 480 U.S. at 57-58. NRS 432B.290 allows for disclosure of  
such records to the prosecutor and to the court for *in camera* review.



1 disclosure of impeachment information on the basis that the information is privileged or  
2 confidential.

3 *5. Impeachment Information Includes Prior Allegations of Sexual Misconduct and Prior*  
4 *Sexual Knowledge*

5 Under Nevada law, prior false allegations of sexual misconduct amount to an exception  
6 to rape shield laws. Miller v. State 105 Nev. 497 (1989). Accordingly, Nevada law authorizes  
7 disclosure of prior false allegations, including those made by juvenile complainants. NRS  
8 432B.290(3) specifically authorizes child welfare agencies to disclose “the identity of a person  
9 who makes a report or otherwise initiates an investigation . . . if a court, after reviewing the  
10 record *in camera* and determining that there is reason to believe that the person knowingly made  
11 a false report, orders the disclosure.” Similarly, the Ninth Circuit recognizes it is error to  
12 exclude evidence of minor’s prior false sexual assault allegations as this evidence “might  
13 reasonably have influenced the jury’s assessment of [the complainant’s] reliability or credibility .  
14 . . .” Fowler v. Sacramento Co. Sheriff’s Dept., 421 F.3d 1027, 1032-33; 1040 (9th Cir. 2005).

15 Impeachment evidence in sexual misconduct cases further includes evidence of a  
16 complainant’s prior sexual conduct to show sexual knowledge. Summitt v. State, 101 Nev. 159  
17 (1985); see also Holley v. Yarborough, 568 F.3d 1091, 1099-1100 (9th Cir. 2009) (finding it was  
18 error to exclude evidence that complainant made comments to friends regarding a prior sexual  
19 encounter and claimed other boys expressed a desire to engage in sexual acts with her, as this  
20 evidence revealed complainant’s active sexual imagination, and may have altered jury’s  
21 perception of the complainant’s credibility and reliability of her claims). Thus, prosecutors must  
22 disclose evidence of a complainant’s prior accusations of sexual misconduct as well as evidence  
23 of a complainant’s prior sexual conduct in cases where such evidence bears on the charged  
24 crimes.

25 *6. Law enforcement personnel files may contain impeachment information*

26 Under U.S. v. Henthorn, 931 F.2d 29, 31 (9th Cir. 1991), prosecutors must examine law  
27 enforcement personnel files upon defense request. See also U.S. v. Cadet, 727 F.2d 1453 (9th  
28

1 Cir. 1984). A defendant is not required to make an initial showing of materiality before  
2 prosecutors must examine the files—the examination obligation arises solely from the  
3 defendant’s request. Henthorn, 931 F.2d at 31. “Absent such an examination, [the State] cannot  
4 ordinarily determine whether it is obligated to turn over the files.” Id. Once examined,  
5 prosecutors must “disclose information favorable to the defense that meets the appropriate  
6 standard of materiality . . . . If the prosecution is uncertain about the materiality of the  
7 information within its possession, it may submit the information to the trial court for an in  
8 camera inspection and evaluation . . . .” Henthorn, 931 F.2d at 30-31 (quoting Cadet, 727 F.2d at  
9 1467-68). Thus, if requested to do so by the defense, the prosecution must canvass relevant law  
10 enforcement personnel files for information material to the case.

11 C. Favorable Evidence Includes Witnesses with Exculpatory Information

12 Prosecutors must disclose the identity of witnesses possessing exculpatory information,  
13 as no legitimate interest is served by precluding the defense from calling such witnesses for trial.  
14 U.S. v. Eley, 335 F.Supp. 353 (N.D. Ga. 1972); U.S. v. Houston, 339 F.Supp. 762 (N.D. GA  
15 1972).

16 D. Favorable Evidence Includes Evidence of Third-Party Guilt

17 The U.S. Constitution guarantees a criminal defendant the right to present evidence of  
18 third-party guilt. See Holmes v. South Carolina, 547 U.S. 319 (2006) (holding that refusal to  
19 allow defendant to present evidence of third party guilt deprives him of a meaningful right to  
20 present a complete defense under the Sixth and Fourteenth Amendments to the U.S.  
21 Constitution). Under Brady, prosecutors must disclose all evidence suggesting another  
22 perpetrator committed the charged crimes. Lay, 116 Nev. at 1195-96. This includes evidence  
23 that another individual was arrested in connection with the charged crime. Banks v. Reynolds,  
24 54 F.3d 1508, 1518 n.21 (10th Cir. 1995). It also includes evidence of investigative leads  
25 pointing to other suspects. Jimenez, 112 Nev. at 622-23 (withholding evidence of investigative  
26 leads to other suspects, regardless of admissibility, constitutes Brady violation).

1 Additionally, prosecutors must provide the actual documents, evidence, and reports  
2 pertaining to evidence of third-party guilt; it is not enough for prosecutors to provide the defense  
3 with a summary of the information relating to other suspects. Mazzan, 116 Nev. at 69 (summary  
4 of prosecutor's perspective on written reports relating to potential suspects were constitutionally  
5 inadequate; actual reports should have been disclosed pursuant to Brady); Bloodworth v. State,  
6 512 A.2d 1056, 1059-60 (Md. 1986). Thus, prosecutors must disclose any information or  
7 evidence indicating someone other than the instant defendant committed the charged crimes.

8 E. Favorable Evidence Includes All Evidence that May Mitigate a Defendant's Sentence

9 Favorable evidence also includes evidence which could serve to mitigate a defendant's  
10 sentence upon conviction. Jimenez, 112 Nev. 610. Accordingly, prosecutors must disclose any  
11 evidence tending to mitigate punishment in the instant matter.

12 **III. The Disclosure Obligations Conferred by NRS 174.235 and Brady Include Rough**  
13 **Notes**

14 Raw notes made by any law enforcement officer or other prosecution agent in connection  
15 with the investigation of instant matter must be disclosed to the defense. See, e.g., State v.  
16 Banks, 2014 WL 7004489 (Nev. S.Ct. Dec. 10, 2014) (unpublished) (court did not take issue  
17 with lower court's order requiring preservation and disclosure of police officer's rough notes);  
18 see also U.S. v. Clark, 385 F.3d 609, 619 (6th Cir. 2004) (finding rough notes discoverable under  
19 F.R.C.P. 16); U.S. v. Molina-Guevara, 96 F.3d 698, 705 (3d Cir. 1996) (remanding on other  
20 grounds but noting that, on remand, production of rough notes required under F.R.C.P. 16); U.S.  
21 v. Harris, 543 F.2d 1247 (9th Cir. 1976) (noting as important, and requiring preservation of, law  
22 enforcement rough notes). Notably, this does not include information amounting to work  
23 product.

24 In Hickman v. Taylor, 329 U.S. 495, 508-11 (1947), the U.S. Supreme Court recognized  
25 the privileged nature of discussions relating to the preparation of a case for trial.<sup>7</sup> The work

26 <sup>7</sup> "In performing his various duties, however, it is essential that a lawyer work with a  
27 certain degree of privacy, free from unnecessary intrusion by opposing parties and their  
28 counsel... Proper preparation of a client's case demands that he assemble information, sift what  
he considers to be the relevant from the irrelevant facts, prepare his legal theories and plan his

product doctrine announced in Hickman shelters not only material generated by an attorney in preparation for trial, but by his agent, as well:

At its core, the work product doctrine shelters the mental processes of the attorney, providing a privileged area within which he can analyze and prepare his client's case. But the doctrine is an intensely practical one, grounded in the realities of litigation in our adversary system. One of those realities is that attorneys often must rely on the assistance of investigators and other agents in preparation for trial. It is therefore necessary that the doctrine protect material prepared by agents for the attorney as well as those prepared by the attorney himself. Moreover, the concerns reflected in the work-product doctrine do not disappear once trial has begun . . . .

U.S. v. Nobles, 422 U.S. 225, 238-39 (1975). Codifying this, NRS 174.235(2) exempts from discovery:

- a) An internal report, document or memorandum that is prepared by or on behalf of the prosecuting attorney in connection with the investigation or prosecution of the case.
- b) A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the constitution or laws of this state or the Constitution of the United States.

Accordingly, only raw notes generated by, or on behalf of, the prosecutor are exempted from disclosure under the work product doctrine. Any other raw notes compiled during the investigation of this matter must be turned over pursuant to the disclosure obligations imposed by NRS 174.235 and Brady.

#### **IV. The Disclosure Obligations Set Forth Above Extend to All Material in the Prosecutors Actual or Constructive Possession**

Prosecutors must turn over all material related to the case in the possession, control and custody of any government agent or agency. See U.S. v. Blanco, 392 F.3d 382, 388 (9th Cir.

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strategy without undue and needless interference... This work is reflected, of course, in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways – aptly... termed... as the ‘work product of the lawyer.’ Were such materials open to opposing counsel on mere demand, much of what is now put down in writing would remain unwritten. An attorney’s thoughts, heretofore inviolate, would not be his own. Inefficiency, unfairness and sharp practices would inevitably develop in the giving of legal advice and in the preparation of cases for trial. The effect on the legal profession would be demoralizing. And the interests of clients and the cause of justice would be poorly served.” Id.

2004). Prosecutors are responsible for disclosing evidence in their possession as well as evidence held or maintained by other government agents, as “it is appropriate to charge the State with constructive knowledge” of evidence held by any investigating agency. Bennett, 119 Nev. at 603.

This constructive possession rule applies to evidence that is *withheld* by other agencies. Bennett, 119 Nev. at 603. Even if investigating officers withhold reports without the prosecutor’s knowledge, “the state attorney is *charged with constructive knowledge and possession of evidence withheld by other state agents*, such as law enforcement officers.” Id. (internal quotations and citation omitted) (emphasis added). “Exculpatory evidence cannot be kept out of the hands of the defense just because the prosecutor does not have it, where an investigative agency does.” U.S. v. Zuno-Arce, 44 F.3d 1420, 1427 (9th Cir. 1995). “It is a violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial.” Jimenez, 112 Nev. at 618.

In fact, a prosecutor has an *affirmative obligation* to obtain Brady material and provide it to the defense, *even if the prosecutor is initially unaware of its existence*. “The prosecution’s affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th century strictures against misrepresentation and is of course most prominently associated with this Court’s decision in Brady . . . .” Kyles, 514 U.S. at 432. This obligation exists even where the defense does not make a request for such evidence. Id. As the U.S. Supreme Court explained:

This in turn means that the individual prosecutor *has a duty to learn* of any favorable evidence known to the others acting on the government’s behalf in the case, including the police. But whether the prosecutor succeeds or fails in meeting this obligation (whether, that is, a failure to disclose is in good faith or bad faith), the prosecution’s responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable. . . . Since then, the prosecutor has the means to discharge the government’s Brady responsibility if he will, any argument for excusing a prosecutor from disclosing what he does not happen to know about boils down to a plea to substitute the police for the prosecutor, and even for the courts themselves, as the final arbiters of the government’s obligation to ensure fair trials.

1 Kyles, 514 U.S. at 437-38 (emphasis added) (citations and footnotes omitted); see also Carriger,  
2 132 F.3d at 479-82 (holding that “the prosecution has a duty to learn of any exculpatory evidence  
3 known to others acting on the government’s behalf. *Because the prosecution is in a unique*  
4 *position to obtain information known to other agents of the government, it may not be excused*  
5 *from disclosing what it does not know but could have learned.*” (citations omitted) (emphasis  
6 added). Thus, the disclosure obligations outlined above extend not only to material directly in  
7 the possession of prosecutors, but material prosecutors constructively possess, as well.

