

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Adriana Vance *on behalf of* Raymond Green,
deceased; Tanya Beal *on behalf of* Kelly
Loving, deceased; Julia Rump *on behalf of*
Derrick Rump, deceased; John Arcediano;
Jancarlos Del Valle; Ashtin Gamblin; Jerecho
Loveall; Anthony Malburg; Charlene Slaugh;
James Slaugh; Brianna Winningham,

Plaintiffs,

v.

Case No.: 24-CV-3190

El Paso County Board of County
Commissioners; El Paso County Sheriff Bill
Elder, *in his personal and official capacities*;
G.I.G., Inc. d/b/a Club Q; Club Q, LLC d/b/a
Club Q; 3430 N. Academy, LLC;
Academy3430, LLC; Matthew Haynes;
Kenneth Romines; and Nicholas Grzecka,

Defendants.

AMENDED COMPLAINT AND JURY DEMAND

Plaintiffs Adriana Vance on behalf of Raymond Green, Tanya Beal on behalf of Kelly Loving, Julia Rump on behalf of Derrick Rump, John Arcediano, Jancarlos Del Valle, Ashtin Gamblin, Jerecho Loveall, Anthony Malburg, Charlene Slaugh, James Slaugh, and Brianna Winningham, bring this Amended Complaint and Jury Demand against Defendants El Paso County Board of County Commissioners, El Paso County Sheriff Bill Elder, *in his personal and official capacities*, G.I.G., Inc. d/b/a Club Q, Club Q, LLC, d/b/a Club Q, 3430 N. Academy, LLC, Academy3430, LLC, Matthew Haynes, Kenneth Romines, and Nicholas Grzecka. Plaintiffs allege

the following upon personal knowledge as to their own acts and experiences, and as to all other matters upon information and belief, including investigation conducted by their attorneys.

INTRODUCTION

1. This case arises from the mass shooting that occurred on November 19, 2022 at Club Q, an LGBTQIA+ nightclub in Colorado Springs.

2. In the shooting at Club Q, five people were murdered, and twenty-five others were injured. Tragically, the Club Q shooting was not the first shooting of its kind. Mass shootings are all too common in American life.

3. Six years earlier, in June 2016, a gunman opened fire at Pulse, an LGBTQIA+ nightclub in in Orlando, Florida, killing forty-nine people and injuring fifty-three. The Pulse shooting was motivated by hate and extremism and left a profound impact on the nation, sparking conversations about LGBTQIA+ rights and the urgent need for enhanced security at venues serving these communities.

4. The Club Q shooting was perpetrated by the violent actions of a single individual. However, this tragedy was enabled by systemic failures, including law enforcement's refusal to enforce Colorado's Red Flag Law, which could have prevented the shooter from possessing firearms, and inadequate security measures at Club Q.

5. Law enforcement missed critical opportunities to prevent this tragedy. Colorado's Red Flag Law, formally known as the Extreme Risk Protection Order ("ERPO") process, was specifically designed to temporarily remove firearms from individuals deemed a danger to themselves or others. The shooter had a history of violent threats and behavior that clearly warranted intervention.

6. Despite these warnings and ample grounds for an ERPO, El Paso County law enforcement failed to act, citing local policies against invoking the Red Flag Law. This deliberate inaction allowed the shooter continued access to firearms, directly enabling the attack on Club Q.

7. Additionally, at the time of the Pulse nightclub shooting, Club Q employed a robust security team, with as many as five or more security guards, one of whom carried a loaded firearm. Over time, however, the focus on security at Club Q diminished significantly.

8. Matthew Haynes, the owner of Club Q, managed multiple businesses, including an executive travel company and a real estate business that owned dozens of properties in Colorado Springs. Haynes resided in England, only flying in occasionally to check on his investments.

9. By 2022, despite the increased awareness for greater security at LGBTQIA+ nightclubs, Club Q reduced its security team from five employees to just one—and Club Q no longer employed an armed guard. The sole security employee, Jeremiah Griffith, held the title of “Head of Security.” Beyond security, Jeremiah also served as a barback and food runner, tasked with various roles to maximize Haynes’ profits. Griffith, with little to no training, did his best to protect patrons but was left with an impossible task.

10. Haynes’ negligence in providing adequate security measures created a dangerous environment for Club Q patrons. Despite foreseeable risks, Haynes failed to implement effective security protocols, which ultimately led to the tragic loss of life and numerous injuries.

11. The burden of security fell on the patrons themselves. Thomas James was the first to intervene, followed by Richard Fierro, a former Army officer with 15 years of service,

who bravely tackled the shooter and used the shooter's own gun to subdue him. Drea Norman then joined in the effort, assisting the others in stopping the attack. None of these courageous individuals were employed as security at Club Q, but they instinctively stepped up to protect others in the face of danger.

12. Club Q advertised itself as a "safe space" for LGBTQIA+ individuals. But that was a façade. Haynes and Club Q exercised an utter disregard for the safety of individuals on the premises, violating the duty of care they owed to keep people safe.

13. The Club Q shooting was a devastating outcome of both private negligence and public policy failures. While Haynes neglected his duty to maintain a safe environment, law enforcement's refusal to implement Colorado's Red Flag Law left the shooter armed and dangerous, leading to this preventable tragedy.

PARTIES

A. Plaintiffs

Adriana Vance on behalf of Raymond Green

1. Adriana Vance is a resident of Colorado and a citizen of the United States of America. Adriana brings a claim for her late son, Raymond Green who was a resident of Colorado and a citizen of the United States of America.

2. Raymond Green was a patron who was visiting Club Q for this first time on the night of the shooting. He attended the venue to watch a drag show and celebrate a friend's birthday with his girlfriend, her family, and other friends. Tragically, he was killed by the shooter near the bar area of the club, amidst the chaos as he tried to protect his girlfriend and their friends. Raymond died of gunshot wounds.



Tanya Beal on behalf of Tiffany Loving

3. Tanya Beal is a resident of Tennessee and a citizen of the United States of America. Tanya brings a claim for her late daughter, Tiffany Loving, who was also a resident of Tennessee and a citizen of the United States of America.

4. Kelly Loving was a patron who was visiting Colorado from her home in Memphis on the night of the shooting. Kelly was struck by bullets in the bar area while she was ordering drinks, unable to escape the mayhem as the shooter opened fire on the club patrons. As the bullets flew towards Kelly, she used her body to shield a new friend and performer at the club from danger. Kelly died of gunshot wounds.



Julia Rump on behalf of Derrick Rump

5. Julia Rump is a resident of Pennsylvania and a citizen of the United States of America. Julia brings a claim for her late son, Derrick Rump, who was a resident of Colorado and a citizen of the United States of America.

6. Derrick Rump was a long-time and beloved bartender at Club Q. For nearly a decade, he was a pillar of the Club Q community, serving as an advisor, friend, and source of encouragement and support to many. On the night of the shooting, Derrick was working behind the bar. Derrick died of gunshot wounds.



Charlene Slaugh

7. Charlene Slaugh is a resident of Colorado and a citizen of the United States of America.

8. Charlene Slaugh was a patron of Club Q. She had been visiting the nightclub for over a decade and, on the night of the shooting, was visiting with her brother, James Slaugh, and



Charlene Slaugh (left), posing with her brother, James Slaugh (middle), and Jancarlos Del Valle (right) at Club Q on the night of the shooting

her future brother-in-law, Jancarlos Del Valle. Charlene was standing in the bar area when she was struck with bullets. She sustained at least thirteen gunshot wounds. Charlene sustained

severe physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.

James Slaugh

9. James Slaugh is a resident of Colorado and a citizen of the United States of America.

10. James Slaugh was a patron of Club Q. James was visiting Club Q with his then-boyfriend, Jancarlos Del Valle, and his sister, Charlene. James was standing in the bar area when he was struck in his upper arm. James sustained serious physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.

Jancarlos Del Valle

11. Jancarlos Del Valle is a resident of Colorado and a citizen of the United States of America.

12. Jancarlos Del Valle was a patron of Club Q who had been visiting the nightclub for over a year. On the night of the shooting, Jancarlos was visiting the nightclub with his then-boyfriend James Slaugh and future sister-in-law, Charlene Slaugh. Jancarlos was in the bar area when he was struck in his right leg by a bullet. He sustained serious physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.

John Arcediano

13. John Arcediano is a resident of Colorado and a citizen of the United States of America.

14. John Arcediano was an employee of Club Q but was visiting as a patron on the night of the shooting. John was on the smoking patio when he heard three pops, initially assuming



a stereo malfunction. As he approached the door, he locked eyes with the shooter before the glass shattered around him. Wood and glass shards pierced his arm as he hid under a makeshift bar and called 9-1-1, sending goodbye texts to his friends. He sustained serious physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.

Ashtin Gamblin

15. Ashtin Gamblin is a resident of Colorado and a citizen of the United States of America.

16. Ashtin Gamblin was an employee of Club Q working on the night of the shooting. Positioned near the entrance of the nightclub, she was responsible for checking IDs and collecting cover charges. The shooter shot Ashtin nine times in her upper body. She sustained serious physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.



Anthony Malburg

17. Anthony Malburg is a resident of the State of Minnesota and a citizen of the United States of America.

18. Anthony Malburg was a patron of Club Q. On the night of the shooting, he was visiting to watch the drag show and socialize with friends. Anthony was near the front of the



Anthony Malburg (left) with his husband, Jeremy

nightclub when the shooter entered. He was shot five times. He sustained serious physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.

Jerecho Loveall

19. Jerecho Loveall is a resident of the State of Colorado and a citizen of the United States of America.

20. Jerecho Loveall was a patron of Club Q. He had been frequenting Club Q for over a decade, and, on the night of the shooting, he was sitting at the bar enjoying a drink. The shooter shot Jerecho in the leg. Jerecho sustained serious physical injuries, which persist to this day, and continues to suffer from psychological pain and trauma.

Brianna Winningham

21. Brianna Winningham is a resident of the State of Colorado and a citizen of the United States of America.

22. Brianna Winningham was a patron of Club Q. She visited many times with her friend, Jerecho Loveall. At the time the shooter entered Club Q and began shooting, Brianna was outside in the patio area of Club Q. She sustained injuries through shards of glass exploding onto

the patio after the shooter shot the windows near the patio area. Brianna fled by escaping through a hole in the patio fence. Brianna sustained serious physical injuries and continues to suffer from psychological pain and trauma.



Brianna Winningham (left) with her friend, Jerecho Loveall

B. Defendants

23. At all relevant times, Bill Elder was a resident of the State of Colorado and citizen of the United States. He was acting under the color of state law in his capacity as Sheriff of the El Paso County Sheriff's Office.

24. The El Paso County Board of County Commissioners is a statutory governmental entity under the laws of the State of Colorado. The Board serves as the primary policymaking and administrative authority for El Paso County, Colorado. The Board is responsible for operating the El Paso County Sheriff's Department.

25. Defendants Bill Elder and the El Paso County Board of County Commissioners are occasionally referred to herein as the El Paso County Defendants.

26. G.I.G., Inc. is a Colorado corporation doing business as Club Q, which operated the restaurant and nightclub known as "Club Q" located at 3430 North Academy Boulevard in Colorado Springs, Colorado.

27. 3430 N. Academy, LLC is a Colorado limited liability company that owned the building located at 3430 North Academy Boulevard in Colorado Springs, Colorado.

28. Academy3430, LLC is a Colorado limited liability company and currently owns the building located at 3430 North Academy Boulevard in Colorado Springs without any significant changes in the property's intended use or ownership structure. This continuity establishes that Academy3430, LLC is a successor in interest to 3430 N. Academy, LLC and is therefore liable for the conditions and incidents occurring at the property prior to the transfer, including the mass shooting on November 19, 2022.

29. Club Q, LLC was a Colorado limited liability company conducting business in the County of El Paso, with a principal office street address of 6050 Stetson Hills Boulevard, #309, Colorado Springs, CO 80923 and a street and mailing address of 3430 N. Academy Blvd, Colorado Springs, Colorado.

30. Matthew Haynes was a resident of the State of Colorado with a residential address at 6050 Stetson Hills Boulevard, #309, Colorado Springs, Colorado. He was the founding owner of Club Q.

31. At all relevant times, Defendant Kenneth Romines was a resident of the State of Colorado and a co-owner of Club Q.

32. At all relevant times, Defendant Nicholas Grzecka was a resident of the State of Colorado and a co-owner of Club Q.

JURISDICTION AND VENUE

33. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, as this action is being brought under the Constitution and the laws of the United States and is brought pursuant to 42 U.S.C. §§ 1983 and 1988.

34. This Court has supplemental pendent jurisdiction based on 28 U.S.C. § 1367 because the violations of federal law are substantial, and the pendent causes of action and pendent parties derive from a common nucleus of operative facts.

35. This Court has general and specific jurisdiction over Defendants because they are residents of Colorado, business entities incorporated under Colorado law, maintain principal places of business in Colorado, transact business in Colorado, and engaged in tortious conduct in Colorado. C.R.S. § 13-1-124.

36. Venue is proper in this Court under 28 U.S.C. § 1391 because the incident at issue took place in this judicial district, and Defendants maintain offices and/or reside in this judicial district.

37. Plaintiffs served timely notices of claims pursuant to the CGIA with respect to state law claims against the El Paso County Defendants, pursuant to C.R.S. § 24-10-109 and § 24-10-118.

FACTUAL ALLEGATIONS

A. The Mass Shooting at Club Q

38. On November 19, 2022, shortly before midnight, Anderson Aldrich (“the shooter”), a 22-year-old resident of Colorado Springs, drove a gold Toyota Highlander through the parking lot of Club Q and parked in front of one of its entryway doors.¹

39. The shooter stayed in the vehicle for over ten minutes, uploading four videos to a live-streaming app on their phone.²

40. Eventually, the shooter exited the vehicle wearing a tactical vest and ballistic plates, armed with an AR-15-style assault rifle and a handgun strapped to the vest.

41. The shooter entered Club Q without restriction and began shooting.

42. The shooter shot Daniel Aston and Ashtin Gamblin, Club Q employees, in the vestibule entryway of Club Q. Daniel Aston was killed by gunshot wounds. The shooter then

¹ Anderson Aldrich is nonbinary and uses they/them pronouns. Aldrich had previously changed their name, with Aldrich being their chosen name at the time of the shooting. This complaint uses the shooter’s chosen name and preferred pronouns, not to show sympathy or condone Aldrich’s actions, but to show respect for all members of the LGBTQIA+ community.

² Olivia Prentzel, *Police found rainbow-colored shooting target, map of Club Q in suspect’s apartment*, The Colorado Sun (Feb. 22, 2023), <https://bit.ly/4fo6ZNI>.

moved from the entryway and towards the bar area, where they shot and killed Raymond Green. Continuing through the bar, they then shot and killed Kelly Loving, Ashley Paugh, and Derrick Rump.

43. The shooter moved to the dance floor area, injuring numerous others through gunshot wounds or graze wounds. The shooter then began heading towards the enclosed patio area, where dozens of people had fled and found themselves trapped.

44. The first person to confront the shooter was Thomas James, a 30-year-old Navy information systems technician who had recently moved to Colorado Springs and was standing near the patio door.³

45. Though he had never been in combat, James realized he needed to act. Grabbing “the hardest thing he could find,” a nearby metal bucket, he began bludgeoning the shooter.⁴ James then grabbed the barrel of the shooter’s rifle, sustaining blisters on his hands from the heat as he tried to disarm the shooter.

46. As James and the shooter wrestled over the rifle, the shooter drew a handgun and shot James in the chest.⁵

47. At this point, another patron, Richard Fierro, went into what he described as “combat mode.”⁶ Fierro, a 45-year-old Army combat veteran, was at Club Q that night with his

³ *Id.*; Dan Zak, *The Hero: Rich Fierro Fought in America’s War on Terror. Then Terror Found Him at Home*, Wash. Post (Mar. 16, 2024), <https://bit.ly/48PRR9i>.

⁴ *Supra* note 2.

⁵ Zak, *supra*.

⁶ Dave Philips, *Army Veteran Went Into ‘Combat Mode’ to Disarm the Club Q Gunman*, N.Y. Times (Nov. 21, 2022), <https://bit.ly/4fRs3fx>.

family to watch one of his daughter's friends perform in a drag show.⁷ Fierro was joined by his wife and daughter, along with his daughter's boyfriend, Raymond Green—who was shot and killed—and two family friends.⁸

48. When Fierro heard gunshots, he dropped to the ground, pulling his friend down with him. Seeing an opening, Fierro rushed the shooter and tackled him to the ground. The assault-style rifle fell to the floor, just out of reach. As the shooter reached for the pistol strapped to their vest, Fierro grabbed it.

49. Fierro aimed the handgun at the shooter's torso and pulled the trigger, but the gun did not fire. Then, as Fierro described it, "I grabbed the gun out of his hand and just started hitting him in the head, over and over."⁹

50. Despite the efforts of James and Fierro, these two patrons struggled to fully subdue the shooter. At that moment, a third patron, a trans woman named Drea Norman, approached wearing wedge shoes and began kicking the shooter repeatedly in the face and teeth to incapacitate the shooter.¹⁰

51. Fierro later remarked, humbly, "I don't think I did anything worth a shit . . . because five of us did not go home that night."¹¹

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ National Heroes Day, *Featured Heroes*, <https://bit.ly/3AyXT1D> (last visited Oct. 7, 2024); *supra* note 6.

¹¹ Zak, *supra*.

52. Paramedics and emergency personnel responded quickly, helping to minimize the loss of life. Several first responders later stated that they were “simply doing their job.”¹²

53. The shooter was ultimately charged in El Paso County District Court with 317 criminal counts, including first-degree murder, attempted first-degree murder, assault, and bias-motivated crimes causing bodily injury.¹³

54. On June 26, 2023, the shooter pleaded guilty to five counts of murder and forty-six counts of attempted murder and pleaded no contest to two hate crimes.¹⁴ As part of the plea agreement, the shooter was sentenced to five consecutive terms of life in prison without the possibility of parole.¹⁵

55. Following their sentencing in El Paso County District Court, the shooter pleaded guilty to seventy-four federal hate crime charges and gun charges in connection with the shooting. The shooter was sentenced in federal court to fifty-five concurrent life sentences to run consecutive to 190 years.¹⁶

56. FBI Director Christopher Wray stated: “The 2022 mass shooting at Club Q is one of the most violent crimes against the LGBTQIA+ community in history[.] The FBI and our

¹² Jeff Anastasio, *Club Q: One Year Later*, ABC Denver 7 (Nov. 17, 2023), <https://bit.ly/4hJB3oJ>.

¹³ Alaa Elassar, *Club Q shooting suspect Anderson Aldrich appears in court, charged with 12 new counts*, CNN (Jan. 13, 2023), <https://cnn.it/3O8tev4>. Anderson Aldrich was prosecuted in El Paso County District Court for the Club Q shooting under Case Number 22CR6008.

¹⁴ CBS News Colorado, *Shooter in attack that killed 5 at Colorado Springs gay nightclub pleads guilty, gets life in prison* (June 26, 2023), <https://cbsn.ws/40Oap7S>.

¹⁵ Elliott Wenzler, *Club Q shooter pleads guilty, is sentenced to life in prison without the possibility of parole*, The Colorado Sun (June 26, 2023), <https://bit.ly/3AGF0tC>.

¹⁶ Dakin Andone, et al., *Club Q shooter sentenced to life in prison plus 190 years after pleading guilty to federal hate crime and gun charges*, CNN (June 19, 2024), <https://bit.ly/4evqLph>.

partners have worked tirelessly towards this sentencing, but the true heroes are the patrons of the Club who selflessly acted to subdue the defendant.”¹⁷

57. Notably absent from Director Wray’s statement was any mention of efforts undertaken by the employees or owners of Club Q. That is because patrons were forced to act given the woefully inadequate security provided by Club Q.

B. Colorado Passes Red Flag Law to Curb Firearm-Related Violence

58. As a tool to address firearm violence, including mass shootings, in April 2019, Colorado enacted the Colorado Violence Prevention Act (“Red Flag Law”).¹⁸

59. The Red Flag Law authorizes law enforcement officials and family members to petition a court for a civil order, referred to as an Emergency Risk Protection Order (“ERPO”), which prevents individuals at risk of harming themselves or others from possessing or purchasing firearms.¹⁹ The Red Flag Law includes due process protections like notice, an opportunity to be heard, and penalties for abuse of the process.²⁰

60. The bill that became the Red Flag Law was named after Deputy Zackari Parrish III, a Douglas County Sheriff’s Office deputy who was tragically killed in 2017 by an individual

¹⁷ Office of Public Affairs, Dep’t of Justice, *Former Colorado Resident Sentenced to Life in Prison for Federal Hate Crimes and Firearm Offenses Related to Mass Shooting at Club Q* (June 18, 2024), <https://bit.ly/4fwUbF0>.

¹⁸ House Bill 19-1177 was introduced in February 2019 and was signed into law by Governor Polis on April 12, 2019. The Act became effective in January 2020. *See* Colo. Rev. Stat. § 13-14.5-114; *see generally* Andrew Kenney, *ERPO in 8 charts: What we learned from reading hundreds of ‘red flag’ cases in Colorado*, CPR News (Jan. 30, 2023), <https://bit.ly/3OaVjlt>.

¹⁹ Colo. Rev. Stat. § 13-14.5-104.

²⁰ *Id.*; *see also* Colo. Rev. Stat. § 13-14.5-113(2) (“A person who files a malicious or knowingly false petition for a temporary extreme risk protection order or an extreme risk protection order may be subject to criminal prosecution or civil liability for those acts.”).

experiencing a mental health crisis.²¹ According to Douglas County Sheriff Tony Spurlock, the attack was an “ambush-type” assault in which the shooter fired approximately 100 rounds, killing Deputy Parrish and injuring four other law enforcement officers involved in the standoff at the shooter’s apartment.²²

61. In the weeks leading up to the incident, law enforcement officers were aware of the deteriorating mental health of the shooter who perpetrated the attack on Deputy Parrish.²³ The shooter’s mother had sought to restrict her son’s access to firearms, but she was ultimately unsuccessful due to Colorado’s lack of formal legal procedures at the time to remove firearms from individuals in crisis.²⁴ Consistent with the observable mental health decline exhibited by the shooter, an FBI retrospective study of active shooters concluded that, in the weeks and months preceding an attack, the average shooter displays four to five observable behaviors indicating potential violence, often associated with mental illness and violent intent.

62. Colorado was not the first state to enact a red flag law.²⁵ The nation’s first red flag law was passed by Connecticut in 1999 following a mass shooting at the state’s lottery headquarters.

²¹ Bente Birkeland, *Colorado’s ‘Red Flag’ Gun Bill Is Now Law. But The Fight Over It Still Continues*, CPR (Apr. 9, 2019), <https://bit.ly/4ewenW6>.

²² *Id.*

²³ *Id.*

²⁴ Kirk Mitchell, *Mother Returned Gunman’s Weapons, Issued Warnings Just Months Before Fatal Douglas County Shootout*, The Denver Post (Jan. 30, 2018), <https://dpo.st/48Q5MMJ>.

²⁵ See Andrew Kenney, *How Colorado’s ‘red flag’ law works — and how it compares to other states*, CPR News (Nov. 22, 2022), <https://bit.ly/4ezEH1E>.

63. Indiana passed a similar, early extreme risk law in 2005—allowing law enforcement to petition for an order allowing seizure of firearms from a person posing a danger to self or others—following a 2004 shooting rampage that killed a law enforcement officer.²⁶

64. Additionally, in the wake of the February 2018 school shooting at Marjory Stoneman Douglas High School, Florida passed its own red flag law.

65. Just like in this case, news outlets after the Parkland school shooting reported that the gunman, Nikolas Cruz, “displayed multiple signs of mental health issues, instability, and a desire to harm others using firearms.”²⁷ Those who were close to Cruz reported these warning signs to Parkland-area law enforcement officials—but no action was taken because Florida did not have a red flag law and law enforcement officials “did not believe Cruz had committed a crime.”²⁸

66. A mere twenty-three days after the Parkland school shooting, Florida signed its red flag statute into law—“a testament to the degree of public outrage in a state that had not passed a single piece of legislation tightening firearm regulations since 1996.”²⁹ And law enforcement officials “immediately put the red flag law to use.”³⁰ Between March and July

²⁶ Consortium for Risk-Based Firearm Policy, *Extreme Risk Protection Orders: New Recommendations for Policy and Implementation* (Oct. 2020), <https://bit.ly/3Cpstes>.