8 **V. An “Open File” Policy Does Not Obviate the Disclosure Obligations Outlined Above**

9 Historically, the Clark County District Attorney’s Office (CCDA) has employed an open  
10 file policy in which prosecutors allow defense counsel to review the discovery contained in the  
11 government’s trial file. While the CCDA currently may not be adhering to this practice, it is  
12 worth noting that an open file policy does not vitiate above-referenced disclosure obligations.  
13 Strickler, 527 U.S. at 283 (holding that a prosecutor’s open file policy does not in any way  
14 substitute for or diminish the State’s obligation to turn over Brady material). “If a prosecutor  
15 asserts that he complies with Brady through an open file policy, defense counsel may reasonably  
16 rely on that file to contain all materials the State is constitutionally obligated to disclose under  
17 Brady.” Strickler, 527 U.S. at 283, n.23.; see also Amando v. Gonzalez, 758 F.3d 1119, 1136  
18 (9th Cir. 2014); McKee v. State, 112 Nev. 642, 644 (1996) (reversing a judgment of conviction  
19 based on prosecutorial misconduct where the prosecutor did not make available all relevant  
20 inculpatory and exculpatory evidence consistent with the county district attorney’s open file  
21 policy); see also Furbay v. State, 116 Nev. 481 (2000) (discussing prosecution’s duty to provide  
22 all evidence in its possession where it has promised to do so). Accordingly, if the defense relies  
23 on the government’s assurance of an open file policy, the defense is not required to hunt down  
24 information otherwise obtained and maintained pursuant to that policy.

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1 **VI. Adjudication of the Instant Motion is Necessary for Preservation of Issues Relating**  
2 **to Discovery Disclosures**

3 NRS 174.235 requires disclosure of (1) written and recorded statements of a defendant or  
4 any witness the prosecutor intends to call in his case-in-chief; (2) results and reports of any  
5 examinations or tests conducted in connection with the case at bar; and (3) any document or  
6 tangible object the prosecutor intends to introduce in his case in chief—upon the request of the  
7 defense. Additionally, constitutional jurisprudence requires disclosure of any evidence tending  
8 to exculpate the accused. The instant Motion is brought, *inter alia*, to ensure the availability of  
9 appropriate sanctions should later discovery issues arise. This requires a Court Order compelling  
10 the production of the information and material sought herein. Donovan v. State, 94 Nev. 671  
(Nev. 1978).

11 A. Nevada Law Provides for Judicial Oversight of the State's Discovery Obligations

12 Eighth Judicial District Court Rule (EDCR) 3.24 governs discovery motions in local  
13 criminal practice. It states:

14 (a) Any defendant seeking a court order for discovery pursuant to the provisions of  
15 NRS 174.235 or NRS 174.245 may make an oral motion for discovery at the  
16 time of initial arraignment. The relief granted for all oral motions for discovery  
will be as follows:

17 (1) That the State of Nevada furnish copies of all written or recorded  
18 statements or confessions made by the defendant which are within the  
possession, custody or control of the State, the existence of which is  
known or by the exercise of due diligence may become known to the  
district attorney.

19 (2) That the State of Nevada furnish copies of all results or reports of  
20 physical or mental examinations, and of scientific tests or experiments  
made in connection with this case which are within the possession,  
21 custody or control of the State, the existence of which is known or by  
the exercise of due diligence may become known to the district  
22 attorney.

23 (3) That the State of Nevada permit the defense to inspect and copy or  
24 photograph books, papers, documents, tangible objects, buildings,  
places, or copies or portions thereof, which are within the possession,  
25 custody or control of the State, provided that the said items are material  
to the preparation of the defendant's case at trial and constitute a  
26 reasonable request.

1 (b) Pursuant to NRS 174.255, the court may condition a discovery order upon a  
2 requirement that the defendant permit the State to inspect and copy or  
3 photograph scientific or medical reports, books, papers, documents, tangible  
4 objects, or copies or portions thereof, which the defendant intends to produce at  
the trial and which are within the defendant's possession, custody or control  
provided the said items are material to the preparation of the State's case at trial  
and constitute a reasonable request.

5 Thus, EDCR 3.24 specifically provides for the discovery motion brought in the instant matter.

6 Not surprisingly, the Nevada Supreme Court has held that a discovery motion and  
7 corresponding order is a prerequisite to obtaining relief under NRS 174.295<sup>8</sup> for later discovery  
8 violations:

9 Although NRS 174.295 provides relief for a prosecutor's failure to notify defense  
10 counsel of all discoverable material, that statute is only operative in situations  
11 where a previous defense motion has been made and a court order issued. That  
12 provision is not applicable to any informal arrangements that are made, as here  
between counsel without benefit of court sanction.

13 Donovan, 94 Nev. 671 (internal citations omitted).

14 This comports with other portions of NRS 174, which, by implication, suggests criminal  
15 discovery is a matter that must be pursued by way of motion rather than a simple written or oral  
16 request. For example, NRS 174.285 states that "a request made pursuant to NRS 174.235 or  
17 174.245 may be made only within 30 days after arraignment or at such reasonable time *as the*  
18 *court may permit*. A party shall comply with a request made pursuant to NRS 174.235 or  
19 174.245 not less than 30 days before trial or at such reasonable later time *as the court may*  
20 *permit*." (Emphasis added). The judicial permission required for late discovery requests and late  
21 compliance contemplates judicial oversight of discovery matters.

22 Similarly, NRS 174.125 contemplates discovery requests via written motion. NRS  
23 174.125 requires that, any motion "which by [its] nature, if granted, delay[s] or postpone[s] the  
24 time of trial must be made before trial, unless an opportunity to make such a motion before trial  
25 did not exist or the moving party was not aware of the grounds for the motion before trial." A  
26 discovery request, depending on the timing and nature of the request, may necessarily cause a

27 <sup>8</sup> NRS 174.295 sets forth sanctions for discovery violations, such as inspection of  
28 material not properly disclosed, trial continuance, or exclusion of the undisclosed material.



1 trial delay. Accordingly, under NRS 174.125, discovery requests should be made via motion  
2 prior to trial. Id.

3 Thus, the statutorily-based discovery requests set forth herein are properly brought before  
4 this Honorable Court and must be adjudicated. Refusal to adjudicate the instant Motion obviates  
5 Mr. Glover's statutorily created liberty interest in (1) ensuring access to the discoverable material  
6 covered by NRS 174 and (2) ensuring application of the enforcement and sanction provisions  
7 outlined in NRS 174. Such an arbitrary deprivation of a state-created liberty interest violates the  
8 Due Process Clause. See Hicks v. Oklahoma, 447 U.S. 343, 346 (1980) (arbitrary deprivation of  
9 state-created liberty interest amounts to Due Process violation).

10 B. Brady Material and Relevant Authority

11 Brady and related authority also contemplate pre-trial regulation and adjudication of  
12 prosecutorial disclosures. Brady is not a discovery rule but a rule of fairness and minimum  
13 prosecutorial obligation. Curry v. U.S., 658 A.2d 193, 197 (D.C. 1995) (internal quotations and  
14 citations omitted). It does not require the production of specific documents. It requires the  
15 production of information. This prosecutorial obligation is non delegable—it is not contingent  
16 on, nor is the defense required to make, specific Brady requests. See Strickler, 527 U.S. at 281-  
17 82 (setting forth the elements of a Brady claim and clarifying that there is no requirement that  
18 defense make request).<sup>9</sup>

19 However, to prevail on a Brady claim, should one arise, a defendant must establish that  
20 (1) the prosecution was in actual or constructive possession of favorable information; (2) the  
21 prosecution failed to disclose this information to the defense in a timely fashion or at all; and (3)  
22 the withheld information was material to the outcome of the trial. Strickler, 527 U.S. at 281-82.  
23 The standard for determining materiality depends upon whether defense counsel requested the

24 <sup>9</sup> Any argument by prosecutors that “the defense is able to independently seek out any  
25 discovery which they desire . . . it is not the State’s responsibility to perform investigations or  
26 inquiries on behalf of the defense,”—common responses to defense discovery motions—is  
27 patently wrong. Strickler, 527 U.S. at 281-82 (rejecting the argument that defense counsel  
28 should have uncovered Brady information); Banks v. Dretke, 540 U.S. 668, 695-98 (2004) (“A  
rule thus declaring ‘prosecutor may hide, defendant must seek’ is not tenable in a system  
constitutionally bound to accord defendants due process.”).

1 information at issue and, if a request was made, whether the request was specific or general in  
2 nature. “If a defendant makes no request or only a general request for information, the evidence  
3 is material when a reasonable *probability* exists that the result would have been different had it  
4 been disclosed.” Bennett, 119 Nev. at 600 (emphasis added). Yet, “if the defense request is  
5 specific, the evidence is material upon the lesser showing that a reasonable *possibility* exists of a  
6 different result had there been disclosure.” Id. (emphasis added) Accordingly, the fact and  
7 nature of a Brady request is critical to later adjudication of alleged Brady violations.

8 Defense counsel enjoys to the right to pursue Brady requests—and thereby construct the  
9 record on them—in the manner counsel sees fit. The best way to ensure that the record  
10 adequately reflects the nature and scope of a Brady request is via pre-trial discovery motion—a  
11 motion, as set forth above, specifically provided for by Nevada law.<sup>10</sup> See Myles v. State, 127  
12 Nev. 1161 (2011) (unpublished) (no discovery violation where undisclosed photo not requested  
13 as part of discovery motion).

14 A cursory review of federal discovery jurisprudence reveals the broad authority with  
15 which trial courts are vested to regulate pretrial Brady disclosures and thereby ensure that this  
16 constitutional rule—which exists to prevent a miscarriage of justice—works as it should.  
17 Bagley, 473 U.S. at 675; U.S. v. Odom, 930 A.2d 157, 158 (D.C. 2007); see also U.S. v. W.R.  
18 Grace, 526 F.3d 499, 509 (9th Cir. 2008) (affirming trial court’s order requiring government to  
19 disclose its finalized witness list a year prior to trial as an exercise of the court’s inherent  
20 authority to manage its docket”); U.S. v. Coppa, 267 F.3d 132, 146 (2d Cir. 2001)  
21 (acknowledging trial court’s discretion to order pretrial disclosures as a matter of sound case  
22 management); U.S. v. Rigas, 779 F. Supp. 408, 414 (M.D. Pa. 2011 (recognizing authority of  
23 trial court to order pretrial disclosure of Brady material to ensure effective administration of  
24 criminal justice system); U.S. v. Cerna, 633 F. Supp. 2d 1053, 1057 (N.D. Cal. 2009) (exercising  
25 power to issue Brady order); U.S. v. Thomas, 2006 WL 3095956 (D.N.J. 2006) (issuing pretrial  
26 order regulating, *inter alia*, Brady disclosures).

27 <sup>10</sup> This is especially true given the absence of compelling Nevada or other authority  
28 recognizing an informal Brady request as sufficient to preserve the record on this critical issue.

1 Indeed, trial courts must, as a constitutional matter, exercise this oversight power. Boyd  
2 v. U.S., 908 A.2d 39, 61 (D.C. 2006) (“courts have the obligation to assure that [prosecutorial  
3 discretion] is exercised in a manner consistent with the right of the accused to a fair trial”); see  
4 also Smith v. U.S., 665 A.2d 962 (D.C. 2008) (abuse of discretion for court to refuse to review a  
5 transcript *in camera* where prosecution concede there were “minor inconsistencies in the  
6 testimony as to how the shooting happened”). As such, judicial oversight of Brady disclosures is  
7 commonplace in federal criminal prosecutions. See, e.g., U.S. v. Johnson, 2010 WL 322143  
8 (W.D. Pa. 2010) (trial court ordering government to disclose all Brady material, including  
9 impeachment material no later than ten days prior to trial); U.S. v. Lekhtman 2009 WL 5095379  
10 at 1 (E.D.N.Y. 2009) (ordering disclosure of Brady material as it is discovered and Giglio  
11 material two weeks before commencement of trial); U.S. v. Rodriguez, 2009 WL 2569116 at 12  
12 S.D.N.Y. 2009) (ordering government to turn over Brady material as it is discovered and Giglio  
13 material twenty-one days before trial); U.S. v. Libby, 432 F. Supp. 2d 81, 86-87 (D.D.C. 2006)  
14 (ordering immediate production of all Brady material); U.S. v. Thomas, 2006 CR 553, 2006 WL  
15 3095956 (D.N.J. 2006) (unpublished) (ordering disclosure of “[a]ny material evidence favorable  
16 to the defense related to issues of guilt, lack of guilt, or punishment . . . within the purview of  
17 Brady and its progeny” within ten days of order). Thus, the constitutionally-based Brady  
18 requests set forth herein are properly brought before this Honorable Court and must be  
19 adjudicated to preserve Mr. Glover’s rights.

20 **VII. The Court Must Adjudicate the Instant Motion Regardless of Whether a Discovery**  
21 **Dispute Exists**

22 A dispute over the discoverability of certain material is not a prerequisite to compelling  
23 production of discovery and exculpatory information. This is because such disputes rarely occur.  
24 With the exception of records that are otherwise privileged (such as CPS or medical records),  
25 prosecutors typically do not inform defense counsel of material they intend to withhold from the  
26 defense. They simply keep the information hidden. The withheld information is later discovered  
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1 by the defense either through subsequent defense investigation, fortuitous circumstances, or  
2 during the post-conviction discovery process.

3 Recognizing this, the U.S. Supreme Court has not required defense counsel to divine (and  
4 bring to the Court's attention) particular information within the government's file that is being  
5 shielded from defense view:

6 We rejected a similar argument in Strickler. There, the State contended that  
7 examination of a witness's trial testimony, alongside a letter the witness published  
8 in a local newspaper, should have alerted the petitioner to the existence of  
9 undisclosed interviews of the witness by the police. We found this contention  
10 insubstantial. In light of the State's open file policy, we noted, 'it is especially  
11 unlikely that counsel would have suspected that additional impeaching evidence  
was being withheld. Our decisions lend no support to the notion that defendants  
must scavenge for hints of undisclosed Brady material when the prosecution  
represents that all such material has been disclosed. As we observed in Strickler,  
defense counsel has no 'procedural obligation to assert constitutional error on the  
basis of mere suspicion that some prosecutorial misstep may have occurred.

12 Banks, 540 U.S. at 695-96 (internal citations omitted). Thus, a dispute need not exist over the  
13 discoverability of a particular piece of information in order for this Court to entertain motions  
14 such as that brought here and enforce the government's discovery obligations. Accordingly, Mr.  
15 Glover respectfully requests that this Honorable Court adjudicate his Motion to Compel  
16 Production of Discovery.

17 **VIII. Prosecutors Must Oppose or Concede Each Discovery Request; and the Court Must**  
18 **Adjudicate Each Request**

19 Prosecutors often respond to discovery requests some combination of the following: (1) the  
20 government is aware of its discovery obligation and will act accordingly; (2) the government has  
21 complied with the requests or will facilitate review of discovery as needed; or (3) the request is  
22 objectionable as overbroad, immaterial, or not authorized by law. Only the last of these is  
23 responsive to a particular request; the first two are not. Each request needs to be opposed or  
24 conceded. Saying "we have complied" or "we are aware of our discovery obligations" or "we  
25 will facilitate a review of detective notebooks" is nothing more than attempt to subvert a ruling  
26 enforcing the discovery provisions mandated by state and federal law. It is a way to goad the  
27 court into believing the issue is moot. Discovery is a continuing obligation. A criminal  
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1 defendant is entitled to an order enforcing the discovery provisions outlined by state and federal  
2 law, regardless of whether the prosecutor has already provided certain requested material, is  
3 aware of pertinent discovery rules, and is willing to facilitate further discovery review. The  
4 prosecutor needs to oppose or concede each request. The Court needs to rule on each request,  
5 accordingly.<sup>11</sup>

## 6 **IX. Defendant's Specific Discovery Requests**

7 Based upon the foregoing, Mr. Glover requests that this Honorable Court enter an order  
8 directing prosecutors to provide the following related to this case:<sup>12</sup>

### 9 **General Discovery**

#### 10 **1. Defendant's Statements**

11 All statements made by the defendant, regardless of whether the statements were  
12 written or recorded, including but not limited to:

- 13 • Comments made at the time of arrest or during transport to the detention center,
- 14 • All conversations, telephonic or otherwise, intercepted by any law enforcement  
15 agencies, including federal authorities, and
- 16 • The substance of any statements, conversations, or correspondence overheard or  
17 intercepted by any jail personnel or other inmates which have not been recorded  
or memorialized.

#### 18 **2. Potential Witnesses' Statements**

19 All written or recorded statements of witnesses and potential witnesses, including, but  
20 not limited to:

- 21 • Audio and video recording in any form collected by investigating officers or any  
22 other law enforcement agent as part of the investigation of this matter, as well as  
any related matters,
- 23 • Notes of interviews, such as notes of patrol officers, or notes of phone calls made  
24 to potential witnesses, or attempts to contact such witnesses, and

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25 <sup>11</sup> Combination responses, which contain conciliatory language in conjunction with some  
26 form of opposition, must be treated as an opposition to a particular request, thereby warranting  
adjudication by this Honorable Court.

27 <sup>12</sup> Significantly, this request is not in any way intended to be a substitute for the  
28 generalized duties described above.

- Interviews of the following individuals:
  - Angela Burkes
  - Micaiah Burkes
  - Jordan Fleming
  - Michael Fleming
  - Melvin Givens, Sr.
  - Kippy Glover
  - Malik Matthews
  - Loren Mendoza
  - Michael Reyes
  - Miranda Sutton
  - Akira Veasley
  - and any other witness or investigative official involved in the instant matter and any related matter.
- Witness Statement attached to North Las Vegas Police Officer Leonard Miller's Crime Report of January 1, 2016
- Statements of Miranda Sutton Akira Veasley on the night of the incident, January 1, 2016

### **3. Records Related to Investigation**

All records of the North Las Vegas Police Department and any other law enforcement agencies involved in the investigation of this or any related matter, including, but not limited to:

- Copies of handwritten or other notes,
- Investigative leads that were not followed up on,
- Any other matter bearing on the credibility of any State witness,
- Information pertaining to this case or any witnesses in this case, no matter what the form or title of the report, including:
  - "Case Monitoring Forms,"
  - Use of Force reports,
  - 911 recordings,
  - Dispatch logs, and
  - Information regarding leads or tips provided to law enforcement or a crime tip organization such as Crime Stoppers, including any reward or benefit received for such tip

- Arrest Reports, arrest warrants, search warrants, or other reports related to how Shawn Glover was taken into custody by police.

#### 4. Crime Scene Analysis, Evidence Collection, and Forensic Testing

All requests, results, reports, and bench notes pertaining to all crime scene analysis, evidence collection and forensic testing performed in this case,<sup>13</sup> including, but not limited to:

- Photographic, video, and audio recordings of evidence collection and testing,
- Fingerprint Evidence: All latent prints recovered in the instant matter, regardless of their value for identification, as well as exemplars compiled in connection with the investigation of this matter, including:
  - photographs, reports, and recordings related to collecting and testing of fingerprints,
  - Results of fingerprint collection and comparison, and
  - Automated Fingerprint Identification System (AFIS) searches and results,
- DNA Evidence: DNA testing, raw data and Combined DNA Index System (CODIS) searches and results,
- Scientific Evidence: toxicological, chemical, biochemical, laboratory, and other laboratory or forensic analyses, including trace evidence analyses, crime scene reconstruction or blood spatter analysis, and
- Forensic Analysis: reports and notes related to any forensic analysis and requests for forensic analysis, regardless of the outcome of such request.
- Firearm Evidence: ballistic firearm testing, including tests, results, reports, and photographs.
- This request encompasses, but it not limited to, any work done by the following individuals:
  - Special Agent Ryan Burke
  - CSI Dennison
  - CSI Fisher
  - Medical Examiner Timothy Dutra
- Specific photograph(s) shown to material witnesses Miranda Sutton and Akira Veasley on January 2, 2016

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<sup>13</sup> This is required under NRS 171.1965(1)(b) and NRS 174.235(1)(b).

## 5. Medical Records

All records, including photos, reports, imaging studies, test results, and notes pertaining to:

- The victim, Patrick Fleming, generated pursuant to treatment provided in connection with the instant matter; including, without limitation, all emergency medical, fire department, hospital, or other medical care provider records, including all relevant prior medical records,
- All pathological, neuropathological, toxicological, or other medical evaluations of Patrick Fleming, including all relevant prior medical records and
- The name and badge number of any paramedics who responded to the scene, and all documentation, notes, reports, charts, conclusions, or other diagnostic, prognostic, or treatment information pertaining to any person evaluated, assessed, treated, or cleared by a paramedic at the scene, or transported to a hospital from the scene.

## 6. Preservation of and Access to Raw Evidence

Access to and preservation of all material collected in the investigation of this case to include but not limited to:

- forensic material, raw data, biological samples and toxicological samples; and
- video surveillance, photographic negatives, and digital negatives.

## 7. Electronic Communications and Associated Warrants

All intercepted communications, whether electronic oral or otherwise, as well as communications sent to and from a handset, telephone, or computer obtained by any law enforcement agency, including federal authorities via subpoena, interception, or other means, pertaining to the instant matter or any related matter, including but not limited to:

- Audio, Push to Talk, Data, and Packet Data
- Electronic messaging such as: Global System for Mobile Communications (GSM), Short Message Service (SMS), Multimedia Messaging Service (MMS), and Internet Relay Chat,
- File Transfer Protocol (FTP), Internet Protocol (IP), Voice Over Internet Protocol (VOIP), Transmission Control Protocol (TCP), and



- Electronic mail or other internet based communications.

## **8. Law Enforcement Video or Audio Recordings**

All video and audio recordings obtained by the North Las Vegas Police Department recording device, including but not limited to:

- Dashboard cameras,
- Body-mounted officer cameras,
- Any other recording equipment operational during the investigation of this case, and
- Any video footage captured by body cameras worn by any other officer present for North Las Vegas Police Department Event number 1600031 and any other related or connected Event Number.

## **9. Non-Activated Body Camera**

The name and "P#" of any officer present for North Las Vegas Police Department Event number 1600031 and any related or connected Event Number who is required by department policy to wear, but did not activate his body-worn camera.

## **10. Monitoring, Tracking, and Associated Warrants**

All data, recordings, reports, and documentation of the following: voice monitoring devices, geographic tracking devices, pen registers, trap and trace devices installed pursuant to interception, warrant, or other means, obtained by law enforcement pertaining to the instant matter or any related matter.

## **11. 911 and 311 Calls**

Any and all 911 and 311 recordings to include, but not limited to:

- Car-to-car audio communications,
- Car-to-dispatch radio communications, and
- Unit Log incident print out related to the event.