²⁷ Coleman Gay, “Red Flag” Laws: How Law Enforcement’s Controversial New Tool to Reduce Mass Shootings Fits Within Current Second Amendment Jurisprudence, 61 Boston Coll. L. R. 1491, 92 (2020).

²⁸ *Id.*

²⁹ *Id.* at 1507.

³⁰ *Id.*

2018, in Broward County alone, law enforcement officials filed 108 petitions under Florida’s red flag law.³¹

67. As of 2019, seventeen states and the District of Columbia had implemented red flag laws.³² In the time since, four additional states have passed red flag laws.³³

68. Like those in other states, Colorado’s Red Flag Law aims to prevent individuals who pose “a significant risk of causing personal injury to self or others by . . . firearm,” as determined by a judge, from possessing firearms for up to 364 days.³⁴

69. The Red Flag Law provides a legal mechanism to restrict firearm access for individuals displaying a pattern of statements and behaviors indicating an intent to inflict violence.

C. A Potential Mass Shooting in Colorado Springs is Thwarted by an ERPO in Summer 2022

70. Consider the case of another troubled young man who expressed intentions to carry out violence at an LGBTQIA+ bar in Colorado Springs. This individual faced an ERPO earlier in 2022 after making threats. As a result, he was legally prohibited from possessing or obtaining firearms, preventing him from carrying out his plan for a mass shooting.³⁵

³¹ *Id.* at 1507–08.

³² Jonathan Levinson, *What Is A ‘Red Flag’ Law And Which States Have One?*, Jefferson Public Radio (Aug. 6, 2019), <https://bit.ly/4fG6Hsk>.

³³ Trevor Hunnicutt, *Kamala Harris visits Parkland shooting site, to push new gun laws*, Reuters (Mar. 24, 2024), <https://reut.rs/3UT1QoA>.

³⁴ Colo. Rev. Stat. § 13-14.5-105(2).

³⁵ A copy of the redacted Petition is attached as Exhibit A; *see also* Andrew Kenney, *Are mass shootings being stopped by Colorado’s ‘red flag’ law?*, Colorado Public Radio (Feb. 8, 2023), <https://bit.ly/3CHLCs7>.

71. On June 10, 2022, Colorado Springs Police Department Detective Daniel Summey filed a Petition for an ERPO against an individual referred to herein as “RC.”

72. According to the Petition, Detective Summey had received information that RC “had suicidal and homicidal ideations and planned to carry out a mass shooting at the Territory Days event in Colorado Springs or at an unnamed gay bar.”³⁶

73. The Detective was alerted to RC’s threats by a mental health therapist who was treating RC.

74. The therapist informed Detective Summey that RC had made “numerous threats to shoot people at Territory Days [(a music festival)] and ‘Queer clubs.’” RC told the therapist that he had decided against a mass shooting at the festival “because there was a large police presence at the event.”³⁷

75. In support of the Petition, the Detective stated: “Due to [RC] stating his intent to commit a mass shooting multiple times over several days, committing an overt act to conduct a mass shooting by travelling to Territory Days, and cutting his own wrists with a knife, Your Petitioner believes [RC] is a threat to himself and others, and if he were to procure or come into possession a [*sic*] firearm, he would present a danger to the community.”³⁸

76. Additionally, the Petition noted that, “[RC] has stated his intent to procure a firearm to commit a mass shooting. It is unknown if he has access to firearms at the time of his

³⁶ Ex. A.

³⁷ *Id.*

³⁸ *Id.*

residence has not been searched and he has stated he has access to firearms, and he plans to procure a firearm.”

77. Detective Summey indicated that there were no known legal “prohibitors to [RC] possessing or purchasing a firearm.” Therefore, based on RC’s “threats to commit a mass shooting, to kill his sister, and his suicidal ideations,” the Detective requested that an ERPO be granted.

78. An in-person hearing was held on July 18, 2022. At this hearing, the court issued an ERPO, barring RC from possessing or obtaining firearms for a period of 364 days.

79. Notably, the Petition was filed by Colorado Springs Police Department—*not* a law enforcement official associated with the El Paso County Sheriff’s Office. That is because El Paso County had decided to abdicate its responsibility to enforce Colorado’s Red Flag Law.

D. El Paso County Declares Itself a “Second Amendment Sanctuary” Zone and Refuses to Invoke Red Flag Law

80. In 2019, the Colorado Springs District Attorney criticized the Red Flag Law as “unconstitutional,” describing it as “[n]othing more than a way to justify seizing people’s firearms under the color of law.”³⁹

81. On March 12, 2019, before Colorado’s Red Flag Law was signed, the El Paso County Board of County Commissioners (“Board”) unanimously passed Resolution No. 19-76 (referred to simply as the “resolution”), declaring El Paso County a “Second Amendment preservation county,” formally opposing the Red Flag Law.⁴⁰

³⁹ @mjallen13, Twitter (Mar. 28, 2019, 11:31 PM), <https://bit.ly/3CGdUTR>.

⁴⁰ El Paso County Board of County Commissioners, Resolution No. 19-76 (effective March 12, 2019) (A copy is attached as Exhibit B); Rachel Riley, *El Paso County declared ‘Second*

82. Before passage, the Board held a public hearing to discuss the resolution.⁴¹ At the hearing, Sheriff Elder acknowledged that the Red Flag Law provided law enforcement with a “tool” to remove firearms, but expressed concerns that it did not respect the Second Amendment. Then-District Attorney Dan May also opposed the bill that would become the Red Flag Law—despite his opposition, District Attorney May recognized that the Red Flag Law could have prevented a Colorado Springs mass shooting on Halloween Day several years prior.⁴² May was referring to a 2015 shooting in which three people were randomly shot and killed by a gunman who had exhibited warning signs in the days leading up to the shooting.⁴³

83. At the hearing, six Colorado Springs-area residents voiced support for the Red Flag Law, opposing the proposed resolution. These included a doctor, sociologist, nurse practitioner, former mental health therapist, and founder of an organization to prevent school shootings. One resident argued that an ERPO would have prevented the Parkland School Shooting, stating that the Board was “playing identity politics with the lives in our community.” Other residents highlighted the bill’s due process protections, the County’s obligation to both

Amendment preservation county’ as Legislature weighs red flag gun bill, The Gazette (Mar. 13, 2019), <https://bit.ly/4hNgpnF>.

⁴¹ A video recording of the public hearing can be accessed through the following link: <http://ec4.cc/c28e2c3fa>.

⁴² *Id.*

⁴³ Kaitlin Durbin, et al., *Family stymied by ‘imminent threat law’ in trying to avert Halloween shooting rampage*, The Gazette (Oct. 30, 2016), <https://bit.ly/4eDrk09>. El Paso County District Attorney Michael Allen similarly stated that a red flag law could have prevented the 2015 Halloween massacre in his press conference following the unsealing of the shooter’s 2021 criminal case. *See* Office of the District Attorney, Fourth Judicial District of Colorado, *Press Conference Today with District Attorney Michael Allen Referencing the Unsealing of 21CR3485* (Dec. 8, 2022), <https://bit.ly/3Cs8jk5>.

protect residents and its mandate to execute state laws. They emphasized that the bill was developed over two years with extensive input, debated over nine hours, and approved by the general assembly. One resident warned the Board that it cannot “pick and choose” which laws to follow, asking, “What if someone commits a crime? Is the Board of County Commissioners going to be responsible for the deaths that occur?”⁴⁴ These words later proved prescient.

84. Nevertheless, the Board passed the resolution unanimously, despite the safety concerns voiced by residents and its responsibilities under Colorado law.

85. The Board, at all relevant times, had a mandatory duty to enforce the laws of Colorado under C.R.S. § 30-15-411, which stipulates that counties in Colorado are prohibited from enacting ordinances that conflict with state statutes. This provision ensures that county laws remain consistent with state legislation, maintaining a uniform legal framework across the state. The Board acted in clear dereliction of its duty in passing the resolution.

86. In the three-page resolution, Commissioners pledged to “actively resist” the legislation, arguing that, “by allowing for confiscation of concealed handgun permits by court order, House Bill 19-1177, improperly inserts the judiciary into the purview of the elected Sheriff in administering his or her concealed handgun permit program under existing Colorado law[.]”⁴⁵

87. The resolution lists several U.S. Supreme Court cases, including *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. Chicago*, 561 U.S. 742 (2010), and

⁴⁴ *Supra* note 41.

⁴⁵ BoCC Resolution No. 19-76, Ex. B.

United States v. Miller, 307 U.S. 174 (1939). The resolution fails, however, to cite or even acknowledge that courts have uniformly upheld red flag laws as constitutional.

88. For instance, three years earlier in *Hope v. State*, the Appellate Court of Connecticut upheld Connecticut’s red flag law as constitutional, holding that the law “does not implicate the second amendment, as it does not restrict the right of law-abiding, responsible citizens to use arms in defense of their homes.” 163 Conn. App. 36, 43, 133 A.3d 519, 524 (2016). The court cited *District of Columbia v. Heller*, noting that red flag laws are among “presumptively lawful regulatory measures.”⁴⁶

89. The resolution also omits research suggesting that red flag laws tend to prevent mass shootings.⁴⁷

90. Instead, the resolution asserts, without supporting evidence, that “the best way to prevent gun violence is to address the growing mental health crisis, and not to limit the inalienable rights of law-abiding citizens[.]”⁴⁸

91. The resolution further states that the Board, “does hereby pledge not to appropriate funds, resources, employees, or agencies to initiate unconstitutional seizures in

⁴⁶ See also *Davis v. Gilchrist Cnty. Sheriff’s Off.*, 280 So. 3d 524, 532 (Fla. Dist. Ct. App. 2019) (upholding Florida’s red flag law against a constitutional challenge and finding that “the prevalence of public shootings, and the need to thwart the mayhem and carnage contemplated by would-be perpetrators does represent an urgent and compelling state interest.”); *Redington v. State*, 992 N.E.2d 823, 835, 837 (Ind. Ct. App. 2013) (upholding as constitutional Indiana’s red flag law).

⁴⁷ See, e.g., Everytown for Gun Safety, *Fact Sheet: Extreme Risk Laws Save Lives* (Last Updated Oct. 24, 2024), <https://bit.ly/3UVGpDn>; Zeoli AM, et al., *Extreme risk protection orders in response to threats of multiple victim/mass shooting in six U.S. states: A descriptive study*, Preventive Medicine (2022); Wintemute GJ, et al., *Extreme Risk Protection Orders Intended to Prevent Mass Shootings: A Case Series*, Annals of Internal Medicine (2019).

⁴⁸ BoCC Resolution No. 19-76, Ex. B.

unincorporated El Paso County and also affirms its support for the duly elected Sheriff of El Paso County, Colorado and decisions he or she makes to refuse to initiate unconstitutional actions against citizens.”⁴⁹

92. Finally, the resolution committed the Board, in coordination with the Sheriff, “to actively resist the bill in its current and subsequent forms, including leading the charge in legal action if warranted, to protect the Second Amendment rights of all lawful gun owners in the state, and not just in El Paso County.”⁵⁰

93. In addition to the Board’s resolution, the El Paso County Sheriff’s Office adopted a policy opposing the Red Flag Law. In 2020, the Sheriff’s Office, under the leadership of Sheriff Bill Elder, issued its *Red Flag Statement*, indicating that “[a] member of the El Paso County Sheriff’s Office will not petition for an ERPO or TRPO unless exigent circumstances exist, and probable cause can be established pursuant to 16-3-301 C.R.S that a crime is being or has been committed.”⁵¹ The *Statement* reiterated that, “[a]bsent probable cause **and** a signed search warrant, members of the Sheriff’s Office will not conduct searches for firearms.”⁵²

94. By the time of the Club Q shooting in November 2022, the El Paso County Sheriff’s Office had not filed a single ERPO petition under the Red Flag Law, consistent with the

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Ex. C; *see also* Andrew Kenney, *Gun violence expert says ‘red flag’ law met with unusual resistance from some Colorado law-enforcement*, Colorado Public Radio (Nov. 22, 2022), <https://bit.ly/3UYf3MT>.

⁵² Ex. C (emphasis in original).

policies of both the Sheriff's Office and the Board of County Commissioners established three years earlier.⁵³

E. El Paso County Officials Took Affirmative Acts to Disregard Aldrich's Red Flags

95. The tragic shooting at Club Q was not the first time the shooter had drawn the attention of law enforcement officials. El Paso County officials knew the shooter was dangerous and intended to perpetrate a mass shooting.

96. In June 2021, the shooter's grandmother, Pamela Pullen, called 9-1-1 and reported that her grandson was "making a bomb in the basement" of their home.⁵⁴ Pamela stated that the shooter told her they planned to be "the next mass killer" and had been stockpiling ammunition, firearms, and bullet-proof body armor.⁵⁵

97. Pamela described living in constant fear with her husband due to the shooter's escalating homicidal threats against them and others. She explained that she and her husband had sold their home and were planning to move to Florida.

98. Upon hearing about their plans, the shooter explicitly told their grandparents they could not move, stating, "it would interfere with [the shooter's] bomb making."

99. During a family meeting to discuss their move, the shooter emerged from the basement holding a Glock-style handgun, loaded its magazine in front of them, and aimed the

⁵³ Jesse Paul, et al., *El Paso County Sheriff's Office, which arrested alleged Club Q shooter in 2021, has never initiated a red flag gun seizure*, The Colorado Sun (Nov. 24, 2022), <https://bit.ly/3CEtYpa>.

⁵⁴ Copies of documents from the 2021 criminal case filed against the shooter (Case No. 2021CR3485) are collectively attached as Exhibit D.

⁵⁵ *Id.*

firearm at their grandparents, threatening: “You guys die today, and I’m taking you with me. I’m loaded and ready. You’re not calling anyone.”

100. The shooter told their grandparents that the move would “interfere with [the shooter’s] plans to conduct a mass shooting and a bombing.” The shooter then showed them a bomb, claiming it was powerful enough to blow up a police department and a federal building.

101. Fearing for their lives, the grandparents promised not to move after being held hostage and threatened for a period of time. The shooter began chugging vodka and declared they needed it for what the shooter was “about to do.”

102. The grandparents escaped shortly after and called 9-1-1 for assistance.

103. The El Paso County Sheriff’s Office responded with its SWAT team and began containment of the shooter’s residence.

104. The shooter informed a SWAT team negotiator that they possessed a gas mask and armor-piercing rounds and was “ready to go to the end.”

105. At approximately 4:50 p.m., Pamela provided consent for the Sheriff’s Office and the Explosive Ordinance Disposal team to search the residence. Upon entering the basement, law enforcement found materials consistent with bomb making.

106. The shooter was charged with seven criminal counts under Colorado law, including three counts of First-Degree Felony Kidnapping and two counts of Felony Menacing.

107. A search warrant affidavit detailed the shooter's possession of homemade bomb-making materials, ammunition, firearms, and body armor, as well as the shooter's stated intent to commit acts of mass violence and terrorism.⁵⁶

108. The shooter's bond was set at \$1,000,000 based on their possession of bomb-making materials, firearms, and the shooter's homicidal statements and actions.

109. About a month later, on August 5, 2021, the court held a bond modification hearing. That same week, the shooter posted bond and was released from custody.

110. About three months later, the court received a letter from Robert L. Pullen Jr. and Jeanie M. Streltzoﬀ—the brother and sister of the shooter's grandfather, who acted as the shooter's legal guardian.

111. In the letter, they detailed their concerns about the shooter, describing how the shooter had been “brought up without limitations” by their grandparents and had a history of violence, including a high school incident where they attacked their grandfather, requiring an ER visit. They also recounted incidents of threats, property damage, and a pattern of the grandparents sleeping with a locked door and a baseball bat for protection.⁵⁷

112. The letter mentioned multiple prior police encounters and stated that, after posting bond, the shooter used \$30,000 provided by the grandparents to buy two 3-D printers, which they used to make gun parts.

⁵⁶ Ex. D.

⁵⁷ Ex. D.

113. The grandparents' relatives expressed grave concerns for the shooter's grandparents' safety, stating their belief that, if "[the shooter] is freed that the shooter will hurt or murder [them]."

114. Despite these warnings, law enforcement did not conduct a follow-up search of the shooter's residence.

115. In an August 2021 hearing, Judge Chittum, who was presiding over the shooter's criminal case, made the following prescient statements:

You clearly have been planning for something else. It didn't have to do with your grandma and grandpa. It was saving all these firearms and trying to make this bomb and making statements about other people being involved in some sort of shootout and a huge thing. And then that's kind of what it turned into.⁵⁸

116. In May 2022, the shooter's counsel announced that the shooter was ready for trial. The district attorney cited difficulties serving the grandparents, who had relocated to Florida. A continuance was granted.

117. In July 2022, after further issues serving the grandparents, the court refused an additional continuance and dismissed the case due to failure to prosecute.

118. Following the dismissal, on August 4, 2022, the district attorney requested that the Sheriff's Office retain evidence until the statute of limitations expired.

119. On August 11, 2022, at the shooter's request, the court dismissed the protection order and sealed the case records. The district attorney did not object.

⁵⁸ The Associated Press, *A judge had warned that the Club Q mass shooting suspect posed a potential threat*, NPR (Dec. 17, 2022), <https://n.pr/3Oceifo>.

120. The next day, the shooter called the evidence facility for the Sheriff's Office, seeking the return of seized firearms. Law enforcement officials have indicated that the request was denied.

121. By August 2022, the shooter could legally possess or obtain firearms without restriction. Thus, in the months before the Club Q massacre, the shooter accumulated firearms and ammunition to carry out their plan.

122. Additionally, almost two months before the shooting, on September 28, 2022, the FBI warned law enforcement nationwide about increased threats to the LGBTQIA+ community.⁵⁹ The FBI bulletin was widely distributed to law enforcement nationwide, including in the Colorado Springs area.

123. John Cohen, former DHS acting undersecretary of intelligence and analysis, stated that the Club Q shooting is "another in a growing list of mass shootings by an angry, disaffected, socially disconnected individual from a troubled family who exhibited the same warning signs other shooters have exhibited."⁶⁰

124. After the Club Q shooting, Governor Jared Polis stated that "[t]here were many warning signs" about the shooter's intent to commit a mass shooting, adding, "It appears obvious that an Extreme Risk Protection Order law could have and should have been utilized, which would have removed the suspect's firearms and could very well have prevented this tragedy."⁶¹

⁵⁹ Caitlin Dickson, et al., *FBI warned law enforcement about threats against LGBTQ community before Colorado shooting*, Yahoo News (Nov. 22, 2022), <https://yhoo.it/4fMRZJ9>.

⁶⁰ *Id.*

⁶¹ Jim Mustian, et al., *'Next mass killer': Dropped case foretold Colorado bloodbath*, Associated Press (Dec. 6, 2022), <https://bit.ly/4hT0B2A>.

F. The Shooter Took Advantage of Club Q's Inadequate Security

125. Club Q was founded by Matthew Haynes in 2002.

126. Club Q was co-owned by Matthew Haynes and Kenneth Romines.⁶² At some point prior to the shooting, Nicholas Grezcka joined as a co-owner.⁶³ These individuals and the Club Q entities (defined below) are collectively referred to as the “Club Q Defendants.”

127. Haynes and Romines also owned Buddies Private Club, an all-male private bathhouse located in the same building as Club Q.

128. Haynes was motivated to purchase the real estate after reportedly seeing another local bar serving the LGBTQIA+ community fail. In his words, he “bought that real estate (Club Q) intentionally because other gay clubs have come and gone in Colorado Springs. By owning that real estate and making our mark there it was intended to be long term.”⁶⁴

129. Haynes frequently referred to Club Q as a “safe space,” describing it as “a family of people more than a place to have a drink and dance and leave.”⁶⁵

130. Despite these apparent references to safety, Haynes and his co-owners repeatedly refused to hire adequate security for the club.

⁶² Jesse Bedayn, et al., *Some say gay club shooting was ‘desecration’ of safe space*, NPR (Nov. 21, 2022), <https://bit.ly/4erHJF2>.

⁶³ Ryan Warner, *‘Club Q will go on’: Co-owner of the Colorado Springs LGBTQ club speaks about the healing process, visiting the memorial and the future of Club Q*, Colorado Public Radio (Dec. 2, 2022), <https://bit.ly/4fonxoO>.

⁶⁴ Jesse Paul, et al., *Club Q was opened 21 years ago to ensure Colorado Springs’ LGBTQ community would have a long-term home*, The Colorado Sun (Nov. 20, 2022), <https://bit.ly/48Wuefl>.

⁶⁵ *Id.*

131. The entities associated with Club Q, including G.I.G., Inc., Club Q, LLC, Academy3430, LLC, and 3430 N. Academy, LLC (collectively, the “Club Q entities”), have maintained a corporate structure that has not been honored in practice. Instead, the Club Q entities were operated as mere alter egos of the owners, including Matthew Haynes, who exercised complete and personal control over all aspects of the business.

132. The Club Q entities failed to operate as distinct corporate entities, with corporate formalities frequently ignored and assets commingled between the entities and their owners, particularly with Matthew Haynes.

133. The Club Q entities were under-capitalized and under-insured from inception and throughout their operation. This deliberate undercapitalization ensured that the Club Q entities lacked sufficient assets to cover foreseeable liabilities, including the provision of adequate security measures for guests.

134. Rather than allocating appropriate funds for necessary safety measures, such as security personnel, training, and facility improvements, the Club Q entities kept operating expenses low, prioritizing profit over safety, leaving Club Q unable to provide a reasonably safe environment for its guests and invitees.

135. Haynes and other owners failed to adhere to formal procedures, treating the Club Q entities as extensions of their personal financial interests. The absence of formal corporate practices allowed Haynes and others to act in their own interests rather than upholding the duties and responsibilities of corporate officers.

136. Haynes and other owners of the Club Q entities knowingly used the corporate structure to shield themselves from personal liability while failing to fund or maintain a safe and adequately managed venue for patrons.

137. This intentional misuse of the corporate form allowed the owners to extract profits without bearing the necessary costs associated with operating a safe business. By neglecting proper security and safety measures, the Club Q Defendants recklessly disregarded known risks to Club Q patrons, resulting in foreseeable harm.

138. Starting in 2012, Club Q employed Jeremiah Griffith as the Head of Security.

139. At the time, Jeremiah managed a staff of four or more Club Q employees providing security at the club.

140. During that period, Club Q employed an armed security guard.

141. Eventually, Griffith transitioned from Head of Security to working as a DJ until he left the club around 2018.

142. When the pandemic hit, Club Q reduced its security personnel from five to just two and eliminated its armed security guard.

143. Club Q faced severe financial difficulties, and Haynes was struggling to keep the club profitable.

144. In 2021, Griffith returned to Club Q as Head of Security.

145. Club Q had hired a new General Manager by that time.

146. Griffith's responsibilities now included security and various odd jobs, including occasionally checking IDs, bar backing, and serving food.

147. Club Q did not conduct background checks before hiring any of its staff, including security personnel.

148. Griffith was unlicensed and could not obtain a private security license due to his criminal background, including criminal convictions for sex-related offenses, forgery, and counterfeiting.

149. Griffith received no formal training in active shooter training at the club.

150. He was underpaid, forcing him to work additional jobs in construction and at a pizza restaurant.

151. Griffith was instructed to monitor closed-circuit cameras to ensure that underage patrons were not drinking as the club risked losing its liquor license if caught serving minors.

152. Club Q had been cited in the past for serving alcohol to minors.

153. When the shooting began, Griffith locked down Buddies, as Haynes and Club Q management had directed him to prioritize protecting Buddies, which was more profitable than Club Q.

154. Club Q employed inadequate security policies, procedures, and safeguards to detect improper and/or prohibited items and conduct, such as those used, and actions taken, by the shooter.

155. Additionally, the physical layout of Club Q was inherently unsafe. Rather than serving as a “safe space,” it was structured like a death trap.

156. Club Q had only one functional door for egress: the front door, where Ashtin Gamblin was stationed, unarmed and unprepared for the shooter on November 19, 2022. The

back door, which led to an alleyway, was completely blocked, offering no practical or safe means of exit.

157. There was also a smoking patio where John Arcediano and Brianna Winningham were situated when the shooter began firing inside the club. However, the patio was completely enclosed by a tall fence, preventing safe exit. Brianna and other patrons were only able to flee the shooter by tearing the fence apart and crawling through a small, jagged hole to reach safety outside the club.

158. In addition to the risks posed by a mass shooter, Club Q's lack of adequate exits created ongoing safety hazards for its patrons. These included the inability to safely evacuate in the event of a fire or to escape physical altercations on the dance floor.