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1           **12. Chain of Custody**

2           All relevant chain of custody reports, including reports showing the destruction of  
3           any evidence in the case.<sup>14</sup>

4           **13. Witness Contact Information**

5           All updated witness contact information, including last known addresses and phone  
6           numbers. This includes the names and contact information for witnesses who may  
7           have information tending to exculpate Mr. Glover.

8           **14. Information Obtained from Confidential Informants**

9           All information obtained from confidential informants for any aspect of the  
10          investigation of this case. This includes, but is not limited to, informants who  
11          purportedly obtained information about this case while incarcerated, whether the  
12          information came from Mr. Glover, a co-defendant, unindicted co-conspirator, or  
13          another source, regardless of whether prosecutors intend to use the informant-related  
14          information at the upcoming trial of this matter.

15        **Exculpatory Evidence**

16           **15. Alternative Suspects**

17          All information which shows that Mr. Glover did not commit the crimes alleged, or  
18          which shows the possibility of another perpetrator, co-conspirator, aider and abettor,  
19          or accessory after the fact, including the names of those individuals. This includes,  
20          but is not limited to, any information concerning the arrest of any other individual for  
21          the charged crimes and any information suggesting that someone other than Mr.  
22          Glover perpetrated one or more of the charged crimes.

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27        <sup>14</sup> Destruction of evidence can result in dismissal of the case or a jury instruction stating  
28        such evidence is presumed favorable to the accused. Crockett v. State, 95 Nev. 859, 865 (1979);  
Sparks v. State, 104 Nev. 316, 319 (1988); Sanborn v. State, 107 Nev. 399, 409 (1991).

## 16. Identification and Mis-Identification

All statements of identification associated with this case, including any information concerning witnesses who did not identify Mr. Glover as the perpetrator of the alleged crimes. This request includes:

- Statements identifying another person as the perpetrator of this offense,
- Prior non-identifications by eyewitnesses now identifying Mr. Glover as the perpetrator, and
- Color copies of all photographic lineups shown to any witness (including lineups created without Mr. Glover) as well as any other identification procedures used to identify suspects including show-ups, lineups, photo-array lineups, single photo show-ups, photo compilations and composite drawings. This request includes:
  - The identification of each witness who was shown an identification procedure,
  - The date and time such procedures occurred,
  - The names of all persons who were present when the procedures took place,
  - Instructions given to the witnesses prior to the procedure,
  - The results of the procedure, including an accounting of each witness's statements before, during and after the identification procedure; the amount of time taken by each witness to make an identification; and any hesitancy or uncertainty of each witness in making an identification, and
  - Whether officers informed any witness that he identified the suspect officers believed committed the crime.

## 17. REQUEST INTENTIONALLY OMMITTED

### General Impeachment

## 18. Witness Benefits

Disclosure of all express or implied compensation, promises of favorable treatment or leniency, or any other benefit that any of the State's witnesses received in exchange for their cooperation with this or any related prosecution. This includes, but is not limited to:

- Records and notes from the CCDA Victim Witness Office, including records of any expectation of any benefit or assistance to be received, or already received by any witness in this case,

- Monetary benefits received as well as any express or implied promises made to any witness to provide counseling, treatment, or immigration assistance as a result of the witness's participation in this case,
- Names of all agencies, workers or other referrals that were given to any witness or his family member, relative, or guardian in connection with this case or any related matter, and
- Estimate of future benefits to be received by any witness during or after the trial, including travel expenses.

#### **19. Prior Witness Statements**

Disclosure of any and all statements, tangible or intangible, recorded or unrecorded, made by any witness that are in any manner inconsistent with the written or recorded statements previously provided to the defense. This includes oral statements made to an employee or representative of the CCDA or any other government employee, local or federal, during pre-trial conferences or other investigative meetings.

#### **20. Law Enforcement Impeachment Information—Henthorn Request**

Mr. Glover hereby requests the prosecutor review the personnel files of each officer involved in this case. After review, the prosecutor must disclose all impeachment information located in the personnel files of any police witness called to testify at trial or any pretrial hearing in this matter, including, but not limited to, any Statement of Complaint regarding the witness or this investigation, any Employee Notice of Internal Investigation, any Internal Affairs Investigative Report of Complaint, any witness statement, any Bureau Investigation Supervisory Intervention, and any other document maintained or generated by the Office of Internal Affairs, Critical Incident Review Panel, or other investigative agency.

#### **21. Criminal History Information**

Criminal history information on any actual or potential witness, showing specific instances of misconduct, instances from which untruthfulness may be inferred or instances which could lead to the discovery of admissible evidence. To this end, the defense requests that, in addition to any other lay witnesses the State intends to call at trial or upon whose testimony or statements the State will rely during either the guilt

1 or penalty phases of trial, the CCDA provide NCIC reports on the following  
2 individuals:

- 3 ○ Patrick Fleming
- 4 ○ Melvin Givens, Sr.
- 5 ○ Kippy Glover
- 6 ○ Loren Mendoza
- 7 ○ Michael Reyes
- 8 ○ Miranda Sutton
- 9 ○ Akira Veasley

10 The defense further requests that the NCIC information be provided to defense  
11 counsel as soon as possible and that prosecutors identify those individuals for whom  
12 no NCIC information is found. While the defense is not insisting that prosecutors run  
13 NCICs on expert or law enforcement witnesses, the defense requests that the State be  
14 ordered to comply with its Brady obligations with respect to these witnesses. The  
15 instant criminal history request includes, but is not limited to:

- 16 • Juvenile records,
- 17 • Misdemeanors,
- 18 • Out-of-state arrests and convictions,
- 19 • Outstanding arrest warrants or bench warrants,
- 20 • Cases which were dismissed or not pursued by the prosecuting agency, and
- 21 • Any other information that would go to the issues of credibility or bias, or lead to  
22 the discovery of information bearing on credibility or bias, regardless of whether  
23 the information is directly admissible by the rules of evidence.

## 24 **22-36. REQUESTS INTENTIONALLY OMITTED**

### 25 **CPS and sexual assault related information**

#### 26 **37. Child Protective Services Records**

27 All Department of Child and Family Services or Child Protective Service (or  
28 equivalent department in another state) records relating to the instant case, including:

- Notes of caseworkers or their agents or assistants,
- Referrals to therapists by anyone at any of the above mentioned agencies, and

- Reports prepared for Family Court or any domestic relations proceedings related to the issues or witnesses in the instant matter.
- This request includes, without limitation, information pertaining to the following individuals:
  - Micaiah Burkes
  - Mariah Burkes
  - Jordan Fleming
  - Michael Fleming
  - Patrick Fleming
  - Malik Matthews
  - Miranda Sutton
  - Akira Veasley

### **38. Social Worker or Case Work Notes**

All notes of government social workers or case workers, including employees of Child Haven, or any governmental agency supervising foster care or any other living arrangement made for any alleged victim or witness in the case, even if on a temporary basis, as well as notes on referrals to any physicians, psychologists, psychiatrists, social workers or other mental health workers, including contract providers pertaining to the following individuals:

- Mariah Burkes
- Micaiah Burkes
- Jordan Fleming
- Michael Fleming
- Malik Matthews

### **39. Mental Health Worker Records and Notes**

All records and notes of any mental health workers who have had contact with the alleged victim or any other person related to events in this case, including, without limitation, Patrick Fleming (prior to his death).

This request includes any records reflecting the mental state or cognitive abilities of the alleged victim or any other government witness, including the individuals listed herein, that are relevant to each individual's competency as a witness.<sup>15</sup>

1           **40. Physical Examinations**

2           All notes and records of any physical exams done on the alleged victim or anyone  
3           else in connection with this case. This includes any photographs, videos, colposcopes  
4           or recordings taken in conjunction with such exam, and any lab or toxicology reports  
5           done in conjunction with such exam. This includes all documents recording what  
6           physical evidence was taken in the case, where it was stored, and any related chain of  
7           custody documents.

8  
9           **41-69. REQUESTS INTENTIONALLY OMITTED**

10          **Catch-all request**

11           **70. Contacting Other Agencies**

12           Finally, the defendant requests that this Court order the prosecution to contact other  
13           agencies or agents acting on behalf of or working with the prosecution, or in any  
14           other way a part of the prosecution team, and initiated to ascertain whether any of  
15           those agencies or agents possess or know of any material information that would tend  
16           to exculpate Mr. Glover, impeach a prosecution witness, or mitigate Mr. Glover's  
17           possible punishment.

18  
19          **IX.     Request for Timely Disclosure**

20           NRS 174.285(1) requires that any discovery request pursuant to NRS 174.235 be made  
21           “within 30 days after arraignment or at such reasonable later time as the court may permit.”  
22           NRS 174.285(2) mandates that “A party shall comply with a request made pursuant to NRS

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23           <sup>15</sup>     In addition to the authority outlined above, if such counselors are seeing the  
24           alleged victims after being referred by a State or County agency or worker, or are paid by victim  
25           witness or through aid especially due to the individual's status as a “victim” then there is no  
26           provider-patient privilege as the information is being sought with the purpose to disclose to third  
27           parties. Further, under general discovery principles, anything disclosed that bears on the  
28           credibility of the witness, on the credibility of any other witness, or any evidence that suggests  
          that the defendant did not commit the crime, that someone else may have perpetrated the crime,  
          or anything else relevant to discovery, then such information must be disclosed under case law  
          cited in this brief.

1 174.235 . . . not less than 30 days before trial or at such reasonable later time as the court may  
2 permit.” Accordingly, Mr. Glover requests that this Honorable Court enter an order directing  
3 prosecutors to provide the discovery sought herein within a reasonable time in advance of trial so  
4 as to enable counsel to effectively prepare. Further, Mr. Glover requests that this Honorable  
5 Court order that prosecutors be precluded from admitting at trial any discovery or evidence not  
6 timely produced. See NRS 174.295 (“If at any time during the course of the proceedings it is  
7 brought to the attention of the court that a party has failed to comply with the provisions of NRS  
8 174.235 to 174.295, inclusive, the court may order the party to permit the discovery or inspection  
9 of materials not previously disclosed, grant a continuance, or *prohibit the party from introducing*  
10 *in evidence the material not disclosed*, or it may enter such other order as it deems just under the  
11 circumstances.”) (emphasis added).

## 12 CONCLUSION

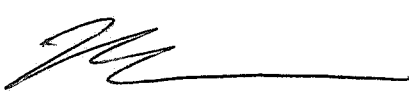
13 Based on the foregoing, Mr. Glover, respectfully requests that this Honorable Court grant  
14 the instant motion, and order the timely disclosure of the material sought herein. NRS 174.235;  
15 Brady v. Maryland, 373 U.S. 83 (1963); U.S.C.A. V, VI, XIV; and Nev. Const. Art. 1 § 8.

16 DATED this 16<sup>th</sup> day of May, 2017.

17 PHILIP J. KOHN  
18 CLARK COUNTY PUBLIC DEFENDER

19 By:   
20 RYAN J. BASHOR, #11914  
Deputy Public Defender

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

21 By:   
22 ROBERT E. O'BRIEN, #10944  
23 Deputy Public Defender  
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**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the foregoing Motion on for hearing before the Court on the 7 day of ~~May~~<sup>June</sup>, 2017 at 8:00 a.m.

DATED this 16<sup>th</sup> day of May, 2017.

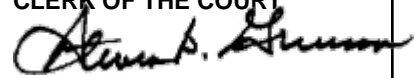
PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By:   
\_\_\_\_\_  
RYAN J. BASHOR, #11914  
Deputy Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at [motions@clarkcountyda.com](mailto:motions@clarkcountyda.com) on this 15<sup>th</sup> day of May, 2017

By: /s/Robert E. O'Brien - PD  
\_\_\_\_\_  
An employee of the  
Clark County Public Defender's Office



**OPPS**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
WILLIAM FLINN, JR.  
Deputy District Attorney  
Nevada Bar #013119  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

SHAWN GLOVER, aka  
Shawn Lynn Glover, Jr., #1950305

Defendant.