159. Most of Club Q's security was deliberately geared towards surveilling, monitoring, and observing employees and patrons, to monitor employee conduct, reduce internal theft, monitor capacity, and ensure there was no underage drinking.

160. These security procedures were intended to maximize Club Q's profits, rather than ensure patrons' safety.

161. Club Q did not provide active shooter training for its staff.

162. Haynes knew or should have known that he was required to perform background checks for security personnel.

163. Haynes knew or should have known that more security was necessary for the club.

164. Haynes knew or should have known that security personnel required training.

165. Haynes knew or should have known that an armed security guard was necessary at the Club.

166. Haynes knew or should have known that active shooter training was essential for Club Q employees.

167. On the night of the shooting, Ashtin Gamblin was responsible for checking IDs and collecting cover charges at the entrance.

168. Club Q did not have a policy of patting down individuals or “wandering” patrons with a handheld metal detector before entry.

169. In fact, Club Q did not have any staff located on the exterior of the building to screen or monitor patrons as they entered the premises.

170. Even though Club Q had purchased several handheld metal detectors, Haynes decided not to use them, fearing it would hurt Club Q’s brand image as a “safe space.”

171. Haynes knew or should have known that patrons needed to be patted down before entering the club.

172. Haynes knew or should have known that patrons needed to be wanded down before entering the club.

173. Haynes knew or should have known that Club Q needed staff on its exterior to perform safety checks on patrons entering the premises.

174. It was foreseeable to the Club Q Defendants that something catastrophic and/or similar to this event could occur.

175. In 2016, a mass shooting was perpetrated at Pulse Nightclub, an LGBTQIA+ nightclub in Orlando. At the time of the shooting, the Pulse attack was the deadliest mass shooting in U.S. history, with forty-nine fatalities.

176. The Pulse nightclub mass shooting received national media attention. In the wake of Pulse, venues catering to the LGBTQIA+ community, and especially clubs and concert venues, began reevaluating their security policies and procedures.

177. In a 2016 article, following the Pulse nightclub attack, David A. Yorio, the managing director of Citadel Security Agency, a private security based in New York City, stated that nightclubs need heightened security measures.⁶⁶

178. Yorio stated: “The minimum should be walk-through metal detectors, wandering, and, specifically, permanent venues specifically should be designed in a way that you can lock down the venue or prevent further entry past certain points[.]”⁶⁷

179. In addition to violent occurrences at other nightclubs, like Pulse, Club Q was on notice of violence occurring on its own premises. For instance, in or around 2021, there was an attempted stabbing at Club Q.

180. Additionally, in or around October 2022, when an employee heard gunshots nearby, Club Q implemented its version of a “lockdown.” Employees, including security staff, lacked formal training on handling an active shooter or other emergencies. As a result, the Head of Security directed patrons to enter a “lockdown,” which merely involved prohibiting entry to or

⁶⁶ The Takeaway, *When an Armed Guard Isn’t Enough: Venues, Clubs Review Security After Orlando*, WNYC Studios (June 15, 2016), <https://bit.ly/3Oex4mk>.

⁶⁷ *Id.*; see also Ray Waddell, *Security Experts Talk Concert Safety Challenges, Logistics After Orlando Shootings*, Hollywood Reporter (June 14, 2016), <https://bit.ly/40JfQFj>.

exit from the club for a period. Employees were instructed to “occupy” patrons to keep them unaware of the situation. There was no established protocol to direct patrons to a safe or sheltered area of the building, nor was there a clear mandate on who should contact 9-1-1. Club Q employees had no training or guidance on how to respond to gunfire.

181. In the weeks leading up to the shooting, Club Q employees received information about potential threats of violence. On at least two occasions, employees answering the club’s phone were met with threats of “killing” people at the venue or other violent statements. Employees were instructed not to take these threats seriously, as they were told such threats were to be “expected” at an LGBTQIA+ establishment such as Club Q.

182. Furthermore, Club Q was aware of the potential for violence due to its status as a nightclub serving the LGBTQIA+ community, as well as the broader climate of violence and hostility during that period.

183. Transgender Day of Remembrance (TDOR) is observed annually on November 20 to honor individuals who have lost their lives to anti-transgender violence and discrimination. Matthew Haynes was fully aware of the significance of this date, as a drag brunch was scheduled for the morning of November 20, 2022—just hours after the tragic shooting.⁶⁸ He should have recognized the heightened risks associated with this date and taken additional precautions to address potential security concerns surrounding this occasion.

184. According to GLAAD, a non-profit LGBTQ advocacy organization, there were 141 incidents of anti-LGBTQ protests and threats targeting drag events across the United States

⁶⁸ Emma Bubola, *Attacked Club Had Planned Transgender Day of Remembrance Event for Sunday*, N.Y. Times (Nov. 20, 2022), <https://nyti.ms/4ftkVpD>.

in 2022 alone. Several of these incidents involved violence, including acts perpetrated by extremist groups such as the Proud Boys. That same year saw significant legislative efforts in at least six states and at the federal level to curtail or ban drag performances, making such events increasingly controversial and vulnerable to violence.⁶⁹

185. The Human Rights Campaign Foundation reports that “fatal violence against transgender and gender non-conforming people is not restricted to one location—to date, cases have been recorded in 167 cities and towns, across 38 states, territories and the District of Columbia.”⁷⁰

186. Guns are involved in most fatalities. “Gun violence is a major contributing factor to the number of fatalities against transgender and gender non-conforming people. Since 2013, more than two-thirds of recorded fatalities—209 of 304 (69%) involved a firearm. Approximately three quarters (74%) of [transgender] fatalities in 2022, or 25 out of 34, involved a firearm/gun violence.”⁷¹

187. In 2021, fifty-nine transgender individuals were killed, marking the highest number recorded at the time and signaling that deaths from transgender bias-motivated violence were on the rise in 2022.⁷²

⁶⁹ GLAAD, *Drag events faced at least 141 protests and significant threats in 2022* (Nov. 21, 2022), <https://bit.ly/4fqsj5h>.

⁷⁰ Human Rights Campaign Foundation, *An Epidemic of Violence 2022: Fatal Violence Against Transgender and Gender Non-Conforming People in the United States in 2022* (Dec. 5, 2022), <https://bit.ly/3OaXZ2E>.

⁷¹ *Id.*

⁷² *Id.*

188. Between 2017 and 2022, there were 222 homicides of transgender or gender-expansive people, with 2021 standing out as a particularly deadly year.⁷³

189. According to FBI data, hate crimes targeting LGBTQIA+ individuals saw a significant increase during this period, with reported incidents more than doubling from 2020 to 2021.⁷⁴

190. During this period, “74 percent of the trans people killed were killed with a gun.”⁷⁵ Simultaneously, lawmakers across the country introduced record numbers of anti-trans bills and pro-gun legislation, creating an environment ripe for deadly gun violence fueled by hate.⁷⁶

191. This dangerous combination of increased anti-trans rhetoric and widespread availability of firearms exacerbated the risks for LGBTQIA+ spaces like Club Q.

192. The shooter knew that Club Q was a vulnerable target and wanted to maximize the impact of his actions.

⁷³ See Everytown for Gun Safety, *Remembering and Honoring Pulse: Anti-LGBTQ+ Bias and Guns are Taking the Lives of Countless LGBTQ+ People* (May 14, 2024), <https://bit.ly/4ftgdIt>.

⁷⁴ Weihua Li, et al., *New FBI Data Shows More Hate Crimes. These Groups Saw The Sharpest Rise*, The Marshall Project (Mar. 25, 2023), <https://bit.ly/4fSR0au>.

⁷⁵ *Supra* note 73.

⁷⁶ Matt Lavietes and Elliott Ramos, *Nearly 240 Anti-LGBTQ Bills Filed in 2022 So Far, Most of Them Targeting Trans People*, NBC News (March 20, 2022), <https://nbcnews.to/3Q0aMEv>.

193. Between August 2021 and October 2022, the shooter visited Club Q on at least seven occasions.⁷⁷ On the night of the shooting, the shooter entered the Club around 10:15 p.m., stayed briefly, then left before returning to carry out the attack.⁷⁸

194. The shooter asked targeted questions during those visits to Club Q, inquiring about evacuation procedures and details regarding security staff. Despite the shooter's suspicious questioning, Club Q allowed the shooter to frequent the club, because Club Q failed to implement procedures to flag suspicious patrons, in accordance with Club Q's policy of maximizing and prioritizing profits by minimizing the screening of patrons.

195. Club Q knew or should have known of the prevailing industry opinion for potential active or mass shooters. Unfortunately, despite the increased risk of mass shooters, and industry opinion recommending increased security measures, Club Q decreased its security following the 2016 Pulse attack.

196. The events leading up to, in addition to, the mass shooting were foreseeable because Club Q knew of this industry opinion and had notice and/or knowledge of prior incidents and/or similar wrongful acts occurring both at similar nightclubs and on Club Q premises.

197. The events leading up to, in addition to, the mass shooting were foreseeable because Club Q knew of this industry opinion and had notice and/or knowledge of prior incidents and/or similar wrongful acts occurring on Club Q premises.

⁷⁷ Dan Zak, *The Hero: Rich Fierro Fought in America's War on Terror. Then Terror Found Him at Home*, Wash. Post (Mar. 16, 2024), <https://bit.ly/48PRR9i>.

⁷⁸ Olivia Prentzel, *Police found rainbow-colored shooting target, map of Club Q in suspect's apartment*, The Colorado Sun (Feb. 22, 2023), <https://bit.ly/4fo6ZNI>.

198. Despite having knowledge that an active shooter was reasonably foreseeable, Club Q failed to have adequate and effective plans, policies, and procedures in place to deal with an active shooter.

199. In the timeframe immediately leading up to the mass shooting, Club Q significantly reduced its workforce dedicated to security.

200. But for these inadequate and defective security policies, procedures, and safeguards employed by Club Q, among other negligent and wrongful conduct, the mass shooting would not and could not have occurred.

201. But for Club Q's reduction in security personnel, among other negligent and wrongful conduct, the mass shooting would not and could not have occurred.

202. But for Club Q's failure to intervene, among other negligent and wrongful conduct, Plaintiffs would not have been injured or killed.

203. But for Club Q's failure to take basic minimum precautions that are reasonably expected from a nightclub owner, among other negligent and wrongful conduct, Plaintiffs would not have been injured or killed.

204. But for Club Q's focus on surveilling, monitoring, and observing employees and patrons, to monitor employee conduct, reduce internal theft, monitor capacity, and ensure no underage drinking and other acts that may affect its profits, among other negligent and wrongful conduct, Plaintiffs would not have been injured or killed.

205. Club Q ownership, and employees by mandate, were primarily concerned with the security and profitability of Buddies, the bathhouse located in the same building. That focus

drew significant attention away from the safety and security of Club Q and its patrons and invitees.

206. In addition to Club Q's financial difficulties, Haynes began focusing more on his other business ventures over time.

207. For instance, in 2008, Haynes founded Eclipse Management LLC, a company offering chartered jet services. It initially managed a single business jet.⁷⁹

208. Around 2012, Haynes purchased three Eclipse Aviation business jets, each priced at over \$2 million.⁸⁰ Since then, Haynes has expanded his fleet and begun offering chartered jet services and pilot instruction.⁸¹

209. Around 2015, Haynes was a managing member of Loyal T's, doing business as V Bar, another bar in Colorado Springs.

210. And in or around December 2021, Haynes became a managing member of The Orbit Lounge, a bar and restaurant located in the Satellite Hotel, where Haynes owns multiple real estate holdings.

211. Haynes also has real estate in the greater Colorado Springs area, owning and managing dozens of properties.

⁷⁹ Wayne Heilman, *Chartered Jet Service Providers New Option to Business Travelers*, The Gazette (Dec. 1, 2012), <https://bit.ly/3UU7PcG>.

⁸⁰ *Id.*

⁸¹ Matthew Haynes is the registered agent for EJet500 Pilot Training and Services, LLC, a company providing private pilot instruction. The company's website is <https://ejet500.com/>.

212. Despite Haynes’ ownership interest in Club Q, he focused more on Buddies and on these other, more lucrative business ventures over time, to the detriment of Club Q and its guests.

213. In discussing the rebuilding efforts at Club Q following the shooting, Haynes stated that the plan for re-opening has been “dominated by safety concerns” that “one should never have to plan for when opening a business.”⁸² This statement shows Haynes’ continued reluctance to make basic investments in security at the nightclub—even *after* a mass shooting killing five people and injuring twenty-five others.

FIRST CLAIM FOR RELIEF

(42 U.S.C. § 1983 – Bill Elder, in his personal and official capacities)

214. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

215. Under 42 U.S.C. § 1983, Plaintiffs are citizens of the United States of America, and Bill Elder is a person within the meaning of that section.

216. Bill Elder, at all relevant times, acted under the color of state law in his capacity as Sheriff of El Paso County.

217. Bill Elder had a duty to enforce state laws within El Paso County, including maintaining peace and order. This duty encompassed crime prevention, law enforcement patrols, emergency responses, and the implementation of laws such as Colorado’s Red Flag Law to mitigate threats to public safety.

⁸² Graig Graziosi, et al., *Club Q owner says he’s had to practically make bar ‘bulletproof’ ahead of re-opening*, The Independent (June 26, 2023), <https://bit.ly/3YPXyj5>.

218. At the time of the shooting, Plaintiffs had clearly established substantive due process constitutional rights under the Fourteenth Amendment to life, liberty, and bodily integrity.

1) Bill Elder Created or Increased the Danger

219. Bill Elder actively created or increased the danger to Plaintiffs by maintaining policies and practices that heightened their vulnerability to private violence, including but not limited to:

- a. Refusing to enforce Colorado’s Red Flag Law, despite credible and actionable information about the shooter’s escalating threats and violent behavior—and despite Elder’s duty under C.R.S. § 30-15-411;
- b. Failing to take reasonable steps to prevent the shooter’s access to firearms, despite clear indications of the shooter’s violent intentions, including the shooter’s efforts to recover seized firearms and ammunition;
- c. Maintaining a policy of non-enforcement of ERPOs, as reflected in its *Red Flag Statement*, even when presented with specific and credible evidence of imminent danger;
- d. Permitting the shooter to retain access to weapons and materials necessary to carry out mass violence, despite the shooter’s arrest, criminal charges, and expressed intent to commit a mass shooting; and
- e. Allowing the shooter to continue amassing firearms, ammunition, and bomb-making materials after the shooter’s release on bond and subsequent dismissal of criminal charges.

220. Elder was directly aware of the shooter's violent tendencies and intent to commit mass violence based on multiple incidents, including the following:

- a. The 2021 arrest and affidavit describing the shooter's threats, bomb-making activities, and stockpiling of weapons;
- b. Public statements during the 2021 criminal case, including Judge Chittum's statement that the shooter was "clearly . . . planning for something else" beyond the incident with the shooter's grandparents by "saving all these firearms and trying to make this bomb and making statements about other people being involved in some sort of shootout and a huge thing . . .";
- c. Any investigations conducted by the El Paso County Sheriff's Office;
- d. The shooter's post-release actions, including purchasing 3D printers to manufacture firearm parts;
- e. The shooter's petition to the court in August 2022 to seal his criminal records and dismiss the mandatory protection order; and
- f. The shooter's request the following day to recover seized firearms and ammunition from the evidence facility at the Sheriff's Office.

221. Elder knew or should have known that the shooter's request to recover firearms indicated a continued and escalating threat, in light of the shooter's previous behavior, yet he failed to take action under Colorado's Red Flag Law or otherwise to prevent the shooter from obtaining or possessing weapons.

2) Plaintiffs Were Members of a Limited and Specifically-Definable Group

222. Plaintiffs were members of a limited and specifically definable group by virtue of their presence at Club Q, an establishment catering to LGBTQIA+ individuals.

223. The LGBTQIA+ community has been historically and contemporarily targeted for violence, a fact widely recognized by law enforcement, policymakers, and the general public.

224. Plaintiffs' presence at Club Q, particularly around events such as the Transgender Day of Remembrance, placed them within a group known to face heightened risks of hate-motivated violence.

3) The Defendant's Conduct Put Plaintiffs at Substantial Risk of Serious, Immediate, and Proximate Harm

225. Elder's conduct—including his refusal to enforce Colorado's Red Flag Law, despite specific warnings of the shooter's violent intentions—put Plaintiffs at substantial risk of serious, immediate, and proximate harm.

226. Elder received specific and credible information that the shooter had:

- a. Declared that the shooter was "going to be the next mass killer";
- b. Collected ammunition, firearms, bullet-proof body armor, and other tools of violence;
- c. Created a bomb and showed their grandmother, claiming it was powerful enough to destroy a police department and federal building;
- d. Threatened the shooter's grandparents with a loaded firearm, stating they would kill them if they moved to Florida, as their move would interfere with the shooter's plans to conduct a mass shooting and bombing;

- e. Told Sergeant Harmon they had Tannerite in his home and threatened to “start shooting through the walls”; and
- f. Told a SWAT team negotiator that they had a gas mask, armor-piercing rounds, and was “ready to go to the end.”

227. Elder’s actions in maintaining opposition to the Red Flag Law, and his refusal to act on this information, despite its clear and actionable nature, left the shooter armed and emboldened to carry out their violent intentions, directly leading to the harm suffered by Plaintiffs.

4) The Risk Was Obvious or Known

228. The risk to Plaintiffs was obvious and known to Elder, as evidenced by:

- a. The 2021 arrest affidavit detailing the shooter’s threats, possession of bomb-making materials, and intent to commit a mass shooting;
- b. The shooter’s history of violent behavior, including threats against the shooter’s grandparents and law enforcement;
- c. The shooter’s expressed intention to “be the next mass killer”;
- d. The shooter’s petition to dismiss the protection order and seal the criminal case records in August 2022; and
- e. The shooter’s direct request to recover seized firearms, ammunition, and other materials from the Sheriff’s Office evidence facility.

229. Elder was in a unique position to intervene, yet he willfully disregarded the obvious and credible danger posed by the shooter.

5) The Defendant Acted Recklessly or in Conscious Disregard of the Risk

230. Elder acted recklessly and with conscious disregard for the substantial and imminent risk to Plaintiffs by:

- a. Failing to seek an ERPO to disarm the shooter, despite the wealth of evidence and statutory authority under Colorado's Red Flag Law;
- b. Ignoring credible and specific warnings about the shooter's violent intentions and efforts to recover firearms;
- c. Allowing the shooter to possess firearms without restriction after the dismissal of the shooter's criminal case and the sealing of records; and
- d. Maintaining a formal or de facto policy of non-enforcement of Colorado's Red Flag Law, even in cases of known and imminent danger.

6) Such Conduct, When Viewed in Total, Is Conscious Shocking

231. Elder's conduct, when viewed in its totality, shocks the conscience.

232. Elder's deliberate policy of non-enforcement of Colorado's Red Flag Law, coupled with his conscious disregard of explicit and credible threats, demonstrated a willful indifference to Plaintiffs' safety and constitutional rights.

233. By affirmatively creating or increasing Plaintiffs' vulnerability to harm, knowing the risk, and acting with deliberate indifference, Elder is liable under the state-created danger theory in his personal and official capacities for the harm caused to Plaintiffs under 42 U.S.C. § 1983.

SECOND CLAIM FOR RELIEF

(42 U.S.C. § 1983 Claims – El Paso County Board of County Commissioners)

234. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

235. Under 42 U.S.C. § 1983, Plaintiffs are citizens of the United States of America, and the El Paso County Board of County Commissioners (hereinafter “the Board”) is a person within the meaning of that section.

236. The Board was, at all relevant times, acting under the color of state law.

237. The Board had a duty to develop and implement policies that govern county operations, ensuring compliance with state laws and regulations. This duty included addressing public health and safety concerns, such as implementing measures to prevent violence and mitigating threats to the community.

238. At the time of the shooting, Plaintiffs had clearly established substantive due process constitutional rights under the Fourteenth Amendment to life, liberty, and bodily integrity.

1) The Board Created or Increased the Danger

239. The Board affirmatively created or increased the danger to Plaintiffs by adopting policies and engaging in conduct that heightened their vulnerability to private acts of violence, including but not limited to:

- a. Passing Resolution 19-76 in March 2019, opposing Colorado's Red Flag Law, thereby establishing a formal policy of refusing to allocate resources to enforce the law, even after concerned residents voiced acute safety concerns about the policy;
- b. Maintaining a policy or custom of non-enforcement of ERPOs, even in cases of known and imminent danger;
- c. Failing to oversee or intervene in the Sheriff's Office's inaction despite credible evidence of escalating threats from the shooter;
- d. Allowing the shooter to retain or regain access to firearms, ammunition, and bomb-making materials, despite the existence of statutory mechanisms to disarm individuals posing a significant threat;
- e. Ignoring warnings that the shooter intended to commit a mass shooting, including specific evidence that the shooter had petitioned to seal their criminal case records and sought the return of seized firearms; and
- f. Failing to adopt or enforce policies requiring follow-up investigations or ongoing monitoring of individuals, such as the shooter, with documented histories of violent behavior.

2) Plaintiffs Were Members of a Limited and Specifically-Definable Group

240. Plaintiffs were members of a limited and specifically definable group by virtue of their presence at Club Q, an establishment catering to LGBTQIA+ individuals.

241. The LGBTQIA+ community, particularly within the Colorado Springs area, has been historically and contemporarily targeted for hate-motivated violence, placing Plaintiffs in a vulnerable population with heightened exposure to such dangers.

3) The Defendant's Conduct Put Plaintiffs at Substantial Risk of Serious, Immediate, and Proximate Harm

242. The Board's conduct, including its formal policy of non-enforcement of Colorado's Red Flag Law and its failure to act on credible threats, placed Plaintiffs at substantial risk of serious, immediate, and proximate harm.

243. The Board was directly aware of the shooter's escalating danger through the following events and evidence:

- a. The 2021 arrest affidavit, which detailed the shooter's threats to be "the next mass killer," as well as the shooter's actual possession of firearms, ammunition, and bomb-making materials, and their threats to law enforcement and family members;
- b. The shooter's subsequent purchase of 3D printers to manufacture firearm parts after posting bond in August 2021;
- c. The court's dismissal of the criminal case in July 2022 due to issues serving witnesses, despite evidence of the shooter's ongoing threat;
- d. The shooter's successful petition in August 2022 to seal the shooter's criminal records and dismiss the mandatory protection order; and

- e. The shooter's request to recover seized firearms and ammunition from the evidence facility at the Sheriff's Office, indicating immediate intent to regain access to weapons.

244. Despite being aware of these facts, the Board actively maintained its opposition to the Red Flag Law and failed to take action to mitigate the clear and present danger posed by the shooter, allowing the shooter to obtain firearms and ammunition used in the Club Q attack.

4) The Risk Was Obvious or Known

245. The risk to Plaintiffs was obvious and known to the Board, as evidenced by:

- a. Statements during the Board's March 2019 public hearing addressing the then-proposed resolution to oppose the Red Flag Law;
- b. Statements made relating to the shooter's intent to commit violence, including Judge Chittum's comments during the shooter's 2021 criminal case;
- c. The shooter's documented threats to commit mass violence, including statements that the shooter planned to "go out in a blaze";
- d. The shooter's possession of bomb-making materials and intent to target law enforcement and public buildings;
- e. The shooter's criminal case records, which described the shooter's violent behavior and threats;
- f. The shooter's successful efforts to seal the criminal case records and dismiss the protection order in August 2022; and
- g. The shooter's attempt to recover seized firearms from the Sheriff's Office immediately after the court-ordered dismissal.

246. Despite the clear danger, the Board chose to maintain its policy of non-enforcement of ERPOs and failed to implement measures to address the ongoing threat posed by the shooter.

5) The Board Acted Recklessly or in Conscious Disregard of the Risk

247. The Board acted recklessly and with conscious disregard for the substantial and imminent risk to Plaintiffs by:

- a. Adopting and maintaining a resolution opposing Colorado's Red Flag Law, which directly undermined the law's effectiveness and violated C.R.S. § 30-15-411;
- b. Failing to implement oversight mechanisms to ensure enforcement of ERPOs in cases involving imminent threats, such as the shooter;
- c. Ignoring credible and specific evidence of the shooter's violent intentions, including the shooter's attempt to recover firearms;
- d. Allowing the Sheriff's Office to continue its policy of non-enforcement without oversight or intervention; and
- e. Failing to take any steps to mitigate the risk posed by the shooter, despite having the authority and responsibility to do so.