CASE NO: C-16-312448-1

DEPT NO: VIII

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL PRODUCTION OF  
DISCOVERY & BRADY MATERIAL

DATE OF HEARING: MAY 31, 2017  
TIME OF HEARING: 8:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through WILLIAM FLINN, JR., Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Compel Production of Discovery & Brady Material.

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 4, 206, the State filed an Indictment charging Defendant SHAWN  
4 GLOVER with one count of Murder with Use of a Deadly Weapon, one count of Assault with  
5 a Deadly Weapon, one count of Ownership or Possession of Firearm by Prohibited Person,  
6 and one count of Discharge of Firearm from or within a Structure or Vehicle. Jury trial is  
7 currently scheduled to begin on June 5, 2017.

8 On May 15, 2017, Defendant filed a Motion to Compel Production of Discovery &  
9 Brady Material. The State's Opposition follows.

10 **ARGUMENT**

11 **I.**

12 **LAW GOVERNING DISCOVERY**

13 Defendant makes a number of general and enumerated discovery requests which are  
14 purportedly based upon case law within and without the State of Nevada. Many of these items  
15 have already been provided to defense. However, the majority of Defendant's requests are  
16 not supported by the applicable case law and far exceed the scope of the State's statutory  
17 discovery requirements. Beyond items that fall within the State's statutory discovery  
18 requirements, Defendant fails to identify any item of so-called Brady material for which he  
19 made a specific request of the State and the State refused such request, much less has  
20 Defendant presented a factual basis to show the materiality of any such item.

21 The State has complied, and will continue to comply, with all of its obligations that fall  
22 within the ambit of Nevada's discovery statutes and the constitutional requirements imposed  
23 by Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963), and its progeny. The State objects  
24 to all requests that fall outside of those legal requirements.

25 **A.**

26 **DISCOVERY REQUIRED BY STATUTE**

27 The State has no objection to continued compliance with the provisions and  
28 requirements outlined in the criminal discovery statutes. See NRS 174.233, et seq.

1 B.

2 **DISCLOSURE REQUIRED BY BRADY V. MARYLAND**

3 The State recognizes, and readily accepts, its continuing disclosure obligations as  
4 defined in Brady, 373 U.S. 83, 83 S. Ct. 1194, and its interpretive progeny. Pursuant to Brady,  
5 the State is required to disclose evidence that is favorable to the defense if it is material either  
6 to guilt or punishment. Lay v. State, 116 Nev. 1185, 1194, 14 P.3d 1256, 1262 (2000). The  
7 State's failure to do so violates the Defendant's due process rights, regardless of the State's  
8 motive. Id., 14 P.3d at 1262. Following a specific discovery request, evidence is deemed  
9 material if there is a reasonable possibility that the evidence would have affected the outcome,  
10 i.e., that the evidence undermines the confidence of the outcome in the proceeding. Id., 14  
11 P.3d at 1262.

12 "The character of a piece of evidence as favorable will often turn on the context of the  
13 existing or potential evidentiary record." Id., 14 P.3d at 1262. Importantly, *it is the*  
14 *prosecutor's responsibility to determine whether evidence is material and should be disclosed.*  
15 Id., 14 P.3d at 1262 (citing Kyles v. Whitley, 514 U.S. 419, 439-440, 115 S. Ct. 1555 (1995)).  
16 As such, a prosecutor who is "anxious about tacking too close to the wind will disclose a  
17 favorable piece of evidence." Lay, 116 Nev. at 1194, 14 P.3d at 1262. And, "[t]his is as it  
18 should be [because] [s]uch disclosure will serve to justify trust in the prosecutor as 'the  
19 representative . . . of a sovereignty . . . whose interest . . . in a criminal prosecution is not that  
20 it shall win a case, but that justice shall be done.'" Id., 14 P.3d at 1262 (quoting Berger v.  
21 United States, 295 U.S. 78, 88, 55 S. Ct. 629 (1935)). Understandably, however, Brady does  
22 not impose upon the State an obligation "to disclose evidence which is available to the  
23 defendant from other sources, including diligent investigation by the defense." Steese v. State,  
24 114 Nev. 479, 495, 960 P.2d 321, 331 (1998).

25 The State acknowledges that its Brady obligations not only apply to materials in its  
26 possession, but also to materials in the hands of its agents. Nevertheless, rather than being  
27 accountable for all evidence in the hands of all State agencies as Defendant seemingly claims,  
28 the State is only accountable for evidence in the hands of State agencies who are actually

1 acting on its behalf in the investigation and prosecution of the case. See Kyles, 514 U.S. at  
2 437, 115 S. Ct. at 1567 (stating “the individual prosecutor has a duty to learn of any favorable  
3 evidence known to the others *acting on the government’s behalf in the case, including the*  
4 *police*” (emphasis added)); see also Carriger v. Stewart, 132 F.3d 463, 479 (9<sup>th</sup> Cir. 1997)  
5 (noting “the prosecution has a duty to learn of any exculpatory evidence known to others acting  
6 on the government’s behalf”). Moreover, “[w]hile the prosecution must disclose any  
7 information within the possession or control of law enforcement personnel, it has no duty to  
8 volunteer information that it does not possess or of which it is unaware.” United States v.  
9 Hsieh Hui Mei Chen, 754 F.2d 817, 824 (9<sup>th</sup> Cir. 1985) (internal citations omitted). Further,  
10 the State has no “duty to compile information or pursue an investigative lead simply because  
11 it could conceivably develop evidence helpful to the defense. . . .” Evans v. State, 117 Nev.  
12 609, 627, 28 P.3d 498, 511 (2001).

13 While the State readily acknowledges its discovery obligations under Brady and  
14 applicable Nevada discovery statutes, the State’s discovery obligations under Brady and  
15 Nevada law are not without limit, however. “There is no general constitutional right to  
16 discovery in a criminal case, and Brady did not create one; . . . ‘the Due Process Clause has  
17 little to say regarding the amount of discovery which the parties must be afforded. . . .’”  
18 Weatherford v. Bursey, 429 U.S. 545, 559, 97 S. Ct. 837, at 845-846 (1977) (quoting Wardius  
19 v. Oregon, 412, U.S. 470, 474 (1973)). Logically, then, courts are limited in their authority to  
20 order the disclosure of evidence beyond what is statutorily mandated. See Franklin v. District  
21 Court, 85 Nev. 401, 402-403, 455 P.2d 919, 920-921(1969) (stating “[t]he new criminal code  
22 does deal with criminal discovery and those provisions represent the legislative intent with  
23 respect to the scope of allowable pre-trial discovery and are not lightly to be disregarded”  
24 (internal citation omitted)).

25 The Nevada Supreme Court, in Riddle v. State, 96 Nev. 589, 590, 613 P.2d 1031, 1032  
26 (1980), reaffirmed the strictures of the provisions of our discovery statutes:

27 The trial court is vested with the authority to order the discovery and inspection  
28 of materials in the possession of the State. The exercise of the court's discretion  
however is **predicated on a showing that the evidence sought is material to  
the presentation of the defense and the existence of the evidence is known**

1           **or, by the exercise of due diligence may become known to the District**  
2           **Attorney.**

3           (Emphasis added). Further, in addressing the State's constitutional obligations that may fall  
4           outside the discovery statutes, the Court explained as follows:

5           Brady and its progeny require a prosecutor to disclose evidence favorable to the  
6           defense when that evidence is material either to guilt or to punishment. . . . In  
7           other words, evidence is material if there is a reasonable probability that the  
8           result would have been different if the evidence had been disclosed. . . . In  
9           determining its materiality, the undisclosed evidence must be considered  
10          collectively, not item by item. [T]he character of a piece of evidence as  
11          favorable will often turn on the context of the existing or potential evidentiary  
12          record. . . . In sum, there are three components to a Brady violation: the evidence  
13          at issue is favorable to the accused; the evidence was withheld by the state, either  
14          intentionally or inadvertently; and prejudice ensued, i.e., the evidence was  
15          material.

16          Mazzan v. Warden, 116 Nev. 48, 66-67, 993 P.2d 25, 36-37 (2000) (citing Jimenez v. State,  
17          112 Nev. 610, 618-19, 918 P.2d 687, 692 (1996); Kyles, 514 U.S. at 436, 115 S. Ct. 1555;  
18          Strickler v. Greene, 527 U.S. 263, 119 S. Ct. 1936, 1948, (1999), Id. at 66, 36 (emphasis  
19          added) (internal quotation marks omitted).

20          Under Brady and its progeny, the defense cannot require that the prosecution conduct  
21          further investigation to uncover purported exculpatory evidence that it does not possess. The  
22          defendant is not entitled to all evidence known or believed to exist which is or may be  
23          favorable to the accused, or which pertains to the credibility of the prosecution's case.  
24          Specifically, in United States v. Gardner, 611 F.2d 770, 774-775 (9th Cir. 1980), the Ninth  
25          Circuit aptly explained that

26          . . . the prosecution does not have a constitutional duty to disclose every bit of  
27          information that might affect the jury's decision; it need only disclose  
28          information favorable to the defense that meets the appropriate standard of  
29          materiality.

30          See also United States v. Sukumolachan, 610 F.2d 685, 687 (9th Cir. 1980) (stating  
31          Brady does not require prosecution to create exculpatory material). Notably, under federal  
32          law, Brady does not create any pretrial discovery privileges not contained in the Federal  
33          Rules of Criminal Procedure (which served as the model for Nevada law). See United States  
34          v. Flores, 540 F.2d 432, 438 (9th Cir. 1980).

Brady and its progeny, moreover, do not support requests made for handwritten notes. Such requests are typically general and overbroad and are blanket requests for any and all notes ever taken by any person who had anything to do with the case. Further, even when a specific request is made, notes do not need to be provided when they are not exculpatory. Homick v. State, 112 Nev. 304, 315, 913 P.2d 1280, 1288 (1996). Even if specific, the State is only obligated to supply any exculpatory information contained within any notes that has not been previously provided to defense through the generation of other reports. See id., 913 P.2d at 1288.

Based upon the foregoing, this Court is respectfully requested to continue to adhere to the clear legislative scheme on criminal discovery embodied in Nevada's statutes, the interpretation thereof by the Supreme Court of this State, and the opinions of the United States Supreme Court in this area.

## II.

## DEFENDANT'S ENUMERATED DISCOVERY REQUESTS

Defendant’s Motion labels a list of enumerated requests as “specific” discovery requests, yet the bulk of Defendant’s requests are not specific at all. Indeed, Defendant even labels enumerated request number seventy (70) as a “catch-all” request. The vast amount of Defendant’s requests are general and overly broad in nature or are mere fishing requests. Case law and Nevada’s discovery statutes, as explained above, do not require the disclosure of almost all of the types of information Defendant requests. Notwithstanding, the State responds to the enumerated requests below.<sup>1</sup>

1. Defendant's Statements: NRS 174.235(1)(a) requires the State to disclose "[w]ritten or recorded statements or confessions made by the defendant. . . ." To the extent Defendant's request far exceeds the statutory requirement, the State objects and Defendant's request should be denied.
2. Potential Witnesses' Statements: NRS 174.235(1)(a) requires the State to disclose "written or recorded statements made by a witness the prosecuting attorney intends to

<sup>1</sup> The State uses Defendant's numbering and heading title for each enumerated request simply to aide in correlating the State's responses to Defendant's requests.