6) Such Conduct, When Viewed in Total, Is Conscience Shocking

248. The Board's conduct, when viewed in its totality, shocks the conscience.

249. The deliberate indifference demonstrated by the Board in refusing to address known threats, coupled with its policy of non-enforcement of Colorado's Red Flag Law, created conditions that directly facilitated the Club Q shooting

250. The Board's failure to act on the shooter's petition to recover firearms, despite its knowledge of the shooter's violent history, demonstrates a reckless disregard for public safety.

251. By affirmatively creating or increasing Plaintiffs' vulnerability to harm, knowingly disregarding the risk, and acting with deliberate indifference, the Board is liable under the state-created danger theory for the harm caused to Plaintiffs under 42 U.S.C. § 1983.

THIRD CLAIM FOR RELIEF

(Wrongful Death o/b/o Tiffany Loving Resulting from Section 1983 Claims – El Paso County Defendants)

252. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

253. Tanya Beal is the natural and biological mother of Kelly Loving.

254. Tanya Beal, as the natural and biological mother of Kelly Loving, has standing to pursue the claims stated herein against the El Paso County Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

255. Defendants are liable under 42 U.S.C. § 1983 for creating and/or increasing the vulnerability to the danger that caused the harm to Kelly Loving.

256. As a direct and proximate result of the El Paso County Defendants' failures, actions, and inactions, Kelly Loving suffered severe injuries, damages, and an untimely death.

FOURTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Derrick Rump Resulting from Section 1983 Claims – El Paso County Defendants)

257. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

258. Julia Rump is the natural and biological mother of Derrick Rump.

259. Julia Rump, as the natural and biological mother of Derrick Rump, has standing to pursue the claims stated herein against El Paso County Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

260. Defendants are liable under 42 U.S.C. § 1983 for creating and/or increasing the vulnerability to the danger that caused the harm to Derrick Rump.

261. As a direct and proximate result of the El Paso County Defendants' failures, actions, and inactions, Derrick Rump suffered severe injuries, damages, and an untimely death.

FIFTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Raymond Green Resulting from Section 1983 Claims – El Paso County Defendants)

262. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

263. Adriana Vance is the natural and biological mother of Raymond Green.

264. Adriana Vance, as the natural and biological mother of Raymond Green, has standing to pursue the claims stated herein against the El Paso County Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

265. Defendants are liable under 42 U.S.C. § 1983 for creating and/or increasing the vulnerability to the danger that caused the harm to Raymond Green.

266. As a direct and proximate result of all Defendants' failures, actions, and inactions, Raymond Green suffered severe injuries, damages, and an untimely death.

SIXTH CLAIM FOR RELIEF

(Negligence/Willful and Wanton Conduct – El Paso County Defendants)

267. Plaintiffs reallege and incorporate by reference herein all of the allegations contained above.

268. The El Paso County Defendants had a duty to enforce, and enact policies supporting, the laws of the State of Colorado under C.R.S. § 30-15-411.

269. The El Paso County Defendants had a duty to develop and implement policies relating to identifying situations where an ERPO may be appropriate.

270. Additionally, the El Paso County Defendants had a duty not to create or increase the danger to private citizens through its official acts or omissions.

271. The El Paso County Defendants willfully and wantonly passed policies opposing Colorado's Red Flag Law, increasing the risk of harm to Plaintiffs and others.

272. Pursuant to its official policies, the El Paso County Defendants willfully and wantonly failed to develop and implement policies relating to identifying situations where an ERPO may be appropriate.

273. The El Paso County Defendants willfully and wantonly ignored the shooter's warning signs and refused to seek an ERPO against the shooter in violation of their duties under Colorado law.

274. Through these acts and omissions, the El Paso County Defendants created a danger or risk of safety to others, and they acted without regard to the danger or risk.

275. The El Paso County Defendants acts and omissions were willfully and wantonly committed, which they knew was dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly Plaintiffs and similarly situated persons.

SEVENTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Tiffany Loving Resulting from Willful and Wanton Claims – El Paso County Defendants)

276. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

277. Tanya Beal is the natural and biological mother of Kelly Loving.

278. Tanya Beal, as the natural and biological mother of Kelly Loving, has standing to pursue the claims stated herein against the El Paso County Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

279. Defendants are liable under the common law and Colorado law for creating and/or increasing the vulnerability to the danger that caused the harm to Kelly Loving.

280. As a direct and proximate result of the El Paso County Defendants' failures, actions, and inactions, Kelly Loving suffered severe injuries, damages, and an untimely death.

EIGHTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Derrick Rump Resulting from Willful and Wanton Claims – El Paso County Defendants)

281. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

282. Julia Rump is the natural and biological mother of Derrick Rump.

283. Julia Rump, as the natural and biological mother of Derrick Rump, has standing to pursue the claims stated herein against El Paso County Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

284. Defendants are liable under the common law and Colorado law for creating and/or increasing the vulnerability to the danger that caused the harm to Derrick Rump.

285. As a direct and proximate result of the El Paso County Defendants' failures, actions, and inactions, Derrick Rump suffered severe injuries, damages, and an untimely death.

NINTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Raymond Green Resulting from Willful and Wanton Claims – El Paso County Defendants)

286. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

287. Adriana Vance is the natural and biological mother of Raymond Green.

288. Adriana Vance, as the natural and biological mother of Raymond Green, has standing to pursue the claims stated herein against the El Paso County Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

289. Defendants are liable under the common law and Colorado law for creating and/or increasing the vulnerability to the danger that caused the harm to Raymond Green.

290. As a direct and proximate result of all Defendants' failures, actions, and inactions, Raymond Green suffered severe injuries, damages, and an untimely death.

TENTH CLAIM FOR RELIEF

(Premises Liability – Club Q Defendants)

291. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

292. At all relevant times, the Club Q Defendants were landowners for purposes of C.R.S. ¶ 13-21-1115.

293. At all relevant times, Plaintiffs were "invitees" for purposes of C.R.S. ¶ 31-21-1115.

294. The Club Q Defendants owed a duty of care to take reasonable measures to protect against dangers which they knew or should have known were present on the premises.

295. The Club Q Defendants owed a duty of care to ensure the safety of invitees and other guests, including Plaintiffs.

296. The Club Q Defendants actually knew, or should have known through the exercise of reasonable care, about the dangers on the property.

297. The dangers on the property include, but are not limited to:

- a. Insufficient security technology, protocols, and procedures, such as the absence of metal detectors, wand devices, and functional surveillance systems;
- b. Poor facility design that lacked egress points, reinforced entryways, or other protective infrastructure to minimize risks during emergencies;
- c. Uncontrolled and unaddressed criminal activity in or around the premises, including prior violent incidents and threats targeting the LGBTQIA+ community;
- d. Inadequate and improperly trained security personnel who lacked the knowledge or skills necessary to identify and respond to threats;
- e. Insufficient security patrols to monitor the premises and ensure patron safety, particularly during high-risk events;
- f. Inadequate supervision and oversight of security measures and personnel;
- g. Negligent hiring, training, and retention practices, including retaining unqualified or improperly vetted staff for security roles; and
- h. Other hazards and risks that may be identified through discovery.

298. The Club Q Defendants failed to use reasonable care to protect their patrons, including Plaintiffs, against the dangers on the property.

299. At all relevant times, the Club Q Defendants acted negligently, willfully, and/or deliberately in failing to protect Plaintiffs and other patrons from foreseeable dangers.

300. As a direct and proximate result of the Club Q Defendants' negligent, grossly negligent, reckless, and/or intentional actions, Plaintiffs suffered injuries, damages, and losses, including but not limited to:

- a. Medical expenses;
- b. Loss of household contributions;
- c. Funeral and burial expenses;
- d. Pain and suffering;
- e. Grief and emotional distress;
- f. Loss of companionship,; and
- g. Other damages as permitted under C.R.S. § 13-21-202 and C.R.S. § 13-21-203, to be determined by the trier of fact.

301. The Club Q Defendants caused Plaintiffs' injuries, damages, and losses by consciously disregarding a substantial and unjustifiable risk that they would cause the death and/or serious injury of another.

302. Despite foreseeable threats of violence against the LGBTQIA+ community, particularly surrounding high-profile events such as the Transgender Day of Remembrance, the Club Q Defendants failed to implement or maintain adequate security measures to address these risks.

303. The Club Q Defendants' disregard for these known risks constitutes gross negligence and a conscious indifference to the safety and well-being of their patrons, including Plaintiffs.

304. Plaintiffs reserve the right to supplement these allegations as additional facts are revealed during discovery.

ELEVENTH CLAIM FOR RELIEF
(Negligence – Club Q Defendants)

305. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

306. At all relevant times, the Club Q Defendants owed Plaintiffs a duty of care to ensure their safety and well-being while on the premises.

307. At all relevant times, the Club Q Defendants breached that duty and were negligent, grossly negligent, and reckless by committing acts and omissions, including but not limited to:

- a. Failing to respond to rising crime activities on the premises, including prior violent incidents and threats;
- b. Failing to respond to increasing criminal activity targeting LGBTQIA+ nightclubs and bars across the country, which placed Club Q at heightened risk;
- c. Failing to staff an adequate number of trained security personnel to monitor and protect patrons and employees;
- d. Failing to select, implement, and maintain appropriate security technologies, such as metal detectors, surveillance cameras, and controlled entry systems;

- e. Failing to establish and utilize effective security protocols and procedures tailored to mitigate foreseeable risks;
- f. Failing to adequately train security personnel in identifying, managing, and responding to potential threats, including hate-motivated violence;
- g. Failing to equip security personnel with proper tools, such as protective gear and communication devices, to ensure effective responses to security incidents;
- h. Failing to conduct risk assessments of the premises, despite foreseeable dangers associated with operating an LGBTQIA+ nightclub;
- i. Failing to take adequate precautions against hate-motivated violence, particularly surrounding high-risk occasions like the Transgender Day of Remembrance;
- j. Misleading patrons and other guests by advertising Club Q as a “safe space,” while failing to provide the security measures necessary to support such claims;
- k. Failing to adopt and implement industry-standard security measures following the Pulse shooting, which highlighted the unique risks faced by LGBTQIA+ venues; and
- l. Committing such other acts and/or omissions as may be revealed through discovery.

308. As a direct and proximate result of the Club Q Defendants’ negligent, grossly negligent, reckless, and intentional actions, Plaintiffs suffered injuries, damages, and losses, including but not limited to:

- a. Medical expenses;
- b. Loss of household contributions;

- c. Funeral and burial expenses;
- d. Pain and suffering;
- e. Grief and emotional distress;
- f. Loss of companionship; and
- g. Other damages as permitted under C.R.S. § 13-21-202 and C.R.S. § 13- 21-203,
with the specific amount to be determined by the trier of fact.

309. The Club Q Defendants caused Plaintiffs' injuries, damages, and losses by consciously disregarding a substantial and unjustifiable risk that they would cause the death and/or serious injury to others, demonstrating a willful and reckless indifference to the safety of their patrons and employees.

310. Plaintiffs reserve the right to supplement these allegations as further facts are revealed during discovery.

TWELFTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Kelly Loving Resulting from Premises Liability and Negligence – Club Q Defendants)

311. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

312. Tanya Beal is the natural and biological mother of Kelly Loving.

313. Tanya Beal, as the natural and biological mother of Kelly Loving, has standing to pursue the claims stated herein against all Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

314. Defendants owed a duty to invitees like Kelly Loving to ensure safety on its premises and are liable under theories of negligence and premises liability.

315. As a direct and proximate result of all Defendants' failures, actions, and inactions, Kelly Loving suffered severe injuries, damages, and an untimely death.

THIRTEENTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Raymond Green Resulting from Premises Liability and Negligence – Club Q Defendants)

316. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

317. Adriana Vance is the natural and biological mother of Raymond Green.

318. Adriana Vance, as the natural and biological mother of Raymond Green, has standing to pursue the claims stated herein against all Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

319. Defendants owed a duty to invitees like Raymond Green to ensure safety on its premises and are liable under theories of negligence and premises liability.

320. As a direct and proximate result of all Defendants' failures, actions, and inactions, Raymond Green suffered severe injuries, damages, and an untimely death.

FOURTEENTH CLAIM FOR RELIEF

(Wrongful Death o/b/o Derrick Rump Resulting from Premises Liability and Negligence – Club Q Defendants)

321. Plaintiffs re-allege and incorporate by reference herein all the allegations contained above.

322. Julia Rump is the natural and biological mother of Derrick Rump.

323. Julia Rump, as the natural and biological mother of Derrick Rump, has standing to pursue the claims stated herein against Defendants pursuant to Colorado's Wrongful Death Act, C.R.S. § 13-21-202 and C.R.S. § 13-21-203.

324. Club Q Defendants owed a duty to invitees like Derrick Rump to ensure safety on their premises and are liable under theories of negligence and premises liability.

325. As a direct and proximate result of all Defendants' failures, actions, and inactions, Derrick Rump suffered severe injuries, damages, and an untimely death.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against the El Paso County Defendants and the Club Q Defendants for damages in separate amounts to be determined at trial, as follows:

Against the El Paso County Defendants:

1. Damages for death, physical impairment, and disfigurement;
2. Economic damages, including but not limited to, past, present and future medical and rehabilitation expenses, out-of-pocket expenses, lost wages, and diminished earning potential;
3. Non-economic damages, including but not limited to, pain and suffering, loss of enjoyment of life, inconvenience, mental anguish, and emotional distress;
4. Punitive damages to deter willful, wanton, and/or reckless conduct contributing to the harm;
5. All other compensatory damages caused by the El Paso County Defendants' wrongful actions and/or inactions, to be proven at trial;
6. Pre-judgment and post-judgment interest as provided for by law;
7. Attorney fees, costs, and expenses of this action as provided for by law; and
8. Such other and further relief as the Court deems just and proper.

Against the Club Q Defendants:

9. Damages for death, physical impairment, and disfigurement;
10. Economic damages, including but not limited to, past, present and future medical and rehabilitation expenses, out-of-pocket expenses, lost wages, and diminished earning potential;
11. Non-economic damages, including but not limited to, pain and suffering, loss of enjoyment of life, inconvenience, mental anguish, and emotional distress;
12. Punitive damages to deter willful, wanton, and/or reckless conduct contributing to the harm;
13. All other compensatory damages caused by the Club Q Defendants' wrongful actions and/or inactions, to be proven at trial;
14. Pre-judgment and post-judgment interest as provided for by law;
15. Attorney fees, costs, and expenses of this action as provided for by law; and
16. Such other and further relief as the Court deems just and proper.

Dated: November 18, 2024

By: /s/ Patrick A. Huber

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** Admission papers forthcoming

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Adriana Vance *on behalf of* Raymond Green,
deceased, Tanya Beal *on behalf of* Kelly
Loving, deceased, Julia Rump *on behalf of*
Derrick Rump, deceased, John Arcediano,
Jancarlos Del Valle, Ashtin Gamblin, Jerecho
Loveall, Anthony Malburg, Charlene Slaugh,
James Slaugh, Brianna Winningham

Plaintiff,

v.

Case No.: 24-CV-3190

El Paso County Board of County
Commissioners, El Paso County Sheriff Bill
Elder, *in his personal and official capacities*,
G.I.G., Inc. d/b/a Club Q, Club Q, LLC d/b/a
Club Q, 3430 N. Academy, LLC,
Academy3430, LLC, Matthew Haynes,
Kenneth Romines, and Nicholas Grzecka,

Defendants.

JURY DEMAND

Plaintiffs Adriana Vance *on behalf of* Raymond Green, deceased, Tanya Beal *on behalf of* Kelly Loving, deceased, Julia Rump *on behalf of* Derrick Rump, deceased, John Arcediano, Jancarlos Del Valle, Ashtin Gamblin, Jerecho Loveall, Anthony Malburg, Charlene Slaugh, James Slaugh, Brianna Winningham, hereby demand a trial by jury on all issues so triable.

Dated: November 18, 2024

Respectfully submitted,

/s/ Patrick A. Huber

Patrick A. Huber
ROMANUCCI & BLANDIN, LLC
321 N. Clark Street, Suite 900
Chicago, IL 60654
(312) 458-1000
phuber@rblaw.net

Exhibit A

<input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court El Paso County, Colorado Court Address: 270 S. Tejon St. Colorado Springs, CO 80903	<b style="color: red;">GRANTED BY COURT <b style="color: red;">07/31/2022 DATE FILED July 31, 2022 3:13 PM DAVID SCOTT PRINCE District Court Judge COURT USE ONLY																
Petitioner: <u>Colorado Springs Police Department</u> Address: <u>705 S. Nevada Ave. (CSPD Police Operations Center)</u> <u>Colorado Springs, CO 80903</u> v. Respondent: [REDACTED] Date of Birth: [REDACTED] Address: [REDACTED]	Case Number: 2022CV220 Division 2 Courtroom S506																
EXTREME RISK PROTECTION ORDER ISSUED PURSUANT TO §13-14.5-105 C.R.S.																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 35%;">Full Name of Respondent</th> <th style="width: 10%;">Date of Birth</th> <th style="width: 5%;">Sex</th> <th style="width: 10%;">Race</th> <th style="width: 10%;">Weight</th> <th style="width: 10%;">Height</th> <th style="width: 10%;">Hair Color</th> <th style="width: 10%;">Eye Color</th> </tr> </thead> <tbody> <tr> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> <td>[REDACTED]</td> </tr> </tbody> </table>		Full Name of Respondent	Date of Birth	Sex	Race	Weight	Height	Hair Color	Eye Color	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Full Name of Respondent	Date of Birth	Sex	Race	Weight	Height	Hair Color	Eye Color										
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]										

EXTREME RISK PROTECTION ORDER:

The Court finds that it has jurisdiction over the parties and the subject matter; and finds by a preponderance of the evidence that [REDACTED] (Respondent), poses a significant risk of causing personal injury to self or others in the near future by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm.

Grounds supporting the issuance of the order:

- ☒ There has been a recent act or credible threat of violence by the respondent against self or others whether or not such violence or credible threat of violence involves a firearm.
- ☒ There have been a pattern of acts or credible threats of violence by the respondent within the past year, including but not limited to acts or credible threats of violence by the respondent against self or others.
- ☐ There has been a violation of Civil Protection Order by the respondent.
- ☐ There is a previous or existing Extreme Risk Protection Order issued against the respondent and a violation of a previous or existing Extreme Risk Protection Order.
- ☐ The respondent has been convicted of a crime that included an underlying factual basis of domestic violence.
- ☐ The respondent owns, has access to, or intends to possess a firearm.
- ☐ There has been a credible threat of or the unlawful or reckless use of a firearm by the respondent.

- ☐ There is a history of use, attempted use, or threatened use of unlawful physical force by the respondent against another person, or a history of stalking another person by the respondent.
- ☐ The respondent has been arrested for a crime listed in section 24-4.1-302(1)-Victims' Rights Crimes or section 18-9-202-Cruelty to Animals.
- ☐ The respondent has abused controlled substances or alcohol.
- ☐ The respondent is required to posses, carry, or use a firearm as a condition of the respondent's current employment.
- ☐ The respondent has recently acquired a firearm or ammunition.
- ☒ Other grounds supporting the issuance of an Extreme Risk Protection Order:
Respondent has consented to the issuance of this Extreme Risk Protection Order and the findings included herein. The Respondent and his Counsel agrees to accept service of this Order by email. Respondent's Counsel has agreed to ensure the Respondent receives a copy of this Order.
- ☒ The court issues this Extreme Risk Protection Order for 364 days.

Extreme Risk Protection Order Issued on:

Date: July 18, 2022 Time: 5:00 pm

Expiration of Temporary Extreme Risk Protection Order:

Date: July 17, 2023 Time: 12:00 am

Responsive pleadings may be filed at: District Court, El Paso County, Colorado

(Court Address) 270 S. Tejon St.
Colorado Springs, CO 80903

Surrender of Firearms

The court orders the respondent to surrender all firearms by:

- Selling or transferring the possession of the firearm to a federal licensed firearms dealer described in 18 U.S.C. SEC. 923, as amended; except that this provision must not be interpreted to require any federally licensed firearms dealer to purchase or accept possession of any firearm;
- Arranging for the storage of the firearm by a law enforcement agency. The law enforcement agency shall preserve the firearm in a substantially similar condition that the firearm was in when it was surrendered. If the respondent does not choose the option in subsection (1)(a)(I) of section 13-14.5-108 as set forth above, a local law enforcement agency shall store the firearm; or
- Only for either an antique firearm; as defined in 18 U.S.C. SEC. 921 (a)(16), as amended, or a curio or relic, as defined in 27 CFR 478.11, as amended, transferring possession of the antique firearm or curio or relic to a relative who does not live with the respondent after confirming, through a criminal history record check, the relative is currently eligible to own or posses a firearm under federal and state law.

To: _____ (Respondent),

This order is valid until the date and time noted above. You may not have in your custody or control a firearm or purchase, possess, receive, or attempt to purchase or receive a firearm while this order is in effect. You must immediately surrender to the (law enforcement agency)
COLORADO SPRINGS POLICE DEPARTMENT

all firearms in your custody, control, or possession, and any concealed carry permit issued to you. A hearing will be held on the date and at the time noted above to determine if an extreme risk protection order should be issued. Failure to appear at that hearing may result in a court entering an order against you that is valid for three hundred sixty-four days. An attorney will be appointed to represent you, or you may seek the advice of your own attorney at your own expense as to any matter connected with this order.

Date: 7/18/2022

Judge

David S. Prince

Print Name of Judicial Officer

I certify that this is a true and complete copy of the original order.

Date: _____

Clerk

NOTICE TO RESPONDENT

- You may be arrested or taken into custody without notice if a law enforcement officer has probable cause to believe that you have violated this Order.
- If you violate this Order thinking that the Petitioner or anyone else has given you permission, you are wrong, and can be arrested and prosecuted. The terms of this Order cannot be changed by agreement of the parties. **Only the Court can change this Order.**
- Any person who has in his or her custody or control, a firearm or purchases, possesses, or receives a firearm with knowledge that he or she is prohibited from doing so by an Extreme Risk Protection Order or Temporary Extreme Risk Protection Order issued pursuant to article 14.5 of Title 13 is guilty of a class 2 misdemeanor, punishable by fines of up to \$1000 and up to 12 months in jail.

YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS EXTREME RISK PROTECTION ORDER'S PROVISIONS. ONLY THE COURT CAN CHANGE THE ORDER AND ONLY UPON WRITTEN MOTION.

NOTICE TO PETITIONER

- You are hereby informed that if this Order is violated you may call law enforcement.
- You cannot give the Respondent permission to change or ignore this Order in any way.
Only the Court can change this Order.
- If you receive a return of service form from law enforcement, you must file it with the court.

NOTICE TO LAW ENFORCEMENT OFFICERS

- An Extreme Risk Protection Order must be served personally upon the Respondent, except as otherwise provided in article 14.5 of Title 13.
- The law enforcement agency in the jurisdiction where the Respondent resides shall serve the Respondent personally.
- Service of an order issued pursuant to article 14.5 of Title 13 takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.
- If service cannot be completed within five days, the law enforcement agency shall notify the Petitioner who shall provide additional information regarding the Respondent's whereabouts.
- Law enforcement may request additional time to allow for the proper and safe planning and execution of the court order.
- If the Extreme Risk Protection Order is terminated or not renewed for any reason, the law enforcement agency storing the Respondent's firearms shall provide notice to the Respondent regarding the process for the return of the firearm(s).

DISTRICT COURT, EL PASO COUNTY, COLORADO Court Address: Post Office Box 2980 Colorado Springs, CO 80901	DATE FILED June 17, 2022 9:34 AM
Petitioner COLORADO SPRINGS POLICE DEPARTMENT and Respondent [REDACTED]	▲ COURT USE ONLY ▲ Case Number: 22CV220 Div.: 2
NOTICE OF HEARING ON EXTREME RISK PROTECTION ORDER	

An in-person hearing has been scheduled for **July 18, 2022 at 2:00PM** in **Division 2**, room number S506 of the El Paso County District Court, located at 270 South Tejon Street, Colorado Springs, CO 80901.

If you need assistance, please call the Division Clerk at (719) 452-5235.

DONE and ORDERED June 17, 2022.

BY THE DEPUTY CLERK OF DIV 2

Doug Zinn

<input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court <u>El Paso</u> County, Colorado		DATE FILED June 16, 2022 8:06 AM	
Petitioner: Colorado Springs Police Department v. Respondent: [REDACTED]			
Attorney or Party Without Attorney (Name and Address):		Case Number:	
Phone Number:	E-mail	Division	Courtroom
FAX Number:	Atty. Reg. #:		
AFFIDAVIT OF COMPLIANCE/ATTESTATION			

I, [REDACTED] (Respondent), attest to the court that:

☐ I do not currently have any firearms in my custody, control, or possession and do not currently have a concealed carry permit, and I have attached with this form a proof of relinquishment(s) or removal(s) showing that all firearms previously in my custody, control, or possession, and any concealed carry permit issued to me, were relinquished or removed by a law enforcement agency, or sold or transferred in accordance with § 13-14.5-108, C.R.S.

Or

☒ At the time the order was issued, I did not have any firearms in my custody, control, or possession and did not have a concealed carry permit and I do not currently have any firearms in my custody, control, or possession and do not currently have a concealed carry permit.

VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 14 day of June, 22, at el paso
(date) (month) (year) (city or other location, and state OR country)

[REDACTED]
(Printed name of Respondent)

[REDACTED]
Signature of Respondent

[REDACTED] [REDACTED] [REDACTED]
Address City State Zip Code

[REDACTED]
Home Phone Work Phone

<input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court El Paso County, Colorado Court Address: 270 S. Tejon St. Colorado Springs, CO 80903		DATE FILED June 15, 2022
Plaintiff/Petitioner(s): Colorado Springs Police Department v. Defendant/Respondent(s): [REDACTED]		
Attorney or Party Without Attorney (Name and Address): Colorado Springs Police Department 705 S. Nevada Ave., Colorado Springs, CO 80903 Phone #: 313-8176 E-mail: Daniel.Summey@coloradosprings.gov FAX Number: -- Atty. Reg. #: --		Case Number: 2022CV220 Division 2 Courtroom

AFFIDAVIT OF SERVICE

I declare under oath that I am 18 years or older and not a party to the action and that I served THE FOLLOWING DOCUMENTS (1) Petition and Affidavit for Temporary Extreme Risk Protection Order. on the Defendant/Respondent in El Paso (name of County/State) on June 15, 2022 (date) at 1255PM (time) at the following location: 1618 W. Cucharras Street, Colorado Springs, CO 80904.

☒ By handing the documents to a person identified to me as the Defendant/Respondent: [REDACTED] (print name of person served).

☐ By identifying the documents, offering to deliver them to a person identified to me as the Defendant/Respondent who refused service, and then leaving the documents in a conspicuous place.

☐ By leaving the documents at the Defendant/Respondent's usual place of abode with _____ (Name of Person) who is a member of the Defendant/Respondent's family and whose age is 18 years or older. (Identify family relationship) _____.

☐ By leaving the documents at the Defendant/Respondent's usual workplace with _____ (Name of Person) who is the Defendant/Respondent's secretary, administrative assistant, bookkeeper, or managing agent. (Circle title of person served.)

☐ By leaving the documents with _____ (Name of Person), who as _____ (title) is authorized by appointment or by law to receive service of process for the Defendant/Respondent.

☐ By serving the documents as follows (other service permitted by C.R.C.P. 4(g) or C.R.C.P. 304(c)(d) and (e): _____

☐ **For Eviction Cases Only.**

I have made diligent efforts such as _____ (list personal service attempts) but have been unable to make personal service on the Defendant/Respondent(s) and I have made service of the within summons and complaint by posting a copy of them in a conspicuous place upon the premises described therein.

I have charged the following fees for my services in this matter:

☐ Private process server

☐ Sheriff, _____ County
 Fee \$ _____ Mileage \$ _____

☒ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

☐ By checking this box, I am acknowledging that I have made a change to the original content of this form.

VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 15th day of June, 2022
(date) (month) (year)

Colorado Springs, Colorado
(city or other location, and state OR country)

Daniel Summey 5156
(Printed Signature)

Daniel Summey
Signature

6/16/2022
Date

<input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate <u>District Court, El Paso County, Colorado</u> Court Address: <u>270 S. Tejon</u> <u>Colorado Springs, CO. 809030000</u>	DATE FILED June 14, 2022 10:48 AM
Petitioner: <u>COLORADO SPRINGS POLICE DEPARTMENT,</u> v. Respondent: <u>[REDACTED]</u>	▲ COURT USE ONLY ▲ Case Number: D0212022CV000220 Division: 2 Courtroom:
NOTICE OF HEARING ON EXTREME RISK PROTECTION ORDER	

To: [REDACTED] (Full Name of Respondent)

You are hereby notified that the Petitioner has/have filed in this Court a Petition for an Extreme Risk Protection Order.

You are further notified that a hearing is set on 6/17/2022 (date), at 9:00 AM (time) in the court location identified above.

Below is the name and contact information for your court appointed attorney:
TIMOTHY JAMES PRIEBE

You may also hire your own attorney for this case, at your own expense.

Date: 6/14/2022

JMM for Sheri King
Clerk of Court/Deputy Clerk

JUN 10 2022

22CV220

Case Name: Colorado Springs Police Department v. [REDACTED] Case Number: 22-6954
CLERK OF THE DISTRICT/COUNTY COURT

Extreme Risk Protection Order Information Sheet

Complete this form and attach it to the Petition and Affidavit for Temporary Extreme Risk Protection Order or Petition and Affidavit for Extreme Risk Protection Order.
Complete and accurate information is critical for the enforcement of an Extreme Risk Protection Order.

If this form is incomplete, information may not be posted with the Colorado Bureau of Investigation (CBI) for Law Enforcement officials to access and your Extreme Risk Protection order may not be properly enforced.

Information about You

☐ I request that I be permitted to omit my address because I fear that including my address will risk harm to me or any member of my family or household. (Provide alternate address at which the Respondent and Court may serve notice of any motions)

Full Name: Colorado Springs Police Department Date of Birth: _____

Complete Home/Alternate Address: 705 S. Nevada Ave. (CSPD POC) Apt. #: _____

City: Colorado Springs State: COLORADO Zip Code: 80903

Telephone #'s: Home: _____ Work: 719-444-7000 Cell: _____

Information about Party to be Respondent

Full Name: [REDACTED] Date of Birth: [REDACTED]

Law enforcement agency where the respondent resides Colorado Springs Police Department

If you do not know the date of birth, enter approximate age: _____

Physical description: Gender: ☒ Male Female Race: WHI

Height: [REDACTED] Weight: [REDACTED] Hair Color: [REDACTED] Eye Color: [REDACTED]

Complete Home Address: [REDACTED] Apt. #: _____

City: Colorado Springs State: Colorado Zip Code: 80904

Telephone #'s: Home: _____ Work: _____ Cell: [REDACTED]

☐ Check only if applicable. The respondent party goes by another name, please list all aliases below.

Name: _____ Name: _____

Date: 6/10/22

Signature: David [Signature] 5156

<input type="checkbox"/> County Court <input type="checkbox"/> District Court <input type="checkbox"/> Colorado Springs Probate Court <u>El Paso</u> County, Colorado Court Address: <u>207 South Tejon St., Colorado Springs, CO 80903</u> Petitioner: <u>Colorado Springs Police Department</u> Address: <u>705 S. Nevada Ave. (CSPD Police Operations Center)</u> <u>Colorado Springs, CO 80903</u> v. Respondent: <u>[REDACTED]</u> Date of Birth: <u>[REDACTED]</u> Address: <u>[REDACTED]</u> <u>Colorado Springs, CO 80904</u>		THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO JUN 10 2022 COURT USE ONLY CLERK OF THE DISTRICT/COUNTY COURT
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____ The address of the Petitioner may be omitted from the written order of the Court, including the Register of actions. (See #9 below.)		
Case Number: 22CV220 DIV. <u>14</u> <u>2</u> Division _____ Courtroom _____		
PETITION AND AFFIDAVIT FOR TEMPORARY EXTREME RISK PROTECTION ORDER		

The Colorado Springs Police Department requests this Court to issue a Temporary Extreme Risk Protection Order, and in support of this request do hereby swear/affirm the following under penalty of perjury:

- I am a family or household member to the respondent. My relationship to the respondent is:
 - ☐ I am related by blood, marriage, or adoption to the respondent.
 - ☐ I have a child in common with the respondent. (Regardless of marriage or whether you have lived with the respondent at any time.)
 - ☐ I regularly reside or have regularly resided with the respondent within the last six months.
 - ☐ I am a domestic partner of the respondent.
 - ☐ I have a biological or legal parent-child relationship with the respondent. (Including stepparents and stepchildren, grandparents and grandchildren.)
 - ☐ I am acting or have acted as the respondent's legal guardian.
 - ☐ I am the spouse or former spouse of the Respondent.
 - ☐ In the past I have been in or am presently in an unmarried couple relationship with the Respondent.
- ☒ I am a law enforcement officer, or I represent a law enforcement agency. Name of law enforcement agency: Colorado Springs Police Department.
- [REDACTED] poses a significant risk of causing personal injury to self or others by having in his or her custody or control a firearm or by purchasing, possessing, or receiving a firearm.

Select all applicable reasons and provide detailed statements and information of the grounds supporting the issuance of a Temporary Extreme Risk Protection Order:

☒ There has been a recent act or credible threat of violence by the respondent against self or others, whether or not such violence or credible threat of violence involves a firearm.
 Explain in detail:

On 5/29/2022, Your Petitioner, a Detective in the Colorado Springs Police Department Intelligence Unit, assigned full time to the FBI Joint Terrorism Task Force, received information that Your Respondent, [REDACTED] hereafter referred to as [REDACTED] had suicidal and homicidal

ideations, and planned to carry out a mass shooting at the Territory Days event being held in Colorado Springs, or at an unnamed gay bar. On 5/29/2022 at approximately 1229 hours, A Diversus staff member who provided the name [REDACTED] contacted CSPD Dispatch [REDACTED] and informed them [REDACTED] stated he wanted to purchase a gun and shoot people at Territory Days. [REDACTED] further informed CSPD Dispatch [REDACTED] would not be released from the facility due to the threats.

On 5/29/2022 at approximately 1559 hours, CSPD Dispatch received a phone call from Memorial Central Hospital Staff Member who provided her name as [REDACTED]. [REDACTED] informed CSPD Dispatch [REDACTED] was at Memorial Central Hospital from Diversus and was on an M1 hold. [REDACTED] informed CSPD Dispatch [REDACTED] was making threats to commit a mass shooting. [REDACTED] further stated [REDACTED] said he planned to procure a firearm to commit the mass shooting.

On 5/29/2022 at approximately 2044 hours, CSPD dispatched Officers K. Mace 6886 and C. Sunada 1678 to Memorial Central Hospital due to the ongoing threats by [REDACTED] to commit a mass shooting. The Officers spoke with [REDACTED] at Memorial Central Hospital, where she informed them [REDACTED] made numerous threats to shoot people at Territory days and "Queer clubs." [REDACTED] provided the following information: [REDACTED] stated he had access to a gun and wanted to shoot people at Territory Days because he is a "White heterosexual male". [REDACTED] stated he did not attack Territory Days because there was a large police presence at the event. [REDACTED] also made threats to commit a mass shooting at "gay and queer" clubs because he stated he doesn't care if they suffer. [REDACTED] also made comments towards hospital staff that he would rape them. [REDACTED] stated he "did not need a girlfriend and needed a mate." [REDACTED] stated he used to sexually abuse his sister who is a lesbian now, and he hates gays and homosexuals now because his sister is a lesbian. [REDACTED] had nothing further to add. This information is documented in CSPD case number 22-20313.

[REDACTED] was released from his M1 hold on 6/1/2022. [REDACTED] contacted CSPD Dispatch on 6/1/2022 at approximately 2047 hours [REDACTED], stated he wanted to kill himself, and he had cut his wrists and he had a knife. [REDACTED] stated he had thoughts of hurting others, to include his sister. He then stated he would kill his sister, and he told CSPD Dispatch to tell the Officers who were on their way to be ready to fight with him when they got there. [REDACTED] then stated he wanted CSPD Officers to kill him. When Officers arrived, [REDACTED] was compliant and was taken into protective custody and placed on another M1 hold. Officers discovered [REDACTED] had indeed cut his wrist with a knife. Your Petitioner was informed by Officer N. Schnur 5726 during his ambulance ride to Memorial Central Hospital [REDACTED] stated he was going to cut his sisters head off, and he stated if he was released from the M1 hold he would be forced to shoot children at a school.

Your Petitioner learned that approximately one week earlier, on 5/23/2022 at approximately 1723 hours, [REDACTED] from Diversus contacted CSPD Dispatch ([REDACTED]) and informed them [REDACTED] had made violent threats to kill his sister.

On 5/29/2022 at approximately 2200 hours, Your Petitioner travelled to [REDACTED] in Colorado Springs, where Your Petitioner met with [REDACTED] who lives at the address with her son [REDACTED]. [REDACTED] informed Your Petitioner [REDACTED] had walked down to Territory Days earlier in the day on 5/29/2022, and when he arrived home he was in a very angry mood and asked her to take him to Diversus, which she did. [REDACTED] informed Your Petitioner she does not believe [REDACTED] currently has a firearm in his possession.

Due to [REDACTED] stating his intent to commit a mass shooting multiple times over several days, committing an overt act to conduct a mass shooting by travelling to Territory Days, and cutting his own wrists with a knife, Your Petitioner believes [REDACTED] is a threat to himself and others, and if he were to procure or come into possession a firearm, he would present a danger to the community. Due to [REDACTED] statement to [REDACTED] that he has access to firearms, but also stated he plans to procure a firearm, it is unknown at this time if he is already in possession of a firearm.

☒ There have been a pattern of acts or credible threats of violence by the respondent within the past year, including but not limited to acts or credible threats of violence by the respondent against self or others.
Explain in detail:

As previously stated, Your Petitioner is aware of several threats [REDACTED] has made to commit a mass shooting in the last two weeks. Your Petitioner is also aware [REDACTED] has harmed himself by slicing his own wrist with a knife on 6/1/2022, and that [REDACTED] has been on two M1 holds since 5/29/2022.

☐ There has been a violation of Civil Protection Order by the respondent.

Explain in detail (Provide court location and case number of protection order and any cases filed as a result of the violation): _____

☐ There is a previous or existing Extreme Risk Protection Order issued against the respondent and a violation of a previous or Existing Extreme Risk Protection Order.

Explain in detail (Provide court location and case number of protection order and any cases filed as a result of the violation): _____

☐ The respondent has been convicted of a crime that included an underlying factual basis of domestic violence.

Explain in detail (Provide court location and case number):

☒ The respondent owns, has access to, or intends to possess a firearm.

Explain in detail:

[REDACTED] has stated his intent to procure a firearm to commit a mass shooting. It is unknown if he has access to firearms at this time as his residence has not been searched and he has stated he has access to firearms, and he plans to procure a firearm.

☐ There has been a credible threat of or the unlawful or reckless use of a firearm by the respondent.

Explain in detail:

☐ There is a history of use, attempted use, or threatened use of unlawful physical force by the respondent against another person, or a history of stalking another person by the respondent.

Explain in detail:

☐ The respondent has been arrested for a crime listed in section 24-4.1-302(1)-Victims' Rights Crimes or section 18-9-202-Cruelty to Animals.
Explain in detail:

☐ The respondent has abused controlled substances or alcohol.
Explain in detail:

☐ The respondent is required to possess, carry, or use a firearm as a condition of the respondent's current employment.
Explain in detail:

☐ The respondent has recently acquired a firearm or ammunition.
Explain in detail:

☒ Other applicable reasons and information of the grounds supporting the issuance of an Extreme Risk Protection Order. Explain in detail:

Your Petitioner is concerned that the [REDACTED] is a continued risk to all those around him and that his behavior is escalating. Your Petitioner has queried [REDACTED] for all possible prohibitors to possessing or purchasing a firearm, but none have been located. The Respondent can currently legally possess a firearm even with all of the extreme red flags that have already been addressed. [REDACTED] has made mass shooting threats multiple times over the last two weeks, and has made repeated threats to kill his sister. Based on his threats to commit a mass shooting, to kill his sister, and his suicidal actions, Your Petitioner respectfully requests that this petition be granted in order to remove the capability of acquiring or possessing a firearm.

4. Respondent resides in El Paso county, Colorado.

5. The quantities, types, and locations of all firearms and ammunition the petitioner believes to be in the respondent's current ownership, possession, custody or control are as follows:

Quantity _____ Type _____ Location: _____

6. ☒ To my knowledge, there are no existing protection orders governing the Petitioner and Respondent
☐ There are existing protection orders governing the Petitioner and Respondent. (List information below)

Court Location	Case Number

7. ☒ To my knowledge, there are no pending lawsuits, complaints, petitions, or other actions between Petitioner and Respondent
☐ There are pending lawsuits, complaints, petitions, or other actions between Petitioner and Respondent (List information below)

Court Location	Case Number

8. (For family or household members only)

☐ I have informed law enforcement regarding the respondent. (List law enforcement agencies)

☐ I have not notified law enforcement regarding the respondent.

9. ☐ (If applicable) I request that I be permitted to omit my address from this Petition and Affidavit for Extreme Risk Protection Order, because I fear that including my address will risk harm to me or any member of my family or household.

☐ Required alternate address at which the Respondent and Court may serve notice of any motions:

VERIFICATION AND ACKNOWLEDGEMENT

I swear/affirm under oath and penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.

CSPD Detective Daniel Summey 5156

(Printed name of Petitioner)

Daniel Summey 5156
Signature of Petitioner

SUBSCRIBED AND AFFIRMED OR SWORN TO before me in the County of _____,
State of Colorado this 9 day of June 2022.

Amanda Yorgin
Notary Public /Clerk



My commission expires: _____

Petitioner's Attorney Signature, if any

Exhibit

BocC

RESOLUTION NO. 19-76

**A RESOLUTION BY THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS,
EL PASO COUNTY, COLORADO, DECLARING EL PASO COUNTY TO BE A SECOND
AMENDMENT PRESERVATION COUNTY**

WHEREAS, §30-11-101, C.R.S. provides that Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues; and

WHEREAS, §30-11-103, C.R.S provides that the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and

WHEREAS, the Second Amendment to the United States Constitution, adopted in 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms; and

WHEREAS, the Supreme Court in the *District of Columbia v. Heller*, 554 U.S. 570 (2008), “[t]he Second Amendment...is the very product of an interest balancing by the people...(which) surely elevates above all other interests the rights of law-abiding, responsible citizens to use arms in defense of hearth and home.”; and,

WHEREAS, the Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to “keep and bear arms,” as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment against the “infringement by the States”; and,

WHEREAS, the Supreme Court, in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that could “contribute to the common defense” are protected by the Second Amendment; and,

WHEREAS, Article II, Section 3 of the Constitution of Colorado provides that all “persons have certain inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness”; and

WHEREAS, Article II, Section 13 of the Constitution of Colorado provides that the “right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question”; and

Chuck Broerman
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Doc \$0.00 3
Rec \$0.00 Pages

El Paso County, CO



219028020

WHEREAS, Article II, Section 11 of the Constitution of Colorado provides that no “ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation...shall be passed by the general assembly”; and

WHEREAS, Article II, Section 7 of the Constitution of Colorado provides that the “people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures”; and

WHEREAS, Article II, Section 15 of the Constitution of Colorado provides that “[P]rivate property shall not be taken or damaged, for public or private use, without just compensation,” which the Colorado Supreme Court has indicated includes a legal interference with the physical use, possession, disposition, or enjoyment of the property, including temporarily; and

WHEREAS, House Bill 19-1177 infringes upon the inalienable rights of the citizens of unincorporated El Paso County by allowing for family members and law enforcement to petition for the temporary removal of weapons *ex parte* and without notice to lawful gun owners, contemplating search warrants that order peace officers to forcibly enter premises and seize a citizen’s property with no evidence of a crime and shifting the burden of proof to gun owners accused under this law to prove themselves not a danger by clear and convincing evidence after an order for removal; and

WHEREAS, by allowing for confiscation of concealed handgun permits by court order, House Bill 19-1177, improperly inserts the judiciary into the purview of the elected Sheriff in administering his or her concealed handgun permit program under existing Colorado law; and

WHEREAS, House Bill 19-1177 is woefully off target in that it fails to address the heart of the mental health crisis in our community, to wit: the failure of communities to fund and provide services to the people in need, instead of penalizing them and criminalizing otherwise lawful conduct; and

WHEREAS, the El Paso County Sheriff and the Board have come to recognize that government needs to be more, not less, judicious in how we use force in encounters with those suffering mental health issues; and

WHEREAS, the best way to prevent gun violence is to address the growing mental health crisis, and not to limit the inalienable rights of law-abiding citizens; and

WHEREAS, the members of this Board took an oath to support and defend the United States Constitution, the Constitution of the State of Colorado and the laws of the State of Colorado and by implication question the constitutionality of legislation that infringes upon constitutional rights; and

WHEREAS, the El Paso County Sheriff, a constitutional officer of the State of Colorado, took an oath to support and defend the United States Constitution, the Constitution of the State of Colorado and the laws of the State of Colorado; and

WHEREAS, the El Paso County Sheriff Bill Elder, with the support of this and previous Boards, has been a staunch promoter of the Second Amendment, issuing over 45,500 concealed carry permits to citizens and retired peace officers, more than any other Sheriff in the state.

NOW, THEREFORE, BE IT RESOLVED by the El Paso Board of County Commissioners by the authority granted the Board by the laws of the State of Colorado and people of El Paso County, Colorado to stand and defend their rights and liberties, which are guaranteed by the United States and Colorado Constitutions, we hereby declare this Resolution to be a Second Amendment Preservation Resolution.

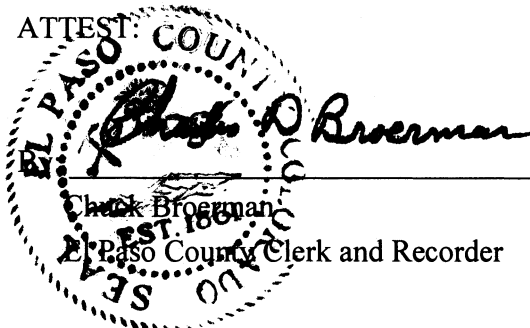
BE IT FURTHER RESOLVED this Board does hereby pledge not to appropriate funds, resources, employees, or agencies to initiate unconstitutional seizures in unincorporated El Paso County and also affirms its support for the duly elected Sheriff of El Paso County, Colorado and collaborate with the Sheriff to refuse to initiate unconstitutional actions against citizens.

BE IT FURTHER RESOLVED that in coordination with the El Paso County Sheriff, the Board commits to actively resist the bill in its current and subsequent forms, including legal action if warranted, to protect the Second Amendment rights of all lawful gun owners in the state, and not just in El Paso County. We invite all like-minded counties to join us in this effort.

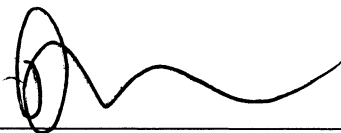
BE IT FURTHER RESOLVED the Board demands that the legislature cease and desist any further actions restricting the Second Amendment rights of citizens and instead address the real and fundamental challenges of mental illness in our communities.

DONE THIS 12th day of March, 2019 at Colorado Springs, Colorado.

ATTEST:



BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

By: 
Mark Waller, Chair

Exhibit


 Search

EL PASO COUNTY SHERIFF'S OFFICE

El Paso County, CO

HOME ABOUT ▾ SERVICES ▾ SECTIONS ▾ COMMUNITY ▾ EMPLOYMENT ▾

CONTACT ▾ Red Flag Bill

El Paso County Sheriff's Office Red Flag Statement

It is the policy of the Sheriff's Office to respect and protect the constitutional rights of all those we serve. The El Paso County Sheriff's Office will ensure that the rights of people to be free from unreasonable search and seizures, and to receive due process of law, are safeguarded and maintained. These protections are reflected in our mission statement, the law-enforcement code of ethics and codified in our policies.

The El Paso County Sheriff's Office is further committed to safeguarding the community from the potential risk of imminent harm created by significantly mentally ill people who have access to firearms and have exhibited behaviors that create a public safety concern.

Regarding Extreme Risk Protection Orders; in brief, it is the policy of the El Paso County Sheriff's Office that once an extreme risk protection order is granted by the courts, members of the El Paso County Sheriff's Office will evaluate the entirety of the order, conduct a risk analysis to determine what resources and personnel are necessary, and establish operational plans to safely serve the order as required.

A member of the El Paso County Sheriff's Office will not petition for an ERPO or TRPO unless exigent circumstances exist, and probable cause can be established pursuant to 16-3-301 C.R.S that a crime is being or has been committed. Any ERPO submitted by a deputy shall be submitted in conjunction with a petition to the courts for a Court Ordered Evaluation (Mr) pursuant to 27-65-105(1)(b), C.R.S., and 27-65-111(6), C.R.S.