1 call during the case in chief of the State. . . .” Thus, the State not only objects to  
2 Defendant’s request for statements of “potential” witnesses for vagueness, the State  
3 objects as there is no statutory authority for such a request. Further, the State objects  
4 to Defendant’s request for statements of witnesses the State intends to call during its  
5 case in chief in forms other than “written or recorded” as statute directs, and the State  
6 has already provided to Defendant all written and recorded statements for witnesses it  
7 intends at this time to call during its case in chief. Therefore, to the extent Defendant’s  
8 request far exceeds the statutory requirement, the State objects and Defendant’s request  
9 should be denied.

10 3. Records Related to Investigation: NRS 174.235(1)(c) dictates the items of  
11 documentary evidence the State must provide, and almost all of Defendant’s requests  
12 fall outside the statutory requirement. Therefore, to the extent Defendant’s request far  
13 exceeds the statutory requirement, the State objects and Defendant’s request should be  
14 denied.

15 4. Crime Scene Analysis, Evidence Collection, and Forensic Testing: NRS 174.235(1)(b)  
16 dictates the State’s discovery obligation regarding physical and metal examinations,  
17 scientific tests, and scientific experiments, and the reports derived therefrom, and  
18 almost all of Defendant’s requests fall outside the statutory requirement. To the extent  
19 Defendant’s request exceeds the statutory requirement, the State objects and  
20 Defendant’s request should be denied.

21 5. Medical Records: NRS 174.235(1)(b) dictates the State’s discovery obligation  
22 regarding physical examinations and scientific tests, and the reports derived therefrom,  
23 and almost all of Defendant’s requests fall outside the statutory requirement. To the  
24 extent Defendant’s request exceeds the statutory requirement, the State objects and  
25 Defendant’s request should be denied.

26 6. Preservation of and Access to Raw Evidence: NRS 174.235(1) dictates what items the  
27 State must permit Defendant to inspect and copy. To the extent Defendant’s request  
28



1 exceeds the statutory requirement, the State objects and Defendant's request should be  
2 denied.

3 7. Electronic Communications and Associated Warrants: Inasmuch as the State can  
4 construe Defendant's vague and overbroad request to refer to intercepted  
5 communications pursuant to NRS 179.410, et. seq., no such interceptions occurred and  
6 thus Defendant's request should be denied. Inasmuch as the State obtained evidence  
7 from actual phones impounded in this case, the State has already provided the forensic  
8 reports of those phones to Defendant.

9 8. Law Enforcement Video or Audio Recordings: Beyond recorded statements of  
10 witnesses the State intends to call during its case in chief, the State is not aware that  
11 any of the materials Defendant requests exist (NLVPD does not use body cameras) and  
12 thus his request should be denied.

13 9. Non-Activated Body Cameras: The State is not aware at this time that any of the  
14 materials Defendant requests exist (NLVPD does not use body cameras) and thus his  
15 request should be denied.

16 10. Monitoring, Tracking, and Associated Warrants: The State is not aware that any of the  
17 items Defendant requests were utilized in the investigation of this case and thus his  
18 request should be denied.

19 11. 911 and 311 Calls: Defendant can, through the exercise of reasonable diligence, obtain  
20 the information requested directly from NLVPD by way of subpoena. Defendant's  
21 request should therefore be denied.

22 12. Chain of Custody: NRS 174.235(1)(c) dictates the items of documentary evidence the  
23 State must provide. To the extent Defendant's request exceeds the statutory  
24 requirement, the State objects and Defendant's request should be denied.

25 13. Witness Contact Information: NRS 174.234(1)(2) states that, not less than five judicial  
26 days before trial, "[t]he prosecuting attorney shall file and serve upon the defendant a  
27 written notice containing the names and last known addresses of all witnesses the  
28

1 prosecuting attorney intends to call during the case in chief of the State.” Therefore,  
2 Defendant’s request exceeds the statutory requirement and should be denied.

3 14. Information Obtained from Confidential Informants: Defendant’s entire request falls  
4 outside of the State’s statutory requirements and therefore should be denied.

5 15. Alternative Suspects: Inasmuch as Defendant’s request seemingly seeks potential  
6 exculpatory information, the State will comply with its obligations under Brady and  
7 related case law, but only to the extent actually required under such law. As Defendant  
8 provides no factual basis for a claim that material exculpatory information is being  
9 withheld, there is no basis for an order to compel and the request should be denied.

10 16. Identification and Mis-Identification: Inasmuch as Defendant’s request seemingly  
11 seeks potential exculpatory information, the State will comply with its obligations  
12 under Brady and related case law, but only to the extent actually required under such  
13 law. As Defendant provides no factual basis for a claim that material exculpatory  
14 information is being withheld, there is no basis for an order to compel and the request  
15 should be denied.

16 17. Request Intentionally Omitted by Defendant.

17 18. Witness Benefits: Other than statutorily required witness fees, the State has provided  
18 no benefit to any witness in exchange for cooperation in this case, and therefore  
19 Defendant’s request should be denied.

20 19. Prior Witness Statements: Inasmuch as Defendant’s request seemingly seeks potential  
21 impeachment information, the State will comply with its obligations under Brady,  
22 Giglio, and related case law, but only to the extent actually required under such law.  
23 As Defendant provides no factual basis for a claim that material impeachment  
24 information is being withheld, there is no basis for an order to compel and the request  
25 should be denied.

26 20. Law Enforcement Impeachment Information – Henthorn Request: Regarding law  
27 enforcement witnesses the State intends to call during its case in chief, the State will  
28 satisfy its obligations under Brady but only to the extent actually required under the

1 law. To the extent Defendant's request far exceeds that which is required under the  
2 relevant case law, the State objects and Defendant's request should be denied.

3 21. Criminal History Information: Inasmuch as Defendant's request seeks potential  
4 impeachment information, the State will comply with its obligations under Brady,  
5 Giglio, and related case law, but only to the extent actually required under such law.

6 Although a witnesses' criminal record may be material under some  
7 circumstances, it is not always relevant. Hill v. Superior Court, 112 Cal Rptr. 257, 518  
8 P.2d 1353 (1974). In Hill the defense sought production of a witness's felony  
9 conviction record. Because the witness was the only eyewitness other than the  
10 defendants, and the corroboration of his report was not strong, the court found the  
11 requisite materiality and granted the defense motion. However, the court concluded,  
12 "[w]e do not hold that good cause exists in every case in which a defendant charged  
13 with a felony seeks discovery of any felony convictions any "rap sheet" of prosecution  
14 witnesses." Id. at 1358.

15 In the present case, Defendant has requested that the State perform a National  
16 Crime Information Center (NCIC) inquiry on all possible State witnesses and to provide  
17 that inquiry to the Defendant. The State has not run an NCIC inquiry on all witnesses,  
18 nor does it plan to do so in this matter. The State has no legitimate reason to make such  
19 an inquiry and strenuously objects to defense requests that the State provide this  
20 information.

21 Although Defendant liberally touts Brady v. Maryland, 373 U.S. 83 (1963) as  
22 the basis for his NCIC request, the defense has failed to establish that the requested  
23 NCIC information falls within the scope of Brady, that is, that it might in some way be  
24 exculpatory or that it might somehow constitute impeachment evidence. Moreover,  
25 Defendant has not shown how such information might be "material." In other words,  
26 the defense has failed to show that the lack of any State witnesses' NCIC information  
27 will somehow result in an unfair trial or will produce a verdict that is not worthy of  
28 confidence. See Kyles v. Whitley, 514 U.S. 419, 434 (1995).

1           The Supreme Court has stated that information is considered material if there is  
2 a "reasonable probability that, had the evidence been disclosed to the defense, the result  
3 of the proceeding would have been different." U.S. v. Bagley, 473 U.S. 667, 682 (1985).  
4 The Supreme Court defined reasonable probability as probability sufficient to  
5 "undermine confidence in the outcome" of the trial. Id. In addition, the Court in Bagley,  
6 stated that "[i]mpeachment evidence . . . as well as exculpatory evidence, falls within  
7 the Brady rule." Id. at 675. The Court defined impeachment evidence as "evidence  
8 favorable to an accused . . . so that, if disclosed and used effectively, it may make the  
9 difference between conviction and acquittal." Id. (internal quotes omitted).

10           In the present case, Defendant has failed to articulate even an arguable use of  
11 the witnesses' NCIC information that would comport with the requirements as outlined  
12 by the Supreme Court in Brady, Kyles and Bagley. Defendant is simply looking for  
13 any information that he can use to cloud the facts of the case at bar and to cast aspersions  
14 on those witnesses.

15           **A. The State Is Prohibited From Providing Information Contained In NCIC**  
16           **Reports To Anyone Other Than Legitimate Law Enforcement Personnel**

17           Pursuant to 28 C.F.R. §20.33(b) as codified under 28 U.S.C.A. § 534 (2002),  
18 criminal history information may only be disseminated to law enforcement agencies,  
19 those hired by law enforcement agencies and to those who have entered into signed  
20 agreements for the specific and authorized use of criminal background information.

21           Pursuant to 28 C.F.R. §20.25,

22                   Any agency or individual violating subpart B of these regulations  
23 shall be subject to a civil penalty not to exceed \$10,000 for a  
24 violation occurring before September 29, 1999, and not to exceed  
\$11,000 for a violation occurring on after September 29, 1999.

25           In addition, pursuant to 28 C.F.R. §20.38,

26                   Access to systems managed or maintained by the FBI is subject to  
27 cancellation in regard to any agency or entity that fails to comply  
28 with the provisions of subpart C of this part.

1 If the State is forced to disseminate such information to the defense in this matter, the  
2 State and/or the individual who actually provides the NCIC information runs the risk  
3 of civil penalties and loss of future access to the NCIC system. In addition, the Multi-  
4 System Guide 4 (MSG4) published by the Las Vegas Metropolitan Police Department  
5 (LVMPD) states that “[d]ata stored in each of our criminal justice systems . . . must  
6 be protected to ensure correct, legal and efficient dissemination and use.” P. 21. The  
7 MSG4 further states that “[d]issemination of CHI [Criminal History Information]  
8 that does not belong to the LVMPD or is obtained through NCIC, NCJIS or NLETS is  
9 prohibited.” Id.

10 As a user of the National Crime Information Center (NCIC) database, the State  
11 is prohibited from disseminating criminal history information to non-criminal justice  
12 agencies as defined by Title 28 Code of Federal Regulations (CFR)§ 20.33, which  
13 describes a criminal justice agency as: (1) Courts; and (2) a government agency or  
14 any subunit thereof which performs the administration of criminal justice pursuant to  
15 a statute or executive order, and which allocates a substantial part of its annual budget  
16 to the administration of criminal justice. Unless specifically authorized by federal  
17 law, access to the NCIC/III for non-criminal justice purposes is prohibited.

18 A 1989 United States Supreme Court case looked at this issue from the  
19 standpoint of an invasion of privacy and ruled accordingly:

20 Accordingly, we hold as a categorical matter that a third party's  
21 request for law enforcement records or information about a private  
22 citizen can reasonably be expected to invade that citizen's privacy,  
23 and that when the request seeks no "official information" about a  
Government agency, but merely records that the Government  
happens to be storing, the invasion of privacy is "unwarranted."

24 United States Department of Justice v. the Reporters Committee for Freedom of the  
25 Press, 109 S. Ct. 1468, 1485 (1989).

26 Criminal defense attorneys, public or private, are not within the definition of  
27 “criminal justice agency,” nor is the criminal defense function considered a “criminal  
28

justice purpose.” Therefore, Defendant is not entitled to the criminal history information he seeks.