The deputy serving the order shall fully explain the contents and requirements of the order, as well as request that the Respondent surrender any firearms in his/her possession or control, along with any concealed handgun permit issued. Because the extreme risk protection order requires that the respondent surrender all firearms, one of following three ways will be offered to the Respondent:

1. sell the firearms to a licensed firearms dealer,

2. arrange for storage at the Sheriff's Office evidence facility or
3. in the case of an antique, curio, or relic firearm, may transfer the firearm to a relative who does not live with the respondent.

Deputies will be authorized to seize any firearm in "plain view" or pursuant to any consent or other lawful search. Any "plain view" or consent search must be done in accordance with Colorado revised statutes and current policy regarding the plain view doctrine or search warrant waiver.

The deputy will determine, to the best of his or her ability, ownership and title to any firearms located. While the extreme risk protection order authorizes the Office to seize firearms in the respondent's possession and control, a deputy will issue a receipt for any handgun permit or any firearms collected pursuant to that order and provide a receipt to the Respondent. Any permit or firearm seized shall be placed in evidence for safekeeping.

Absent probable cause **and** a signed search warrant, members of the Sheriff's Office will not conduct searches for firearms.

Share:

Office of the Sheriff

27 East Vermijo Avenue
Colorado Springs, CO 80903
719-520-7100 / 719-390-5555 (after hours)

El Paso County Jail

2739 East Las Vegas Street
Colorado Springs, CO 80906
719-390-2000

[Contact Us](#) | [Log in](#)

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Exhibit

Redacted

DISTRICT COURT, EL PASO COUNTY COLORADO		▲ COURT USE ONLY ▲
Court Address: 270 South Tejon Street Colorado Springs, Colorado 80903		
People of the State of Colorado v. Anderson Lee Aldrich, DOB: 05/20/2000, white male, 6'04", 280 pounds, brown hair, green eyes, SSN # , CO DL # Defendant.		Case/File Number: 21CR3485
Agency Name: El Paso County Sheriff's Office	Agency Number: 21-7002	Division: Criminal Ctrm:
ATTACHMENT A		

The following Affidavit is submitted to the Court to document the probable cause in support of a request for the issuance of an Arrest Warrant for **Anderson Lee Aldrich, DOB: 05/20/2000**

This offense is fully documented in Offense Report 21-7002 detailing the offense(s) of:

C.R.S. 18-3-206(1)(a) Felony Menacing, a class 5 felony [2 counts]
C.R.S. 18-3-301(1)(c) First Degree Kidnapping, a class 2 felony [3 counts]

With the victim(s) identified as:

- 1. Pamela Pullen, DOB: 12/16/52**
- 2. Jonathan Pullen, DOB: 02/13/53**
- 3. Laura Veopel, DOB: 04/05/77**

Your Affiant is Deputy Bethany Gibson #13003, a duly sworn Deputy Sheriff, of and for the county of El Paso, State of Colorado, and who is presently employed with the El Paso County Sheriff's Office, Patrol Division.

The facts set forth within this affidavit are based upon information Your Affiant has gained from this investigation, Your Affiant's personal observations, Your Affiant's training and experience, and/or information related to Your Affiant by other law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing a search warrant, Your Affiant has not included each and every fact known to her concerning this investigation, but have set forth only the facts that are necessary to establish probable cause to believe that evidence of a crime has occurred.

All information contained in this affidavit can be found documented under El Paso County Sheriff's Office case report #21-7002.

On 06/18/21 at approximately 1400 hours, I, Deputy Bethany Gibson #13003 of the El Paso County Sheriff's Office (EPSO), Patrol Division, was dispatched to
in reference to a bomb threat.

While en route, Dispatch advised the reporting party, Pamela Pullen, DOB: 12/16/52 called advising her grandson, Anderson Aldrich, DOB: 05/20/00 was making a bomb in the basement. Pamela stated Anderson told her he was going to be the next mass killer and has been collecting ammunition, firearms, bullet-proof body armor and storing it in the basement of the residence. Pamela stated Anderson has recently started creating what she believes is a bomb. Pamela stated Anderson has bragged about wanting to "go out in a blaze."

Pamela stated she and her husband, Jonathan Pullen, DOB: 02/13/53 have been living in fear due to Anderson's recent homicidal threats towards them and others. Pamela stated she and Jonathan sold the house and plan on moving to Florida which Anderson is not happy about. Pamela stated Anderson told her they couldn't move yet because "it would interfere with his bomb making." Pamela stated she and Jonathan advised they asked Anderson to come into the living room for a family meeting to discuss moving to Florida.

Pamela stated Anderson came up from the basement with a glock handgun and began loading bullets into the magazine. Pamela stated Anderson told her and Jonathan that they weren't leaving to Florida. Pamela stated Anderson pointed the gun at her and Jonathan and told them, "You guys die today, and I'm taking you with me. I'm loaded and ready. You're not calling anyone." Pamela stated Anderson took the phone from her hand and told her they were not leaving to go anywhere. Pamela stated Anderson stated he was going to kill them if they didn't promise they wouldn't move to Florida. Pamela stated Anderson told her if they moved, it would interfere with his plans to conduct a mass shooting and bombing. Pamela stated Anderson went into the basement, grabbed a box and walked upstairs to the living room. Pamela stated Anderson showed her a box with chemicals in it and stated it was a bomb. Pamela stated Anderson told her it was powerful enough to blow up a police department and a federal building. Pamela stated Anderson held her and Jonathan hostage for a period of time until they promised they wouldn't move. Pamela stated she and Jonathan begged for their lives and promised Anderson they wouldn't move. Pamela stated Anderson began chugging vodka and said he needs it for "what he's about to do."

Pamela stated Anderson told her he was "in control," and went back into the basement. Pamela stated she and Jonathan ran to the car and left while calling 911.

Pamela stated Anderson's mom, Laura Voepel 04/05/77, lives at _____ which is in the same area as Pamela's house. Pamela stated Anderson drives a Gold 2005 Toyota Highlander with Colorado plates

Deputies went to _____ and located Anderson's gold Highlander parked down the street. I contacted his mother, Laura, by phone and she was not cooperative. Laura did not want to answer any questions on the whereabouts of her son.

At approximately 1500 hours, Laura sent text messages to her landlord advising the cops were after her son, Anderson. The landlord asked where Anderson was, and Laura told her he was with her inside of her home. Laura stated she needed to make sure the cops weren't coming for her son. I received a screenshot of the text messages.

At approximately 1600 hours, our SWAT team started containment on Laura exited the residence stating, "He let me go." At approximately 1615 hours, Anderson contacted Sergeant J. Harmon on the telephone and stated that he let his mother go, and that he sees swat members around the house. Anderson told Sergeant Harmon that the SWAT team needs to "get back." Anderson told Sergeant Harmon that he has tannerite inside the home and that he was going to start shooting through the walls. Anderson also told Sergeant Harmon that he was going to die today.

At approximately 1630 hours, Anderson told the SWAT team negotiator that he has a gas mask, armor piercing rounds, and "is ready to go to the end." Anderson stated he is extremely agitated.

Based on all the above facts and circumstances, I respectfully request for a search warrant of Mr. Aldrich's residence to locate and make safe a home-made bomb along with ammunition, firearms, and body armor to prevent a reported planned terrorism attack.

Based on all the above facts and circumstances, I respectfully request for a search warrant of Mr. Aldrich's residence to locate and make safe a home-made bomb along with ammunition, firearms, and body armor to prevent a reported planned terrorism attack.

At approximately 1650 hours, Pamela provided consent for Deputies and the Explosive Ordinances Device team to search. Upon entering the basement of the residence, they found items consistent with bomb making materials.

1720 hours, I contacted the Honorable Judge Michael McHenry and requested an elevated bond based on Anderson's homicidal statements, actions, possessions of firearms and bomb making materials. Judge McHenry agreed to an elevated bond and set the bond at \$1,000,000.00.

I would respectfully request that probable cause be found that **Anderson Lee Aldrich, DOB: 05/20/2000** within the County of El Paso and State of Colorado, commit in violation of the Colorado Revised Statutes 1973 as amended, the offense(s) of:

C.R.S. 18-3-206(1)(a) Felony Menacing, a class 5 felony [2 counts]
C.R.S. 18-3-301(1)(c) First Degree Kidnapping, a class 2 felony [3 counts]

Deputy Bethany Gibson #13003

Applicant: Deputy Bethany Gibson #13003

Position: EPSO, Deputy Sheriff

Sworn and subscribed before me this 18 day of June, 2021.


Judge/Magistrate



El Paso County Sheriff's Office

Redacted 01350

BOOKING REPORT - 2100006822 - ALDRICH, ANDERSON LEE



Location: I/R-AMP-03 Total Bond Amount: \$1,000,000.00
 Booking # Inmate Id # Arrival Date/Time Booking Date/Time Scheduled Release Release Date/Time June 21, 2021 Property Location
 6/18/2021 22:15 6/18/2021 18:46 CJC751
 Last Name First Name Middle Name Name Suffix Juvenile Dispo Language Spoken ☒ Booking Complete
 ALDRICH ANDERSON LEE ENGLISH
 Inmate Status Inmate Classification Parole Officer Booking Officer Entry Officer
 PRETRIAL CABLE, CONNOR, TEAGAN
 Alerts: FRA/D, SEG ALL

PERSONAL INFORMATION

Physical Address TRANSIENT (MANITOU) Mailing Address
 COLORADO SPRINGS CO 80925
 Phone Phone (202)570-1253
 Residence Status COUNTY SSN Drivers License DL State CO
 State ID No. FBI No. Other ID DOC No.
 Date of Birth 5/20/2000 Age 21 Sex M Race W Ethnicity N Height 6-04 Weight 260 Build L
 Eyes GRN ☐ Glasses Hair BLK Style S Length S Skin WHITE
 Facial Hair NO Teeth W Marital Status Religion Yrs Ed.
 Place of Birth Citizenship US Gang

CHARGES

Statute 18-3-301 FIRST DEGREE KIDNAPPING - W/O BODILY INJURY Level F Degree 2 Type
 OBTS Booking Case 21-7002 Arrest Date/Time 6/18/2021 17:46
 Arrest Location Arresting Agency ORI CO0210001 ☐ Domestic
 Arresting Officer 13003 GIBSON, BETHANY Arresting Agency Case No. 21-7002
 Warrant FELONY Type ARREST Warrant ARREST WARRANT Citation 21-7001
 Other Chargeable Offense 3 COUNTS
 End Of Sentence Date: Bond # 1 Bond Amount \$1,000,000.00 Cash Bond Type C/S/P
 Court Case ARREST WARRANT Court Date 6/22/2021 Judge CJC COURT - Court Venue ADV COURT CJC
 Disposition BOND RETURN 6/24/21 @ 1000 // DIV J
 Comments
 Cleared Cleared Comments

Statute 18-3-206 MENACING FELONY REAL/SIMULATED WEAPON Level F Degree 5 Type
 OBTS Booking Case 21-7002 Arrest Date/Time 6/18/2021 17:46
 Arrest Location Arresting Agency ORI CO0210001 ☐ Domestic
 Arresting Officer 13003 GIBSON, BETHANY Arresting Agency Case No. 21-7002
 Warrant FELONY Type ARREST Warrant ARREST WARRANT Citation 21-7001
 Other Chargeable Offense 2 COUNTS
 End Of Sentence Date: Bond # 1 Bond Amount \$1,000,000.00 Cash Bond Type C/S/P
 Court Case ARREST WARRANT Court Date 6/22/2021 Judge CJC COURT - Court Venue ADV COURT CJC
 Disposition BOND RETURN 6/24/21 @ 1000 // DIV J
 Comments
 Cleared Cleared Comments

HOLDS INFORMATION

SCARS/MARKS/TATTOOS

Code	Description	Comment
------	-------------	---------

ALIAS INFORMATION

Name	DOB	SSN
------	-----	-----

EMPLOYMENT

Employer	Address	Phone	Occupation	How Long	<input type="checkbox"/> Part Time	<input type="checkbox"/> Student
UNEMPLOYMENT						

VEHICLE

License	State	Veh. Year	Make	Model	Style	Color

Impound Address ☐ Hold on Vehicle ☐ Hold Agency



El Paso County Sheriff's Office

BOOKING REPORT - 2100006822 - ALDRICH, ANDERSON LEE



Location: **I/R-AMP-03** Total Bond Amount: **\$1,000,000.00**

Comments

BOOKING COMMENTS

LEGAL REPRESENTATION

Attorney Name _____ Phone **719401-8753** ☒ Phone Call Made

NEXT OF KIN

	Name	Home Phone	Work Phone	Address
MOTHER	VOEPEL, LAURA			

NOTIFICATION

VICTIM	Name	Home	Work Phone	Address
	VOEPEL, LAURA			

VICTIM	Name	Home	Work Phone	Address
	PULLEN, PAMELA			

VICTIM	Name	Home	Work Phone	Address
	PULLEN, JONATHAN			

Officer Signature

Supervisor Signature

Inmate Signature

I authorize the Sheriff & staff to open & inspect all mail or packages which are addressed to me at the Jail. _____ I have been given a Jail Rules and Regulations Handbook & understand that I may be disciplined for any action.

Redacted

<p>Combined Court, El Paso County, State of Colorado 270 South Tejon Street, Colorado Springs, Colorado 80903 Phone: (719) 452-5000</p> <p>Plaintiff: The People of The State of Colorado v. Defendant: Anderson Lee Aldrich</p> <p><i>Attorneys for Defendant:</i> The Foley Law Firm David W. Foley, Esq. (#30252) 222 East Costilla Street, Colorado Springs, Colorado 80903 Ph: (719) 757-1182 Fx: (719) 757-1146 E-Mail: thefoleylawfirm@gmail.com</p>	<p>DATE FILED: June 22, 2021 12:59 PM</p> <p>Δ COURT USE ONLY Δ</p> <hr/> <p>Case: 21CR3485</p> <p>Division: 19</p>
<p>ENTRY OF APPEARANCE</p>	

COMES NOW, The Foley Law Firm, by and through attorney David W. Foley, who hereby enters his appearance on behalf of the Defendant, **Anderson Lee Aldrich**, in the above-captioned matter.

Respectfully submitted this 22nd day of June, 2021.

The Foley Law Firm
/s/ David W. Foley
David W. Foley, (#30252)
Attorney for Defendant

CERTIFICATE OF FILING

I, the undersigned, do hereby certify that a true and correct copy of the foregoing was E-filed via ICCES/JPOD, this 22nd day of June 2021:

Office of the District Attorney
4th Judicial District Colorado
Deputy DA Division 19
105 East Vermijo Avenue
Colorado Springs, Colorado 80903

/s/ David W. Foley
David W. Foley, (#30252)

Redacted

District Court, El Paso County, Colorado 270 South Tejon Street Colorado Springs, CO 80903	DATE FILED: June 29, 2021 2:46 PM
THE PEOPLE OF THE STATE OF COLORADO vs. ANDERSON LEE ALDRICH , Defendant	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
Michael J Allen Fourth Judicial District District Attorney, # 42955 El Paso County District Attorneys Office 105 E. Vermijo Avenue Colorado Springs, CO 80903 Phone Number: 719-520-6000 Fax: 719-520-6172	Case No: D0212021CR003485 Div: 19 Courtroom:
COMPLAINT AND INFORMATION	

CHARGES: 7

COUNT 1: FIRST DEGREE KIDNAPPING, C.R.S. 18-3-301(1)(c),(3) (F2){03016}

COUNT 2: FIRST DEGREE KIDNAPPING, C.R.S. 18-3-301(1)(c),(3) (F2){03016}

COUNT 3: FIRST DEGREE KIDNAPPING, C.R.S. 18-3-301(1)(c),(3) (F2){03016}

COUNT 4: CRIME OF VIOLENCE, C.R.S. 18-1.3-406(2)(a)(I)(A) (SE){36091}

COUNT 5: CRIME OF VIOLENCE, C.R.S. 18-1.3-406(2)(a)(I)(A) (SE){36091}

COUNT 6: MENACING, C.R.S. 18-3-206(1)(a)/(b) (F5){02053}

COUNT 7: MENACING, C.R.S. 18-3-206(1)(a)/(b) (F5){02053}

People v. Anderson Lee Aldrich

Case No.: D0212021CR003485

Michael J Allen, District Attorney for the Fourth Judicial District, of the State of Colorado, in the name and by the authority of the People of the State of Colorado, informs the court of the following offenses committed, or triable, in the County of El Paso:

COUNT 1-FIRST DEGREE KIDNAPPING (F2)

On or about June 18, 2021, Anderson Lee Aldrich unlawfully and feloniously imprisoned or forcibly secreted Pamela Pullen, with the intent thereby to force the victim or another person to make a concession or give up anything of value in order to secure the release of the victim who was under the actual or apparent control of the defendant; in violation of section 18-3-301(1)(c),(3), C.R.S.

COUNT 2-FIRST DEGREE KIDNAPPING (F2)

On or about June 18, 2021, Anderson Lee Aldrich unlawfully and feloniously imprisoned or forcibly secreted Jonathan Pullen, with the intent thereby to force the victim or another person to make a concession or give up anything of value in order to secure the release of the victim who was under the actual or apparent control of the defendant; in violation of section 18-3-301(1)(c),(3), C.R.S.

COUNT 3-FIRST DEGREE KIDNAPPING (F2)

On or about June 18, 2021, Anderson Lee Aldrich unlawfully and feloniously imprisoned or forcibly secreted Laura Voepel, with the intent thereby to force the victim or another person to make a concession or give up anything of value in order to secure the release of the victim who was under the actual or apparent control of the defendant; in violation of section 18-3-301(1)(c),(3), C.R.S.

COUNT 4-CRIME OF VIOLENCE (SE)

On or about June 18, 2021, Anderson Lee Aldrich unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: handgun, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of kidnapping, as charged in count one; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

COUNT 5-CRIME OF VIOLENCE (SE)

On or about June 18, 2021, Anderson Lee Aldrich unlawfully used, or possessed and threatened the use of, a deadly weapon, namely: handgun, during the commission of, attempted commission of, conspiracy to commit, or the immediate flight from, the offense of kidnapping, as charged in count two; in violation of section 18-1.3-406(2)(a)(I)(A), C.R.S.

People v. Anderson Lee Aldrich

Case No.: D0212021CR003485

COUNT 6-MENACING (F5)

On or about June 18, 2021, Anderson Lee Aldrich, by any threat or physical action unlawfully, feloniously, and knowingly placed or attempted to place Pamela Pullen in fear of imminent serious bodily injury by use of a deadly weapon or any article used or fashioned in a manner to cause a person to reasonably believe that the article was a deadly weapon, namely: handgun; in violation of section 18-3-206(1)(a)/(b), C.R.S.

COUNT 7-MENACING (F5)

On or about June 18, 2021, Anderson Lee Aldrich, by any threat or physical action unlawfully, feloniously, and knowingly placed or attempted to place Jonathan Pullen in fear of imminent serious bodily injury by use of a deadly weapon or any article used or fashioned in a manner to cause a person to reasonably believe that the article was a deadly weapon, namely: handgun; in violation of section 18-3-206(1)(a)/(b), C.R.S.

All offenses against the peace and dignity of the people of the State of Colorado.

Michael J Allen
District Attorney, #: 42955

By: /s/ Laurel Chase Date: 6/29/2021
Laurel Chase #: 48287
Deputy District Attorney

People v. Anderson Lee Aldrich

Case No.: D0212021CR003485

ENDORSED WITNESS LIST

Bethany Gibson
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Pamela Pullen

Jonathan Pullen

Laura Voepel

Jared Harmon
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Robert Frederiksen
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Travis Mundt
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Wesley Woodworth
Colo Springs Police
705 South Nevada Ave
Colorado Springs, CO 80903

Shawn Mahon
Colo Springs Police
705 South Nevada Ave
Colorado Springs, CO 80903

Seth Fritsche
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Curtis Lenz
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Evelyn Peak
El Paso Co Sheriffs Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

People v. Anderson Lee Aldrich

Case No.: D0212021CR003485

DEFENDANT INFORMATION

DOB: 5/20/2000

Race: W

Gender: M

Height:

Weight: 280

Hair: BRO

Eye: GRN

Birthplace:

Tattoo:

Address:

1

Home Phone #: -

Work Phone #: -

AKA:

CASE INFORMATION

Arresting Agency:

Arresting ORI:

Other Number:

Offense Agency: El Paso Co Sheriffs Office

Offense ORI: CO0210000

Arrest #:

Agency Case #: 21-7002

Date of Arrest:

BAC: _____

CCIC#: _____

NCIC #:

SID#:

Redacted

<input type="checkbox"/> Municipal Court <input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile <input type="checkbox"/> Denver Probate District Court, El Paso County Court Address: 270 S. Tejon Colorado Springs, CO. 809030000	FILED DISTRICT COURT 1900006 COURTS-EL PASO CO., CO DATE FILED: July 01, 2021 JUL 01 2021 DIVISION 19 <div style="text-align: center;">▲ COURT USE ONLY ▲</div> Case Number: D0212021CR003485 Division: 19
The People of the State of Colorado v. Defendant: ALDRICH, ANDERSON LEE Address: TRANSIENT MANITOU COLORADO SPRINGS, CO. 80925	
MANDATORY PROTECTION ORDER PURSUANT TO §18-1-1001, C.R.S.	

Full name of Defendant	Date of Birth	Sex	Race	Weight	Height	Hair Color	Eye Color
<input type="checkbox"/> Protected Party alleges Weapon involved							
ALDRICH, ANDERSON LEE	5/20/2000	<input checked="" type="checkbox"/> M <input type="checkbox"/> F	W	260	604	BLK	GRN

Full name of Protected Party	Date of Birth	Sex	Race	Full name of Protected Party	Date of Birth	Sex	Race
PULLEN, PAMELA	12/16/1952	F	O	PULLEN, JONATHAN	2/13/1953	M	O
VEOPEL, LAURA	4/05/1977	F	O				

The Court finds it is appropriate to issue this Protection Order pursuant to §18-1-1001, C.R.S.

The Court finds that the Defendant ☐ is ☐ is not governed by the Brady Handgun Violence Prevention Act, 18 U.S.C. §922 (d)(8) and (g)(8).

Therefore, it is ordered that you the Defendant:

- ☒ 1. Shall not harass, molest, intimidate, retaliate against, or tamper with any witness to or victim of the acts you are charged with committing.
- ☒ 2. Shall vacate the home of the victim(s) or witness(es), and stay away from any other location the victim(s) or witness(es) is/are likely to be found.
- ☒ 3. Shall refrain from contacting or directly or indirectly communicating with the victim(s) or witness(es).
- ☐ 4. Shall not possess, purchase, or control a firearm or other weapon.
- ☐ 5. Shall not possess or purchase any ammunition.
- ☐ 6. Shall relinquish, for the duration of the order, any firearm or ammunition in your immediate possession or control, or subject to your immediate possession or control, and shall do so within (hours) for firearms and within day(s) for ammunition. If you are in custody and cannot relinquish firearms and ammunition, the court orders you to do so within 24 hours of your release from custody. You shall file proof of the relinquishment with the court, within 3 business days of the relinquishment as required by statute.
- ☐ 7. Shall not possess or consume alcoholic beverages or controlled substances.

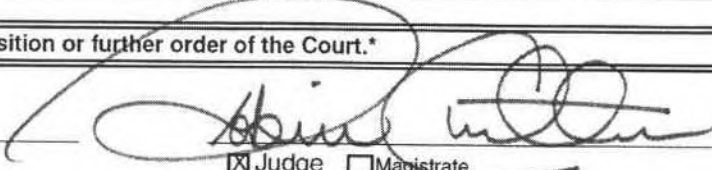
☐ 8. Is further ordered that: _____

No Contact except PHONE OR WRITTEN CONTACT FROM EL PASO COUNTY JUSTICE CENTE

R

This Order remains in effect until final disposition or further order of the Court.*

Date: ~~6/22/2021~~ 7/1/21


☒ Judge ☐ Magistrate

CHITTUM, ROBIN LYNN

Printed Name of Judicial Officer

By signing, I acknowledge receipt of this Order

Date: _____

I certify that this is a true and complete copy of the original order.

Date: 7-1-21

Defendant


Clerk

***Until final disposition of the action" means until the case is dismissed, until the Defendant is acquitted, or until the Defendant completes his or her sentence. Any Defendant sentenced to probation is deemed to have completed his or her sentence upon discharge from probation. A Defendant sentenced to incarceration is deemed to have completed his or her sentence upon release from incarceration and discharge from parole supervision. (§18-1-1001(8)(b), C.R.S)

IMPORTANT INFORMATION ABOUT PROTECTION ORDERS

THIS ORDER IS IN EFFECT UNTIL THE DISPOSITION OF THIS ACTION, OR IN THE CASE OF AN APPEAL, UNTIL THE DISPOSITION OF THE APPEAL.