**B. NCIC Policy of the District Attorney’s Office as of 6/11/08**

If the District Attorney runs an NCIC inquiry on a witness and that NCIC inquiry is in our file, the FBI has NO policy prohibiting us from disclosing that NCIC inquiry. If, on the other hand, we have not run the NCIC report already, it is a violation of FBI regulations to run it on request of defense counsel, or court order.

In short, if the State already has it, the State will decide--pursuant to our obligations under Brady and Giglio--whether or not to divulge any information contained in the NCIC report. If the State doesn’t have the NCIC report in our file, the defense has to follow FBI-outlined procedures to get it.

The defense must obtain an order from the judge directed to the FBI requested describing specifically what they need. The FBI then reviews the judge's order and almost always complies with it, but the FBI sends the NCIC report to the judge, who then reviews the information and decides on its admissibility before turning anything over to the defense.

22. Requests 22-36 Intentionally Omitted by Defendant.

37. Child Protective Services Records: Defendant’s request far exceeds the State’s statutory discovery obligations, and further, Defendant’s request is for information that, if it exists at all, is irrelevant to this case. Defendant’s request should therefore be denied.

38. Social Worker or Case Work Notes: Defendant’s request far exceeds the State’s statutory discovery obligations, and further, Defendant’s request is for information that, if it exists at all, is irrelevant to this case. Defendant’s request should therefore be denied.

39. Mental Health Worker Records and Notes: Defendant’s request far exceeds the State’s statutory discovery obligations, and further, Defendant’s request is for information that,

1 if it exists at all, is irrelevant to this case. Defendant's request should therefore be  
2 denied.

3 40. Physical Examinations: Defendant's request is vague in that he requests physical exam  
4 records of "the alleged victim" in this case, but as the Indictment indicates, there are  
5 two victims. Notwithstanding, NRS 174.235(1)(b) dictates the State's discovery  
6 obligation regarding physical examinations and scientific tests, and the reports derived  
7 therefrom. To the extent Defendant's request exceeds the statutory requirement, the  
8 State objects and Defendant's request should be denied.

9 41. Requests 22-36 Intentionally Omitted by Defendant.

10 70. Contacting Other Agencies: As explained in detail above, the State acknowledges that  
11 its Brady obligations not only apply to materials in its possession, but also to materials  
12 in the hands of its agents. The State will comply with such obligations as the law  
13 requires.

### 14 III.

#### 15 STATE'S REQUEST FOR DISCOVERY.

16 Pursuant to NRS 174.245 –

17 1. Except as otherwise provided in [NRS 174.233](#) to [174.295](#), inclusive, at the  
18 request of the prosecuting attorney, the defendant shall permit the prosecuting  
attorney to inspect and to copy or photograph any:

19 (a) Written or recorded statements made by a witness the defendant  
20 intends to call during the case in chief of the defendant, or copies thereof,  
21 within the possession, custody or control of the defendant, the existence  
of which is known, or by the exercise of due diligence may become  
22 known, to the defendant;

23 (b) Results or reports of physical or mental examinations, scientific tests  
or scientific experiments that the defendant intends to introduce in  
24 evidence during the case in chief of the defendant, or copies thereof,  
within the possession, custody or control of the defendant, the existence  
25 of which is known, or by the exercise of due diligence may become  
known, to the defendant; and

26 (c) Books, papers, documents or tangible objects that the defendant  
27 intends to introduce in evidence during the case in chief of the defendant,  
or copies thereof, within the possession, custody or control of the  
28 defendant, the existence of which is known, or by the exercise of due  
diligence may become known, to the defendant.

1 2. The prosecuting attorney is not entitled, pursuant to the provisions of this  
2 section, to the discovery or inspection of:

3 (a) An internal report, document or memorandum that is prepared by or  
4 on behalf of the defendant or the defendant's attorney in connection with  
5 the investigation or defense of the case.

6 (b) A statement, report, book, paper, document, tangible object or any  
7 other type of item or information that is privileged or protected from  
8 disclosure or inspection pursuant to the Constitution or laws of this state  
9 or the Constitution of the United States.

10 As such, the State hereby requests any discovery from Defendant subject to  
11 disclosure under NRS 174.245.

### 12 CONCLUSION

13 It is clear from a reading of the above-discussed authorities that neither the federal  
14 Constitution, nor the statutes of Nevada as interpreted, require or even allow the over broad  
15 discovery requested by Defendant. To the extent that Defendant's requests comply with the  
16 mandates of the Constitution and applicable statutes, and to the extent that the State has access  
17 to such materials, the State has complied, and will continue to comply, with such requests.  
18 Therefore, Defendant's Motion should be denied.

19 DATED this 26th day of May, 2017.

20 Respectfully submitted,

21 STEVEN B. WOLFSON  
22 Clark County District Attorney  
23 Nevada Bar #001565

24 BY /s/ WILLIAM FLINN, JR.

25 WILLIAM FLINN, JR.  
26 Deputy District Attorney  
27 Nevada Bar #013119  
28



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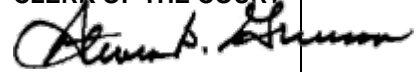
CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 26th day of May, 2017, by electronic transmission to:

PUBLIC DEFENDER  
pdclerk@clarkcountynv.gov

BY /s/ E DEL PADRE  
ESTEE DEL PADRE  
Secretary for the District Attorney's Office

WF/ed/MVU



DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

State of Nevada  
vs  
Shawn Glover

Case No.: C-16-312448-1

Department 9

**NOTICE OF DEPARTMENT REASSIGNMENT**

NOTICE IS HEREBY GIVEN that the above-entitled action has been reassigned to Judge Jennifer Togliatti.

☐ This reassignment follows the filing of a Peremptory Challenge of Judge .

☐ This reassignment is due to the recusal of Judge . See minutes in file.

☒ This reassignment is due to: Pursuant to EDCR 1.30 and 1.31..

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT.

Any motions or hearings presently scheduled in the FORMER department will be heard by the NEW department as set forth below.

**Status Check: Trial Setting, on 07/18/2017, at 9:00 AM.**

PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /S/ Ivonne Hernandez

Ivonne Hernandez  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

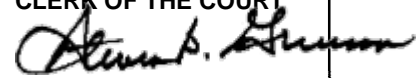
I hereby certify that this 12th day of July, 2017

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number C-16-312448-1.

/S/ Ivonne Hernandez

---

Ivonne Hernandez  
Deputy Clerk of the Court



ORDR  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-16-312448-1
	)	
v.	)	DEPT. NO. IX
	)	
SHAWN GLOVER,	)	
	)	
Defendant,	)	

**ORDER FOR PRODUCTION AND RELEASE OF CPS/DFS RECORDS**

THIS MATTER having come before the Court on July 18, 2017, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Custodian of Records, Department of Family Services/Child Protective Services, 333 North Rancho Drive, Suite 700, Las Vegas, NV 89106 release a copy of all un-redacted records related to this case to Clark County District Court Department 9 for in camera inspection. Specifically, the Custodian of Records for the Department of Family Services/Child Protective Services shall release a copy of the records, including all video and audio recordings of any and all interviews regarding the people listed below conducted in relation to the incident that took place on January 1, 2016 at 4032 Smokey Fog Avenue in North Las Vegas:

- Mariah Burkes
- Micaiah Burkes
- Jordan Fleming
- Michael Fleming


- Patrick Fleming
- Malik Matthews
- Miranda Sutton
- Akira Veasley

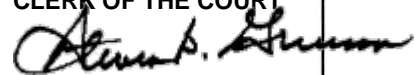
DATED 18<sup>th</sup> day of August, 2017.

  
DISTRICT COURT JUDGE PS

Submitted by:

PHILIP J. KOHN  
CLARK COUNTY PUBLIC DEFENDER

By   
RYAN J. BASHOR, #11914  
Deputy Public Defender



ORDR  
PHILIP J. KOHN, PUBLIC DEFENDER  
NEVADA BAR NO. 0556  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
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Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
*Attorneys for Defendant*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,  
  
Plaintiff,  
  
v.  
  
SHAWN GLOVER,  
  
Defendant,

CASE NO. C-16-312448-1  
DEPT. NO. IX

**ORDER**

THIS MATTER having come before the Court on July 18, 2017, and good cause appearing therefor,

IT IS HEREBY ORDERED that, no later than November 4, 2017, the State shall turn over the following items of Discovery and/or Brady material to the Defendant through his legal representative:

**1. Defendant's Statements**

All statements made by the defendant, regardless of whether the statements were written or recorded, including but not limited to:

- Comments made at the time of arrest or during transport to the detention center,
- All conversations, telephonic or otherwise, intercepted by any law enforcement agencies, including federal authorities, and
- The substance of any statements, conversations, or correspondence overheard or intercepted by any jail personnel or other inmates which have not been recorded or memorialized.

**2. Potential Witnesses' Statements**

1 All written or recorded statements of witnesses and potential witnesses, including, but  
2 not limited to:

- 3 • Audio and video recording in any form collected by investigating officers or any  
4 other law enforcement agent as part of the investigation of this matter, as well as  
5 any related matters,
- 6 • Notes of interviews, such as notes of patrol officers, or notes of phone calls made  
7 to potential witnesses, or attempts to contact such witnesses, and
- 8 • Interviews of the following individuals:
  - 9 ○ Angela Burkes
  - 10 ○ Micaiah Burkes
  - 11 ○ Jordan Fleming
  - 12 ○ Michael Fleming
  - 13 ○ Melvin Givens, Sr.
  - 14 ○ Kippy Glover
  - 15 ○ Malik Matthews
  - 16 ○ Loren Mendoza
  - 17 ○ Michael Reyes
  - 18 ○ Miranda Sutton
  - 19 ○ Akira Veasley
  - 20 ○ and any other witness or investigative official involved in the instant  
21 matter and any related matter.
- 22 • Witness Statement attached to North Las Vegas Police Officer Leonard Miller's  
23 Crime Report of January 1, 2016
- 24 • Statements of Miranda Sutton Akira Veasley on the night of the incident, January  
25 1, 2016

### 26 **3. Records Related to Investigation**

27 All records of the North Las Vegas Police Department and any other law enforcement  
28 agencies involved in the investigation of this or any related matter, including, but not  
limited to:

- Copies of handwritten or other notes,
- Investigative leads that were not followed up on,
- Any other matter bearing on the credibility of any State witness,
- Information pertaining to this case or any witnesses in this case, no matter what  
the form or title of the report, including:
  - "Case Monitoring Forms,"
  - Use of Force reports,



- 911 recordings,
- Dispatch logs, and
- Information regarding leads or tips provided to law enforcement or a crime tip organization such as Crime Stoppers, including any reward or benefit received for such tip
- Arrest Reports, arrest warrants, search warrants, or other reports related to how Shawn Glover was taken into custody by police.