This order is accorded full faith and credit and shall be enforced in every civil or criminal court of the United States, Indian Tribe or a United States Territory pursuant to 18 U.S.C. Sec. 2265. The issuing court has jurisdiction over the parties and the subject matter. The Defendant has been given reasonable notice and opportunity to be heard.

NOTICE TO DEFENDANT

- ✓ **A knowing violation of a Protection Order is a crime under §18-6-803.5, C.R.S.** A violation may subject you to fines of up to \$5,000.00 and up to 18 months in jail. A violation will also constitute contempt of court.
- ✓ You may be arrested without notice if a law enforcement officer has probable cause to believe that you have knowingly violated this Order.
- ✓ If you violate this Order thinking that a victim or witness has given you permission, **you are wrong**, and can be arrested and prosecuted.
- ✓ The terms of this Order cannot be changed by agreement of the victim(s) or witness(es). **Only the Court can change this Order.**
- ✓ You may apply at any time for the modification or dismissal of this Protection Order.
- ✓ Possession of a firearm while this Protection Order is in effect or following a conviction of a misdemeanor crime of domestic violence, may constitute a felony under Federal Law 18 U.S.C. §922(g)(8) and (g)(9).
- ✓ Firearm and ammunition relinquishment must be in accordance with §18-1-1001(9)(b), C.R.S. Failure to comply with the order to relinquish may result in an arrest warrant.

NOTICE TO LAW ENFORCEMENT OFFICERS

- ✓ You shall use every reasonable means to enforce this Protection Order.
- ✓ You shall arrest, or take into custody, or if an arrest would be impractical under the circumstances, seek a warrant for the arrest of the Defendant when you have information amounting to probable cause that the Defendant has violated or attempted to violate any provisions of this Order and the Defendant has been properly served with a copy of this Order or has received actual notice of the existence of this Order.
- ✓ You shall enforce this Order even if there is no record of it in the Protection Order Central Registry.
- ✓ You shall take the Defendant to the nearest jail or detention facility utilized by your agency.
- ✓ You are authorized to use every reasonable effort to protect the Protected Parties to prevent further violence.
- ✓ You may transport, or arrange transportation to a shelter for the Protected Parties.

NOTICE TO PROTECTED PERSON

- ✓ You may request the prosecuting attorney to initiate contempt proceedings against the Defendant.

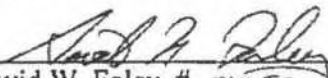
Redacted

DISTRICT COURT El Paso County, State of Colorado 270 S. Tejon Street Colorado Springs, CO 80903 Ph. (719) 452-5000	DATE FILED: July 19, 2021 1:33 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff(s)	
vs.	
ANDERSON ALDRICH, Defendant	
Attorney for Defendant: JAMES W. NEWBY, LLC Joshua Lindley, # 47427 128 S. Tejon St., Ste. 402 Colorado Springs, CO 80903 Phone: (719) 247-2700 E-mail: joshua@jamesnewbylaw.com	Case Number: 21CR3485 Division: 19 Courtroom:
SUBSTITUTION OF COUNSEL	

COMES NOW, attorney David Foley, Counsel for Anderson Aldrich, and hereby withdraws as Counsel of Record for the Defendant.

Respectfully submitted this 17th day of July, 2021.

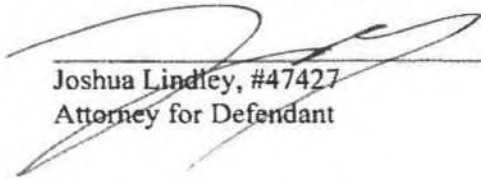
LAW OFFICE OF DAVID W. FOLEY


David W. Foley, # 30252
Attorney for Defendant

COMES NOW, attorney Joshua Lindley, and enters his appearance as Counsel of record for Defendant, Anderson Aldrich. All notices and pleadings may be addressed and sent to the address above.

Respectfully submitted this 19th day of July, 2021.

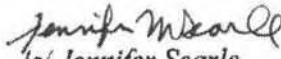
LAW OFFICE OF JAMES NEWBY


Joshua Lindley, #47427
Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that on the 19th day of July, 2021 a copy of this *Substitution of Counsel* was served on the District Attorney's Office by E-file to the following:

El Paso County District Attorney
105 E. Vermijo Ave.
Colorado Springs, CO 80903


/s/ Jennifer Searle
Paralegal for James Newby Law

Redacted

FILED IN THE DISTRICT AND
COUNTY COURTS OF
PASO COUNTY, COLORADO

AUG 02 2021

Sherry King,

SHERI KING
CLERK OF COURT

7/27/21

DATE FILED: August 02, 2021 10:56 AM

HELLO, MY NAME IS ANDERSON ANDRICH.
I AM WRITING SO THAT I CAN GET COPIES
OF MY ARREST AFFIDAVIT OF MY ONGOING
CASES. I WOULD GREATLY APPRECIATE THE COPIES AS
SOON AS POSSIBLE. THANKS YOU.

Sincerely

ANDERSON ANDRICH
X A A

Redacted

<input type="checkbox"/> Municipal Court <input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile <input type="checkbox"/> Denver Probate <u>District Court, El Paso County</u> Court Address: 270 S. Tejon <div style="text-align: center;">Colorado Springs, CO. 809030000</div>	FILED DISTRICT COURT COURTS-EL PASO CO., CO DATE FILED: August 05, 2021 3:55 PM AUG 05 2021 DIVISION 19 ▲ COURT USE ONLY ▲ Case Number: D0212021CR003485 Division: 19
The People of the State of Colorado v. Defendant: ALDRICH, ANDERSON LEE Address: TRANSIENT MANITOU <div style="text-align: center;">COLORADO SPRINGS, CO. 80925</div>	
MANDATORY PROTECTION ORDER PURSUANT TO §18-1-1001, C.R.S.	

Full name of Defendant	Date of Birth	Sex	Race	Weight	Height	Hair Color	Eye Color
<input type="checkbox"/> Protected Party alleges Weapon involved							
ALDRICH, ANDERSON LEE	5/20/2000	<input checked="" type="checkbox"/> M <input type="checkbox"/> F	W	260	604	BLK	GRN

Full name of Protected Party	Date of Birth	Sex	Race	Full name of Protected Party	Date of Birth	Sex	Race
PULLEN, PAMELA	12/16/1952	F	O	PULLEN, JONATHAN	2/13/1953	M	O
VEOPEL, LAURA	4/05/1977	F	O				

The Court finds it is appropriate to issue this Protection Order pursuant to §18-1-1001, C.R.S.

The Court finds that the probable cause statement or arrest warrant ☐ does ☐ does not include a crime that includes an act of domestic violence, as defined by 18-6-800.3(1).

Therefore, it is ordered that you the Defendant:

- ☒ 1. Shall not harass, molest, intimidate, retaliate against, or tamper with any witness to or victim of the acts you are charged with committing.
- ☒ 2. Shall vacate the home of the victim(s) or witness(es), and stay away from any other location the victim(s) or witness(es) is/are likely to be found.
- ☒ 3. Shall refrain from contacting or directly or indirectly communicating with the victim(s) or witness(es).
- ☐ 4. Shall not possess, purchase, or control a firearm or other weapon.
- ☐ 5. Shall not possess or purchase any ammunition.
- ☐ 6. Shall relinquish, for the duration of the order, any firearm or ammunition in your immediate possession or control, or subject to your immediate possession or control, and shall do so within _____ hours (24, unless the court finds good cause to provide additional time) of being served with this order, excluding legal holidays and weekends. If you are in custody and cannot relinquish firearms and ammunition, the court orders you to do so within 24 hours of your release from custody. You shall complete an affidavit and file it along with proof of relinquishment with the court within 7 business days of the date of this order as required by statute.
- ☐ 7. Shall not possess or consume alcoholic beverages or controlled substances.


☐ 8. Is further ordered that: _____

No Contact except 08-05-21 COURT ALLOW DEFT TO RETURN TO LAURA VEOPEL HOME A

ND HAVE CONTACT WITH LAURA VEOPEL: PHONE OR WRITTEN CONTACT FROM FT PASO GJC

This Order remains in effect until final disposition or further order of the Court.*

Date: 8/05/2021


☒ Judge ☐ Magistrate

CHITTUM, ROBIN LYNN

Printed Name of Judicial Officer

By signing, I acknowledge receipt of this Order

Date: 08/05/21

I certify that this is a true and complete copy of the original order.

Date: 8-5-21

ANDERSON AIDAN
Defendant

Chad Dees
Clerk

"Until final disposition of the action" means until the case is dismissed, until the Defendant is acquitted, or until the Defendant completes his or her sentence. Any Defendant sentenced to probation is deemed to have completed his or her sentence upon discharge from probation. A Defendant sentenced to incarceration is deemed to have completed his or her sentence upon release from incarceration and discharge from parole supervision. (§18-1-1001(8)(b), C.R.S)

IMPORTANT INFORMATION ABOUT PROTECTION ORDERS

THIS ORDER IS IN EFFECT UNTIL THE DISPOSITION OF THIS ACTION, OR IN THE CASE OF AN APPEAL, UNTIL THE DISPOSITION OF THE APPEAL.

This order is accorded full faith and credit and shall be enforced in every civil or criminal court of the United States, Indian Tribe or a United States Territory pursuant to 18 U.S.C. Sec. 2265. The issuing court has jurisdiction over the parties and the subject matter. The Defendant has been given reasonable notice and opportunity to be heard.

NOTICE TO DEFENDANT

- ✓ **A knowing violation of a Protection Order is a crime under §18-6-803.5, C.R.S.** A violation may subject you to fines of up to \$5,000.00 and up to 18 months in jail. A violation will also constitute contempt of court.
- ✓ You may be arrested without notice if a law enforcement officer has probable cause to believe that you have knowingly violated this Order.
- ✓ If you violate this Order thinking that a victim or witness has given you permission, **you are wrong**, and can be arrested and prosecuted.
- ✓ The terms of this Order cannot be changed by agreement of the victim(s) or witness(es).
Only the Court can change this Order.
- ✓ You may apply at any time for the modification or dismissal of this Protection Order.
- ✓ Possession of a firearm while this Protection Order is in effect or following a conviction of a misdemeanor crime of domestic violence, may constitute a felony under Federal Law 18 U.S.C. §922(g)(8) and (g)(9).
- ✓ Firearm and ammunition relinquishment must be in accordance with §18-1-1001(9)(b), C.R.S. Failure to comply with the order to relinquish may result in an arrest warrant.

NOTICE TO LAW ENFORCEMENT OFFICERS

- ✓ You shall use every reasonable means to enforce this Protection Order.
- ✓ You shall arrest, or take into custody, or if an arrest would be impractical under the circumstances, seek a warrant for the arrest of the Defendant when you have information amounting to probable cause that the Defendant has violated or attempted to violate any provisions of this Order and the Defendant has been properly served with a copy of this Order or has received actual notice of the existence of this Order.
- ✓ You shall enforce this Order even if there is no record of it in the Protection Order Central Registry.
- ✓ You shall take the Defendant to the nearest jail or detention facility utilized by your agency.
- ✓ You are authorized to use every reasonable effort to protect the Protected Parties to prevent further violence.
- ✓ You may transport, or arrange transportation to a shelter for the Protected Parties.

NOTICE TO PROTECTED PERSON

- ✓ You may request the prosecuting attorney to initiate contempt proceedings against the Defendant.

OPT IN: YES ☒ NO ☐

PHONE #: Redacted

<input type="checkbox"/> Municipal Court <input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <u>E/BSO</u> County, Colorado Court Address: <u>270 S Tejon St C.S. CO 8</u> <u>v. Aldrich, Anderson Lee</u>	DATE FILED: August 09, 2021 3:46 PM COURT USE ONLY Case Number: <u>21CR3485</u> Arrest Number: Warrant Number: Division <u>19</u> Courtroom
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APPEARANCE BOND

Bond Type: ☒ Bail Bonding Agent * ☐ Cash/Self** ☐ Cash/Surety*** ☐ PR/Self ☐ PR/Surety ☐ Property
 Bond Posted For: ☒ Defendant ☐ Respondent ☐ Plaintiff ☐ Petitioner ☐ Child
 Name of Party (print or type): Anderson Lee Aldrich Date of Birth: 5-20-00

The Party, as principal, and (print or type): Randy L Riggan, as
 surety, acknowledge that we are jointly and severally bound to the People of the State of Colorado, in the penal sum of
one hundred thousand \$100,000.00 DOLLARS, if there is a default upon the
 primary condition of this Bond. The bail agent charged a premium in the amount of \$ per Law. The primary condition of this
 Bond is that the Party shall personally appear in the (Court name and address):
SAME AS ABOVE

on Aug 26-21 (return date), at 01:30pm (time) and at each place, and upon each date, to which this
 proceeding is transferred or continued, until entry of an order for deferred prosecution or deferred judgment, plea of guilty, *nolo*
contendere or conviction (unless the written consent of the sureties is filed of record), to answer charges of:
1st degree kidnapping without Bodily injury X3

NOTE: If the return date and time is a legal holiday or a weekend, the return date is a mandatory appearance on the first business day thereafter.

Additional Conditions: (1) Party may not leave the state without approval of the Court and the surety; (2) Party shall not commit a felony while at liberty on bail; (3) Party acknowledges the existence of a Mandatory Protection Order under §18-1-1001, C.R.S.; (4) Party shall immediately notify the Court of any change of mailing address or residence.

☐ Pursuant to §18-3-503, C.R.S. you shall execute a waiver that states you understand that the bond or fees shall be forfeited if the Defendant is removed from the country.

☐ If you have been arrested for a Felony offense, you shall sign a written waiver of extradition indicating you waive all formal proceedings in the event you are arrested in another state and you agree to be returned to Colorado.

☐ No Weapons ☐ No Alcohol ☐ No Drugs ☐ No Driving Without a Valid License ☐ Random UA's ☐ Random BA's ☐ Daily BA's ☐ GPS Monitoring

☐ Substance Abuse Monitoring ☐ Electronic Substance Abuse Monitoring ☐ Electronic Home Monitoring ☐ Other _____

☐ Pre-trial Supervision _____ (contact information) ☐ Other _____

☐ No Contact with _____ ☐ Other _____

If the Party fails to comply with any of the conditions of this Bond, the Court may revoke the Party's release on bail, increase the amount of bail or modify bond conditions. This Bond will be forfeited if the party does not appear in Court as required by the primary bond condition.

Party Signature: Anderson Aldrich Address (Street, City, State, & Zip Code): 7833 Luminary LN Fountain CO 80817 Telephone Number: 951-940-3012

Surety/Bonding Agent * /Bonding Commissioner/Judge Signature: Randy Riggan Address (Street, City, State, & Zip Code): 4833 Front St B413 Castle Rock CO 80104 Telephone Number: 303-660-9922

Agent License No.: 300188 Power of Attorney No.: Cash equal

Surety Other than Bonding Agent ** Signature _____ Address (Street, City, State, & Zip Code) _____ Telephone Number _____

* Bonding Agent Certification: Agent, by executing this Bond, warrants and represents to the Court, under oath, and under penalty of perjury: (1) that agent is not currently in default in payment of any final judgment upon any bail bond forfeited in any Colorado jurisdiction; (2) that agent is duly licensed by the State of Colorado to execute this Bond; (3) that agent, if a non-cash agent, is currently appointed by the corporate surety whose power of attorney accompanies this Bond.

**If the Defendant posted the bond, the Court may apply the bond deposited toward any amount owed by the Defendant.

***Surety Cash Deposit: The bond deposited ☐ may or ☐ may not be applied toward any amount owed by the Defendant.

Cash Surety (Signature) _____ Print Name _____

Any remaining amount of the bond deposited will be returned to the depositor.

Executed and Acknowledged by the above named in the presence of the undersigned at: CSC (name of court or facility where bond written).



By: SD 21033
 Deputy Clerk/Sheriff (As to Surety/Bonding Agent)

Date: 8/7/2021 Time: 20:5

By: 1802
 Deputy Clerk/Sheriff (As to Defendant)

Date: 8/7/21 Time: 2:10

Redacted

District Court El Paso County, State of Colorado 270 S Tejon St Colorado Springs, CO 80901	  FILED: August 09 09:47 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. Anderson Lee Aldrich Defendant	▲ Court Use Only ▲ Case# <u>21</u> CR <u>3485</u> Division <u>19</u> Courtroom _____
PRE-SIGNED WAIVER OF EXTRADITION AS A CONDITION OF BAIL BOND PURSUANT TO 16-4-103, C.R.S.	

I, **Anderson Lee Aldrich** HAVE BEEN ARRESTED FOR A FELONY OFFENSE ON 6/18/2021 AND AS A
CONDITION OF BAIL BOND CONSENT TO THE FOLLOWING:

1. IF I AM ARRESTED IN ANOTHER STATE, I CONSENT TO EXTRADITION TO THE STATE OF COLORADO.
2. I WILL NOT RESIST OR FIGHT ANY EFFORT BY ANY STATE TO RETURN ME TO THE STATE OF COLORADO AND WAIVE ALL
FORMAL EXTRADITION PROCEEDINGS.
3. I UNDERSTAND I SHALL NOT BE ADMITTED TO BAIL IN ANY OTHER STATE PENDING EXTRADITION TO COLORADO.
4. I AGREE TO WAIVE ANY RIGHT I MAY HAVE TO CONTEST MY EXTRADITION AND I WAIVE THIS RIGHT FREELY,
VOLUNTARILY, AND INTELLIGENTLY.

DATE: 8/7/2021

Anderson Aldrich
(Defendant's Signature)

Anderson Lee Aldrich
(Print Full Name)

The foregoing PRE-SIGNED WAIVER OF EXTRADITION AS A CONDITION OF BAIL BOND was subscribed and affirmed
before me in the county of EL PASO, State of Colorado, this 7, day of August, 2021.

Teagan Connor
Notary's Official Signature
7/18/24
Commission Expiration

TEAGAN CONNOR
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20204006792
MY COMMISSION EXPIRES FEBRUARY 18, 2024

Redacted

DISTRICT COURT El Paso County, State of Colorado 270 S. Tejon Street, PO Box 2980 Colorado Springs, CO 80903	DATE FILED: August 16, 2021 11:16 AM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff(s) vs. Anderson Aldrich, Defendant	
Attorney for Defendant: JAMES W. NEWBY, LLC Joshua Lindley, # 47427 128 S. Tejon St., Ste. 402 Colorado Springs, CO 80903 Phone: (719) 247-2700 Fax (719) 635-7625 E-mail: joshua@jamesnewbylaw.com	Case Number: 2021CR3485 Division: 19
MOTION TO COMPEL RELEASE OF EVIDENCE	

COMES NOW, the Defendant, Anderson Aldrich, by and through his attorney, Joshua Lindley, and hereby files this Motion to Compel the Release of certain pieces of evidence as follows. As grounds for this motion, the Defendant state as follows:

1. Mr. Aldrich was charged with kidnapping and menacing. Deputies seized a number of pieces of evidence in this case. At issue for this motion is a credit card belonging to Laura Voepel, a wallet belonging to Mr. Aldrich and a Vehicle belonging to Mr. Aldrich.
2. Mr. Aldrich recently bonded out of custody and is trying to comply with Court orders to . He has started but is running into a number of issues since he no longer has his ID, bank cards, and transportation. His mother Laura Voepel is also without transport at the moment and her credit card and would like her card released as soon as possible. The Court was made aware of the issues Mr. Aldrich is facing and having these few necessities back in his life will allow him to continue to achieve the that he requires. Mr. Aldrich is using the rides he can at the moment to facilitate , but he cannot get a ride nor pay for all of his appointments without his car, Driver's license and bank cards.
3. Mr. Aldrich has tried numerous times to retrieve these items from the Sheriff's office last week. They have stated that the items are logged as evidence and cannot be released while the case is pending. EPSO sent an email to DDA Park requesting her view on releasing the items early last week. Counsel for Mr. Aldrich has reached out

numerous times in person and by email to Ms. Park last week to make her aware of the request. As of this morning the request has not been answered. In short, Counsel has exhausted all other opportunities for release before filing this motion.

4. Mr. Aldrich is requesting the following items and waives any possible exculpatory value in their release.
 - a. Evidence Bar Code
1 BRO WALLET CONTAINING 1 CO DL FOR ANDERSON, 5 AAA CARDS,
1 VISA # 1 VISA #
 - b. Evidence Bar Code
1 VISA CARD# 1 VISA CARD # BELONGING TO LAURA
VOEPEL
 - c. Evidence Bar Code
TOYOTA HIGHLANDER Serial #: GOLD
VIN: License Plate:

1 2012 GOLD TOY HIGHLANDER
5. Furthermore, all of the items requested are not subject to civil forfeiture and have been held in evidence since June 18th of 2021. Which is plenty of time for any other search warrants to have been drawn up and executed if necessary and according to evidence the only person who can authorize such release is the Prosecutor indicating no other law enforcement need for the items.
6. Counsel for Mr. Aldrich gave notice to the Court and to the People at the last court appearance about the request for the vehicle to be released and was made aware of the wallet last week.

WHEREFORE, the Defendant respectfully request this Court Compel the Prosecutor to release the above items as soon as possible or require a written response as to why the items are to remain in evidence.

Respectfully submitted this 16th day of August, 2021.

James W. Newby, LLC

/s/ Joshua Lindley

Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that on the 16th day of August, 2021, a copy of the foregoing was served by E-file to the following:

El Paso County District Attorney
105 E. Vermijo Ave.
Colorado Springs, CO 80903

/s/ Jennifer Searle
Legal Assistant for James Newby Law

Redacted

Robert L. Pullen Jr.

FILED IN THE DISTRICT AND
COUNTY COURTS OF
EL PASO COUNTY, COLORADO
FILED: December 02, 2021
DEC 02 2021

November 29, 2021

SHERI KING
CLERK OF COURT

Honorable Robin Chittum
4th Judicial District Judge
270 S. Tejon
Colorado Springs, CO 80903

RE: Anderson Aldrich
Case #D212021CR3485

Your Honor,

My name is Robert L. Pullen Jr, and I am a retired Business Manager with the OPCMIA Union in California. I worked for this union for almost 50 years as a plasterer, as well as my father and grandfather. I was well known as a professional plasterer and held with high esteem by my fellow workers and the union. I have been retired for 10 years and now reside in the State of Hawaii with my wife. My wife and I have 4 children, 7 grandchildren, and 5 great-grandchildren – and we have a close, loving relationship with each one.

My name is Jeanie M. Streltsoff, and I am the older sister of Jonathan Pullen and sister to Robert L. Pullen Jr. I reside in Thousand Oaks, California with my husband John Streltsoff of 50 years. I am including my signature to this letter to attest to the facts stated herein

The above defendant, Anderson Aldrich, is the 21-year-old grandson (by marriage) of my younger brother Jonathan Pullen and has been raised by him and his wife (Anderson's blood grandmother, Pamela Pullen) since a small child. I have known Anderson since he came into the home of my brother and his wife through visits and kept abreast of him through visits and conversations with my brother.

Through the years we have watched as Anderson was brought up without limitations by his grandmother and given all that he wanted. At the same time there was no respect or boundaries as how he treated my brother Jonathan. My brother and I had many conversations over the years about this young man and what could be done, but nothing changed. Anderson was given everything he wanted and repeatedly disrespected those around him, especially Jonathan.

- Anderson has always been home schooled because he could not get along with any of his classmates.
- When my brother's family lived in San Antonio during Anderson's high school years, he attacked my brother; my brother then had to go to the ER and was diagnosed with My brother lied to the doctors at the ER about how it happened due to being afraid of Anderson's anger if he was picked up by the police.
- When the family moved to Colorado several years ago, my brother was threatened various times, but he was too scared to confront Anderson.
- Anderson has never held a job and lives off my brother and his wife.