#### **4. Crime Scene Analysis, Evidence Collection, and Forensic Testing**

All requests, results, reports, and bench notes pertaining to all crime scene analysis, evidence collection and forensic testing performed in this case,<sup>1</sup> including, but not limited to:

- Photographic, video, and audio recordings of evidence collection and testing,
- Fingerprint Evidence: All latent prints recovered in the instant matter, regardless of their value for identification, as well as exemplars compiled in connection with the investigation of this matter, including:
  - photographs, reports, and recordings related to collecting and testing of fingerprints,
  - Results of fingerprint collection and comparison, and
  - Automated Fingerprint Identification System (AFIS) searches and results,
- DNA Evidence: DNA testing, raw data and Combined DNA Index System (CODIS) searches and results,
- Scientific Evidence: toxicological, chemical, biochemical, laboratory, and other laboratory or forensic analyses, including trace evidence analyses, crime scene reconstruction or blood spatter analysis, and
- Forensic Analysis: reports and notes related to any forensic analysis and requests for forensic analysis, regardless of the outcome of such request.
- Firearm Evidence: ballistic firearm testing, including tests, results, reports, and photographs.
- This request encompasses, but it not limited to, any work done by the following individuals:
  - Special Agent Ryan Burke
  - CSI Dennison
  - CSI Fisher
  - Medical Examiner Timothy Dutra

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<sup>1</sup> This is required under NRS 171.1965(1)(b) and NRS 174.235(1)(b).



- Specific photograph(s) shown to material witnesses Miranda Sutton and Akira Veasley on January 2, 2016

## **5. Medical Records**

All records, including photos, reports, imaging studies, test results, and notes pertaining to:

- The victim, Patrick Fleming, generated pursuant to treatment provided in connection with the instant matter; including, without limitation, all emergency medical, fire department, hospital, or other medical care provider records, including all relevant prior medical records,
- All pathological, neuropathological, toxicological, or other medical evaluations of Patrick Fleming, including all relevant prior medical records and
- The name and badge number of any paramedics who responded to the scene, and all documentation, notes, reports, charts, conclusions, or other diagnostic, prognostic, or treatment information pertaining to any person evaluated, assessed, treated, or cleared by a paramedic at the scene, or transported to a hospital from the scene.

## **6. Preservation of and Access to Raw Evidence**

Access to and preservation of all material collected in the investigation of this case to include but not limited to:

- forensic material, raw data, biological samples and toxicological samples; and
- video surveillance, photographic negatives, and digital negatives.

## **7. Electronic Communications and Associated Warrants**

All intercepted communications, whether electronic oral or otherwise, as well as communications sent to and from a handset, telephone, or computer obtained by any law enforcement agency, including federal authorities via subpoena, interception, or other means, pertaining to the instant matter or any related matter, including but not limited to:

- Audio, Push to Talk, Data, and Packet Data

- Electronic messaging such as: Global System for Mobile Communications (GMS), Short Message Service (SMS), Multimedia Messaging Service (MMS), and Internet Relay Chat,
- File Transfer Protocol (FTP), Internet Protocol (IP), Voice Over Internet Protocol (VOIP), Transmission Control Protocol (TCP), and
- Electronic mail or other internet based communications.

#### **8. Law Enforcement Video or Audio Recordings**

All video and audio recordings obtained by the North Las Vegas Police Department recording device, including but not limited to:

- Dashboard cameras,
- Body-mounted officer cameras,
- Any other recording equipment operational during the investigation of this case, and
- Any video footage captured by body cameras worn by any other officer present for North Las Vegas Police Department Event number 1600031 and any other related or connected Event Number.

#### **9. Non-Activated Body Camera**

The name and "P#" of any officer present for North Las Vegas Police Department Event number 1600031 and any related or connected Event Number who is required by department policy to wear, but did not activate his body-worn camera.

#### **10. Monitoring, Tracking, and Associated Warrants**

All data, recordings, reports, and documentation of the following: voice monitoring devices, geographic tracking devices, pen registers, trap and trace devices installed pursuant to interception, warrant, or other means, obtained by law enforcement pertaining to the instant matter or any related matter.

#### **11. 911 and 311 Calls**

Any and all 911 and 311 recordings to include, but not limited to:

- Car-to-car audio communications,
- Car-to-dispatch radio communications, and
- Unit Log incident print out related to the event.

///

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2 ///

3 **12. Chain of Custody**

4 All relevant chain of custody reports, including reports showing the destruction of  
5 any evidence in the case.<sup>2</sup>

6 **13. Witness Contact Information**

7 All updated witness contact information, including last known addresses and phone  
8 numbers. This includes the names and contact information for witnesses who may  
9 have information tending to exculpate Mr. Glover.

10 **14. Information Obtained from Confidential Informants**

11 All information obtained from confidential informants for any aspect of the  
12 investigation of this case. This includes, but is not limited to, informants who  
13 purportedly obtained information about this case while incarcerated, whether the  
14 information came from Mr. Glover, a co-defendant, unindicted co-conspirator, or  
15 another source, regardless of whether prosecutors intend to use the informant-related  
16 information at the upcoming trial of this matter.

17 **Exculpatory Evidence**

18 **15. Alternative Suspects**

19 All information which shows that Mr. Glover did not commit the crimes alleged, or  
20 which shows the possibility of another perpetrator, co-conspirator, aider and abettor,  
21 or accessory after the fact, including the names of those individuals. This includes,  
22 but is not limited to, any information concerning the arrest of any other individual for  
23 the charged crimes and any information suggesting that someone other than Mr.  
24 Glover perpetrated one or more of the charged crimes.

25 ///

26 ///

27 \_\_\_\_\_  
28 <sup>2</sup> Destruction of evidence can result in dismissal of the case or a jury instruction stating  
such evidence is presumed favorable to the accused. Crockett v. State, 95 Nev. 859, 865 (1979);  
Sparks v. State, 104 Nev. 316, 319 (1988); Sanborn v. State, 107 Nev. 399, 409 (1991).



1 ///

2 **16. Identification and Mis-Identification**

3 All statements of identification associated with this case, including any information  
4 concerning witnesses who did not identify Mr. Glover as the perpetrator of the  
5 alleged crimes. This request includes:

- 6 • Statements identifying another person as the perpetrator of this offense,
- 7 • Prior non-identifications by eyewitnesses now identifying Mr. Glover as the  
8 perpetrator, and
- 9 • Color copies of all photographic lineups shown to any witness (including lineups  
10 created without Mr. Glover) as well as any other identification procedures used to  
11 identify suspects including show-ups, lineups, photo-array lineups, single photo  
12 show-ups, photo compilations and composite drawings. This request includes:
  - 13 ○ The identification of each witness who was shown an identification procedure,
  - 14 ○ The date and time such procedures occurred,
  - 15 ○ The names of all persons who were present when the procedures took place,
  - 16 ○ Instructions given to the witnesses prior to the procedure,
  - 17 ○ The results of the procedure, including an accounting of each witness's  
18 statements before, during and after the identification procedure; the amount of  
19 time taken by each witness to make an identification; and any hesitancy or  
20 uncertainty of each witness in making an identification, and
  - 21 ○ Whether officers informed any witness that he identified the suspect officers  
22 believed committed the crime.

19 **17. REQUEST INTENTIONALLY OMMITTED**

20 General Impeachment

21 **18. Witness Benefits**

22 Disclosure of all express or implied compensation, promises of favorable treatment or  
23 leniency, or any other benefit that any of the State's witnesses received in exchange  
24 for their cooperation with this or any related prosecution. This includes, but is not  
25 limited to:

- 26 • Records and notes from the CCDA Victim Witness Office, including records of  
27 any expectation of any benefit or assistance to be received, or already received by  
28 any witness in this case,

- Monetary benefits received as well as any express or implied promises made to any witness to provide counseling, treatment, or immigration assistance as a result of the witness's participation in this case,
- Names of all agencies, workers or other referrals that were given to any witness or his family member, relative, or guardian in connection with this case or any related matter, and
- Estimate of future benefits to be received by any witness during or after the trial, including travel expenses.

#### **19. Prior Witness Statements**

Disclosure of any and all statements, tangible or intangible, recorded or unrecorded, made by any witness that are in any manner inconsistent with the written or recorded statements previously provided to the defense. This includes oral statements made to an employee or representative of the CCDA or any other government employee, local or federal, during pre-trial conferences or other investigative meetings.

#### **20. Law Enforcement Impeachment Information—Henthorn Request**

Mr. Glover hereby requests the prosecutor review the personnel files of each officer involved in this case. After review, the prosecutor must disclose all impeachment information located in the personnel files of any police witness called to testify at trial or any pretrial hearing in this matter, including, but not limited to, any Statement of Complaint regarding the witness or this investigation, any Employee Notice of Internal Investigation, any Internal Affairs Investigative Report of Complaint, any witness statement, any Bureau Investigation Supervisory Intervention, and any other document maintained or generated by the Office of Internal Affairs, Critical Incident Review Panel, or other investigative agency.

#### **21. Criminal History Information**

Criminal history information on any actual or potential witness, showing specific instances of misconduct, instances from which untruthfulness may be inferred or instances which could lead to the discovery of admissible evidence. To this end, the defense requests that, in addition to any other lay witnesses the State intends to call at trial or upon whose testimony or statements the State will rely during either the guilt

1 or penalty phases of trial, the CCDA provide NCIC reports on the following  
2 individuals:

- 3 ○ Patrick Fleming
- 4 ○ Melvin Givens, Sr.
- 5 ○ Kippy Glover
- 6 ○ Loren Mendoza
- 7 ○ Michael Reyes
- 8 ○ Miranda Sutton
- 9 ○ Akira Veasley

10 The defense further requests that the NCIC information be provided to defense  
11 counsel as soon as possible and that prosecutors identify those individuals for whom  
12 no NCIC information is found. While the defense is not insisting that prosecutors run  
13 NCICs on expert or law enforcement witnesses, the defense requests that the State be  
14 ordered to comply with its Brady obligations with respect to these witnesses. The  
15 instant criminal history request includes, but is not limited to:

- 16 • Juvenile records,
- 17 • Misdemeanors,
- 18 • Out-of-state arrests and convictions,
- 19 • Outstanding arrest warrants or bench warrants,
- 20 • Cases which were dismissed or not pursued by the prosecuting agency, and
- 21 • Any other information that would go to the issues of credibility or bias, or lead to  
22 the discovery of information bearing on credibility or bias, regardless of whether  
23 the information is directly admissible by the rules of evidence.

## 24 **22-36. REQUESTS INTENTIONALLY OMMITTED**

### 25 **CPS and sexual assault related information**

#### 26 **37. Child Protective Services Records**

27 All Department of Child and Family Services or Child Protective Service (or  
28 equivalent department in another state) records relating to the instant case, including:

- Notes of caseworkers or their agents or assistants,
- Referrals to therapists by anyone at any of the above mentioned agencies, and



- Reports prepared for Family Court or any domestic relations proceedings related to the issues or witnesses in the instant matter.
- This request includes, without limitation, information pertaining to the following individuals:
  - Micaiah Burkes
  - Mariah Burkes
  - Jordan Fleming
  - Michael Fleming
  - Patrick Fleming
  - Malik Matthews
  - Miranda Sutton
  - Akira Veasley

### **38. Social Worker or Case Work Notes**

All notes of government social workers or case workers, including employees of Child Haven, or any governmental agency supervising foster care or any other living arrangement made for any alleged victim or witness in the case, even if on a temporary basis, as well as notes on referrals to any physicians, psychologists, psychiatrists, social workers or other mental health workers, including contract providers pertaining to the following individuals:

- Mariah Burkes
- Micaiah Burkes
- Jordan Fleming
- Michael Fleming
- Malik Matthews

### **39. Mental Health Worker Records and Notes**

All records and notes of any mental health workers who have had contact with the alleged victim or any other person related to events in this case, including, without limitation, Patrick Fleming (prior to his death).

This request includes any records reflecting the mental state or cognitive abilities of the alleged victim or any other government witness, including the individuals listed herein, that are relevant to each individual's competency as a witness.<sup>3</sup>

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<sup>3</sup> In addition to the authority outlined above, if such counselors are seeing the alleged victims after being referred by a State or County agency or worker, or are paid by victim