- Since moving to Colorado to their new home, he punched holes in the walls, broken windows, broken locks – my brother and his wife had to sleep in their bedroom with the door locked and bat by the bed.
- The police were called to the house previously, but Anderson threatened my brother if he told them anything.
- There was an event after the above where Anderson was picked up for 72 hours but was released early.
- There was also a time when they went to a counselor; the counselor contacted the police afterwards. The police went to the home as they were contacted by the counselor and wanted to hold him for 72 hours....the grandmother Pam would not let him be taken.
- The event leading up to Anderson's arrest was that he threatened to kill my brother and his wife. He had guns in the house, along with ammunition – they fled the house in fear of their lives.
- Jonathan's wife Pam told my brother after his arrest that she had given him \$30,000 recently; much of which went to his purchase of two 3D printers – on which he was making guns. One of which arrived at the house after his arrest and was returned.
- My brother lived in a virtual prison – even the neighbors would not come near their home due to the shouting and atmosphere.
- My brother and his wife moved to Florida shortly after all the commotion that led to Anderson's arrest.
- We feel certain that if Anderson is freed that he will hurt or murder my brother and his wife.

We believe that my brother, and his wife, would undergo bodily harm or more if Anderson were released. Besides being incarcerated, we believe Anderson needs therapy and counseling.

We truly believe my above points to be true and valid.

Respectfully submitted,

Robert L. Pullen, Jr.
Robert L. Pullen Jr.

Nov 29, 2021
Dated

Jeanie M. Streltsoff (Pullen)
Jeanie M. Streltsoff

11/29/2021
Dated

Redacted

DISTRICT COURT El Paso County, Colorado Court address: P.O. Box 2980 Colorado Springs, CO 80901-2980 Phone Number: (719) 452-5352 & 5353 (Division 19)	DATE FILED: January 28, 2022 1:06 PM Court Use Only
PEOPLE OF THE STATE OF COLORADO v. ANDERSON LEE ALDRICH, Defendant	
	Case Number: 21CR3485 Division: 19 Courtroom: S404
CRIMINAL TRIAL MANAGEMENT ORDER	

DISCOVERY: Discovery shall be completed no later than 35 days before trial.

DISTRICT ATTORNEY: Must comply with C.R.Crim.P. 16

- Must provide to the defendant and the Court a good faith list of witnesses (including addresses and telephone numbers, if available) no later than 35 days before trial. Late endorsements will only be considered upon proper motion, notice, and hearing.
- Must provide to the defendant and the Court any C.R.E. 404(b) materials and formal notice of intent to introduce if needed.
- Must provide to the defendant any witness statements obtained by the District Attorney's office during trial preparation which are substantially different from any statements previously made to the police or others.
- Must provide written notice to the defendant of any benefit given to a witness in exchange for his or her testimony.

DEFENDANT: Must comply with C.R.Crim.P. 16

- Must provide to the District Attorney and the Court the nature of the defense, good faith list of witnesses (including addresses and telephone numbers, if available), designation of affirmative defenses, and notice of alibi no later than 35 days before trial.
- Must provide to the District Attorney any C.R.E. 404(a)(2) information.

MOTIONS: Substantive motions shall be filed no later than 35 days after the arraignment date unless a specific exception is made by the Court.

- The moving party shall set any substantive motions for hearing to be held no later than 35 days prior to trial. Unless agreed to by both parties, the Court will not rule on any substantive motion without a hearing.
- Written responses are not required but appreciated. Any precedent which counsel wishes the Court to consider should be submitted 48 hours prior to the motions hearing.

PRETRIAL READINESS HEARING: There will be a Pretrial Readiness Hearing set on the Thursday two weeks prior to the trial date.

- Any motions to continue must be filed by Pretrial Readiness and will be addressed at Pretrial Readiness. Motions to continue will not be considered the morning of trial absent exceptional circumstances.
- Formal motions in limine must be filed prior to Pretrial Readiness. These will either be addressed at Pretrial Readiness or the morning of trial.
- Uncomplicated admissibility determinations may be requested verbally the morning of trial. If there is a specific issue regarding admissibility which is known, this must be addressed before commencement of trial testimony.

TRIAL DOCUMENTS:

- Proposed supplemental jury questionnaires must be submitted by the Pretrial Readiness hearing.
- The District Attorney must submit the documents needed for juror notebooks by end of business the Friday before trial. These may be submitted by email to Division 19 staff. The following documents are needed for the notebooks: Joint List of Potential Witnesses (including both prosecution and defense witnesses) and Statement of the Case. Counsel are expected to discuss and agree upon the contents of these documents if possible.
- The District Attorney is required to provide an exhibit list to the Court, the court reporter, and to the defense prior to commencement of jury selection.
- The District Attorney is to email a complete draft set of instructions to Division 19 staff and defense counsel by end of business the Friday before trial commences.
- Any proposed defense instructions are to be submitted by end of business the Friday before trial commences if possible.

SEQUESTRATION:

- Pursuant to C.R.E. 615, an Order of Sequestration of Witnesses is in effect for all cases tried in Division 19. Counsel are expected to advise their witnesses of the sequestration order in advance of trial. Counsel is responsible for ensuring their witnesses do not enter the courtroom before testifying.

VOIR DIRE, OPENING, AND CLOSING:

- A modified civil voir dire will be used. Voir dire will be of all jury panel members in the courtroom, not just those in the jury box.
- Challenges for cause will be addressed outside the presence of the jury or at the bench.
- Peremptory challenges will be made aloud from counsel table in the presence of the jury.
- Peremptory challenges may be exercised on any potential juror in the courtroom – whether in the jury box or not. In other words, if a party is satisfied with the panel in the jury box and waives their remaining peremptory challenges. They cannot exercise a peremptory challenge on a potential juror who later moves into the box.
- If an alternate juror is to be seated, the Court will determine a seat number designated for the alternate juror prior to starting voir dire and share with the parties. Whatever juror is seated in that chair at the end of jury selection will be the alternate juror.
- This Court does not allow mini-opening statements or any discussion of the facts of the case during voir dire. However, it may be appropriate to raise sensitive issues – such as domestic violence, drugs or firearms – during jury selection. This should be discussed with the Court and parties prior to voir dire.
- Unless modified by the Court for complex or exceptional trials, each side will have 30 minutes for voir dire.
- This Court does not place time limitations on opening statements and closing arguments unless they become unreasonable.

EXHIBITS:

- All trial exhibits must be labeled prior to trial. The Court is only responsible for exhibits after they have been formally admitted into evidence.
- If an exhibit involves media (DVD, digital or audio recording, etc.), counsel is responsible to secure clean technology to present the media in the courtroom and for the jury to review the media during deliberations, if appropriate.



Robin Chittum, District Court Judge

Redacted

District Court, El Paso County, State of Colorado 270 S. Tejon St Colorado Springs, CO 80903	DATE FILED: April 06, 2022 12:26 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiffs,	
v.	
Anderson Aldrich,	▲ COURT USE ONLY ▲
Defendant.	
Attorney for Defendant: JAMES W. NEWBY, LLC Joshua Lindley, # 47427 128 S. Tejon Street, Suite 402 Colorado Springs, CO 80903 Phone: (719) 247-2700 Fax: (719) 635-7625 E-mail: joshua@jamesnewbylaw.com	Case No: 2021CR3485 Div. 19
NOTICE: ENDORSEMENT OF WITNESSES AND THEORY OF DEFENSE	

COMES NOW, Anderson Aldrich, Defendant by and through his undersigned counsel, Joshua P. Lindley, of James Newby Law LLC, and hereby gives notice of the following witnesses may be called by the defense to testify at trial:

1. Any and all **witnesses endorsed by the prosecution in this case**. Defense notices that that the Prosecution has not provided any updates to information, including no address changes, expert endorsements, resumes of any proposed experts, and the areas of expertise in which they will be endorsed. Defense has not received any background checks of endorsed witnesses, officers CVs, a list of the trainings and materials used or relied upon by the investigating officers as of the date of this filing.
2. Any witness whose name appears in the discovery provided by the prosecution or whose information is found within the discovery provided by the prosecution through 911 calls, body worn camera footage or any other persons listed and disclosed from the Prosecution to the Defense. The names and addresses of such witnesses are currently within the possession and control of the prosecution and their agents.
3. Any witness that may be necessary for impeachment purposes. It is impossible to determine with complete certainty what, if any, impeachment witnesses will be necessary until trial.
4. Defendant has not been given any notice of 404b evidence or any other charges, statements, victims other than what was filed in the felony complaint and discovery with the last discovery received on September 9th, 2021. Defendant notices compliance of the

Court's trial management order in filing this endorsement and relies on that same order in return.

5. Mr. Aldrich notifies the Court and the District Attorney that the following defenses may be used at trial- since the charge and allegations vary in their degree and complexity more than one defense may or may not apply to alleged charges:

**General Denial;
Voluntary Intoxication;
and
Mistake of Fact.**

Respectfully submitted on April 6, 2022.

/s/ Joshua P. Lindley

CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2022, I served a true and correct copy of the foregoing electronically through the ICCES system to the following:

Office of the District Attorney
105 E. Vermijo
Colorado Springs, CO 80903

/s/Jennifer Searle

Paralegal to James Newby Law

Redacted

DATE FILED: April 18, 2022 8:33 AM

District Court, El Paso County, Colorado Terry R Harris Judicial Building 270 South Tejon Street Colorado Springs, CO 80903 (719) 448-7650	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
THE PEOPLE OF THE STATE OF COLORADO vs. Anderson Lee Aldrich, Defendant	
Michael J Allen DISTRICT ATTORNEY BY: Younsung Park Deputy District Attorney El Paso County District Attorney's Office 105 E. Vermijo Avenue Colorado Springs, CO 80903 Telephone: (719) 520-6000 Fax: (719) 520-6172 Attorney Registration No.: 53332	
Case No:D0212021CR003485 Division 19	
NOTICE OF ENDORSEMENT OF WITNESS	

MICHAEL J ALLEN, District Attorney in and for the Fourth Judicial District, State of Colorado, hereby notifies the defense and court of the endorsement of the following witnesses in the above-entitled case.

Bethany Gibson
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Pamela Pullen

Jonathan Pullen

Laura Voepel

Jared Harmon
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Robert Frederiksen
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Travis Mundt
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Wesley Woodworth
US Public Safety Bomb Technician
Colorado Springs Police
705 South Nevada Avenue
Colorado Springs, CO 80903

Shawn Mahon
Colorado Springs Police
705 South Nevada Avenue
Colorado Springs, CO 80903

Seth Fritsche
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Curtis Lenz
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Evelyn Peak
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Courtney Zohrlaut
El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Any DAO investigator or paralegal
Any witness listed in discovery
Any witness necessary for rebuttal
Any witness endorsed by defendant
Any witnesses necessary to authenticate records or establish chain of custody

Respectfully submitted this 18 day of April, 2022.

By: /s/ Younsung Park Date: 04/18/2022
Younsung Park #: 53332
Deputy District Attorney

CERTIFICATE OF SERVICE

I certify that on this 18th day of April, 2022, a true and correct copy of the foregoing Notice To Endorse was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances herein according to Colorado Courts E-Filing.

By: /s/Stephanie Duggan

Redacted

DATE FILED: April 20, 2022 7:48 AM

District Court, El Paso County, Colorado Terry R Harris Judicial Building 270 South Tejon Street Colorado Springs, CO 80903 (719) 448-7650	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
THE PEOPLE OF THE STATE OF COLORADO vs. Anderson Lee Aldrich, Defendant	
Michael J Allen DISTRICT ATTORNEY BY: Younsung Park Deputy District Attorney El Paso County District Attorneys Office 105 E. Vermijo Avenue Colorado Springs, CO 80903 Telephone: (719) 520-6000 Fax: (719) 520-6172 Attorney Registration No.: 53332	
Case No:D0212021CR003485 Division 19	
AMENDED NOTICE OF ENDORSEMENT OF WITNESS (1)	

MICHAEL J ALLEN, District Attorney in and for the Fourth Judicial District, State of Colorado, hereby notifies the defense and court of the endorsement of the following witnesses in the above entitled case.

Belle Snow
911 Call Taker
C/O Court Liaison
CSPD
705 South Nevada Avenue
Colorado Springs, CO 80903

Respectfully submitted this 20 day of April, 2022.

By: /s/ Younsung Park Date: 04/20/2022
Younsung Park #: 53332
Deputy District Attorney

CERTIFICATE OF SERVICE

I certify that on this 20th day of April, 2022, a true and correct copy of the foregoing Notice To Endorse was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances herein according to Colorado Courts E-Filing.

By:BJ /s/

Redacted

District Court, El Paso County, State of Colorado Court: 270 S. Tejon St, Colo. Spgs., CO 80903	DATE FILED: June 30, 2022 8:51 AM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,	
v.	
ANDERSON LEE ALDRICH, Defendant.	▲ COURT USE ONLY ▲
<i>Attorney for Pamela C. Pullen</i> Aaron P. Gaddis, #37820, Aaron@gaddiscoloradolaw.com GADDIS LAW, LLC 10 Boulder Crescent Street, Ste. 301 Colorado Springs, CO 80903 Tel: (719) 578-3344 Fax: (719) 960 2640 Web: www.gaddiscoloradolaw.com	Case No: 2021CR3485 Div. 19
LIMITED REPRESENTATION AND OBJECTION AND MOTION TO QUASH SUBPOENA	

COMES NOW Aaron P. Gaddis of Gaddis Law, LLC and hereby enters a limited representation on behalf of Pamela C. Pullen. Mrs. Pullen respectfully request the Honorable Court quash her subpoena. As grounds therefore, the parties state the following:

1. Mrs. Pullen has retained the undersigned counsel for limited representation in the above caption case.
2. Mrs. Pullen is currently residing in the state of Florida and has become aware of a foreign subpoena left in her mailbox or front door but not given to anyone in the house and certainly not to Mrs. Pullen. Mrs. Pullen objects to the improperly served subpoena and moves to quash on separate grounds.
3. Mrs. Pullen has not been personally served in compliance with the laws of the state of Florida. Mrs. Pullen was never served by law enforcement, anyone over the age of 18, and by no one that is a party to the case. Even if she would have been properly served, the law governing Florida does not allow for an out of state subpoena in a criminal matter.
4. Pursuant to the terms of 2021 Florida state statute 92.251(8), *Uniform Interstate Depositions and Discovery Act*, the People's attempted to serve a subpoena upon Mrs. Pullen to appear in a foreign court of Colorado is inapplicable to criminal proceedings and improper.
5. Mrs. Pullen respectfully objects and motions the Court to quash Mrs. Pullen's subpoena and release her from all appearances until proper service is obtained.

WHEREFORE, Pamela C. Pullen prays this Honorable Court quashes the subpoena for improper service pursuant to 92.251 (8), *Uniform Interstate Depositions and Discovery Act*.

Respectfully submitted on June 30, 2022

/s/ Aaron P. Gaddis, #37820

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2022, I served a true and correct copy of the foregoing electronically through the ICCES system to the following:

Benjamin Marcolin Hostetter, DDA
Office of the District Attorney
105 E. Vermijo Avenue
Colorado Springs, CO 80903

Joshua P. Lindley
James W Newby, LLC
128 S. Tejon Street, Ste. 402
Colorado Springs, CO 80903

/s/ Amy J. Oberholser

Redacted

District Court, El Paso County, State of Colorado Court: 270 S. Tejon St, Colo. Spgs., CO 80903	
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,	DATE FILED: June 30, 2022 11:16 AM
v.	▲ COURT USE ONLY ▲
ANDERSON LEE ALDRICH, Defendant.	
Attorney for Pamela C. Pullen Aaron P. Gaddis, #37820, Aaron@gaddiscoloradolaw.com GADDIS LAW, LLC 10 Boulder Crescent Street, Ste. 301 Colorado Springs, CO 80903 Tel: (719) 578-3344 Fax: (719) 960 2640 Web: www.gaddiscoloradolaw.com	Case No: 2021CR3485 Div. 19
STATEMENT TO THE COURT BY PAMELA C. PULLEN	

I, Pamela C. Pullen make the following statement:

- 1.) I am a resident of _____
- 2.) I live in the State of Florida;
- 3.) I reside at the address of _____
- 4.) I have been a resident of _____ for the past year.
- 5.) I have not received any legal papers in person by anyone including that of a Florida law enforcement.
- 6.) I make this statement on my own free will for review of all parties of this case.

Dated this 30th day of June, 2022.

Pamela Pullen

Pamela Pullen (Jun 30, 2022 13:10 EDT)

Pamela C. Pullen

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2022, I served a true and correct copy of the foregoing electronically through the ICCES system to the following:

Benjamin Marcolin Hostetter, DDA
Office of the District Attorney
105 E. Vermijo Avenue
Colorado Springs, CO 80903

Joshua P. Lindley
James W Newby, LLC
128 S. Tejon Street, Ste. 402
Colorado Springs, CO 80903

/s/ Amy J. Oberholser

Statement to the Court by Pamela C. Pullen

Final Audit Report

2022-06-30

Created:	2022-06-30
By:	Aaron Gaddis (amy@gaddiscoloradolaw.com)
Status:	Signed
Transaction ID:	

"Statement to the Court by Pamela C. Pullen" History

-  Document created by Aaron Gaddis (amy@gaddiscoloradolaw.com)
2022-06-30 - 5:02:58 PM GMT - IP address:
-  Document emailed to Pamela Pullen for signature
2022-06-30 - 5:03:30 PM GMT
-  Email viewed by Pamela Pullen
2022-06-30 - 5:07:27 PM GMT - IP address:
-  Document e-signed by Pamela Pullen
Signature Date: 2022-06-30 - 5:10:18 PM GMT - Time Source: server- IP address:
-  Agreement completed.
2022-06-30 - 5:10:18 PM GMT



Adobe Acrobat Sign

Redacted

COUNTY COURT El Paso County, State of Colorado 270 S. Tejon Street Colorado Springs, CO 80903 Ph. (719) 452-5000		DATE FILED: July 7, 2022 10:40 AM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiffs,		
v.		▲ COURT USE ONLY ▲
Anderson Aldrich, Defendant.		Case No: 2021CR3485
Attorney for Defendant: JAMES W. NEWBY, LLC Joshua Lindley, # 47427 128 S. Tejon Street, Suite 402 Colorado Springs, CO 80903 Phone: (719) 247-2700 Fax: (719) 635-7625 E-mail: joshua@jamesnewbylaw.com		Div. 19
MOTION TO SEAL CRIMINAL JUSTICE RECORDS PURSUANT TO §24-72-705, C.R.S.		

COMES NOW the Defendant, Anderson Aldrich, in and through Counsel who represents the Defendant in the above captioned case and motions this Court to Seal his records as follows:

Defendant's Name: Anderson Aldrich Date of Birth: 05/20/2000

Current Mailing Address: 5362 N Nevada Ave Apt 104

City: Colorado Springs State: CO Zip Code: 80918 Phone: 951-440-4012

- ☐ I was acquitted of all charges on _____.
- ☒ The case was completely dismissed on 07/05/2022, and the dismissal was not part of a plea agreement in a separate case.
- ☐ I completed a diversion agreement on _____.
- ☐ I completed a deferred judgment and sentence on _____, and the deferred judgment and sentence does not pertain to any of the following offenses:
- A felony offense concerning the holder of a commercial driver's license or the operator of a commercial motor vehicle pursuant to § 42-2-402, C.R.S.
 - An offense for which the factual basis involved unlawful sexual behavior pursuant to § 16-22-102(9), C.R.S.

I have paid any and all restitution, fines, court costs, late fees or other fees ordered by the Court, or the Court has vacated such order(s).

The records in this case do not pertain to underage ethyl alcohol, marijuana, and paraphernalia offenses that are subject to the procedure set forth in § 18-13-122, C.R.S., and this case contains at least one charge that is not a class 1 misdemeanor traffic offense, class 2 misdemeanor traffic offense, class A traffic infraction, or class B traffic infraction. Charges in this case were not dismissed pursuant to § 16-8.5-116, C.R.S.

Agencies having records related to this case are:

☒ Sheriff's Department

☒ District Attorney

☒ Colorado Bureau of Investigation (Statute authorizes this agency to assess an additional fee to seal its records)

Law Enforcement Agency (identify): EP SO 21-7002

Other: _____

Arrest number (from fingerprint card): 2100006822 Date: 06/18/2021

I respectfully request that any criminal justice records, except identifying information, related to this case be sealed promptly pursuant to § 24-72-705, C.R.S.

☐ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

☒ By checking this box, I am acknowledging that I have made a change to the original content of this form. (Modified minor parts to allow Counsel to file this motion on Defendant's behalf.)

Respectfully submitted on July 7, 2022.

/s/ Joshua P. Lindley

Attorney 47427

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2022, I served a true and correct copy of the foregoing electronically through the ICCES system to the following:

Office of the 4th Judicial District Attorney

/s/Jennifer S. Hickethier

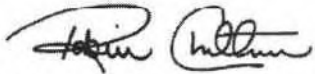
Paralegal to James Newby Law

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO	
Court Address: 270 S. TEJON, COLORADO SPRINGS, CO, 80903	DATE FILED: July 8, 2022 10:39 AM
THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s) ANDERSON LEE ALDRICH	△ COURT USE ONLY △ Case Number: 2021CR3485 Division: 19 Courtroom:
Order to Set	

The Defendant has filed a Motion to Seal. The District Attorney must be given the opportunity to object on behalf of the victim. Division 19 staff will contact the parties and have the issue placed on the criminal docket.

Issue Date: 7/8/2022



ROBIN LYNN CHITTUM
District Court Judge

Redacted

DISTRICT COURT EL PASO COUNTY, COLORADO Court Address: El Paso County Combined Courts 270 South Tejon Street Colorado Springs, CO 80903 Telephone No.: (719) 452-5000	DATE FILED: August 11, 2022 4:25 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,	↑ COURT USE ONLY ↑
vs.	Case Number: 21CR3485
ANDERSON ALDRICH, Defendant.	Division: 19 Ctrm: S404
ORDER TO SEAL ARREST AND CRIMINAL RECORDS PURSUANT TO C.R.S. § 24-72-705 (SIMPLIFIED PROCESS)	

Due to the circumstances in this case, the Court has determined that the defendant is eligible to have his/her criminal justice records sealed regarding this case. As such, the defendant has the option of immediately asking to have his/her criminal justice records sealed regarding this case, and the defendant has asked the Court to do so by making an oral motion in Court this date. The Court hereby orders the defendant to report to room S101 to arrange for payment of the \$65.00 filing fee required by statute. Upon payment of the \$65.00 filing fee or a determination of indigence and waiver of the fee, the Court orders that the criminal justice records relating to the above-captioned case shall be SEALED IMMEDIATELY except for basic identifying information, and that upon inquiry into the matter, the defendant and criminal justice agencies to which this Order is directed may properly reply that no such records exist with respect to such defendant.

The defendant is hereby notified that the Colorado Bureau of Investigation (CBI) is charging a separate fee relative to sealing arrest and criminal records. Upon receipt of this Order, CBI will be contacting the defendant via letter relative to CBI's fee and how payments are to be made to CBI. The contact information for CBI is: CBI Identification Unit, 690 Kipling Street, Suite 4000, Lakewood, Colorado 80215, Phone Number: (303)239-4208.

- ☒ The Court hereby finds the Defendant is required to pay the \$65 filing fee.
☐ The Court hereby finds the Defendant indigent and waives the \$65 filing fee.

Defendant's Name: Anderson Aldrich Date of Birth: 5/20/00

Current Mailing Address: 5362 N. Nevada Ave, Apt 104

City: Colorado Springs State: CO Zip Code: 80918

The Court directs the above Order to the Clerk of Court to seal the criminal case referenced above.

The Court further Orders that the criminal records information specifically relating to and contained in:

Law Enforcement Agency Case Number EPSO 21-7002

Arrest Number (from fingerprint card) 2100006822

Shall be sealed immediately except for basic identifying information.

The Court further directs the Clerk of Court to provide a copy of the Court's Order to each custodian noted below who may have custody of any of the records subject to this Order.

- ☒ Sheriff's Department
- ☒ District Attorney
- ☐ Law Enforcement Agency: _____
- ☒ Colorado Bureau of Investigation
- ☒ State Court Administrator's Office
- ☐ Other: _____

This Order is valid only if signed by both a judicial officer and the Clerk of Court.

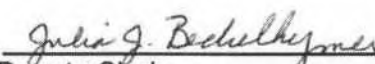
Date: 8/11/22 
District/County Judge

Date: 08-11-2022 
Clerk of the Court/Deputy Clerk



I certify that on 08-11-2022, I provided a copy of this Order to the following:

- ☒ Defendant
- ☒ Clerk of Court


Deputy Clerk



Redacted

DISTRICT District Court, El Paso County, Colorado Court Address: 270 S. Tejon Colorado Springs, CO. 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO NOV 21 2022 SHERI KING CLERK OF COURT ▲ COURT USE ONLY ▲ Case #: 21CR3485 Division #: 19 Courtroom #: S404
People of the State of Colorado vs.	
Defendant: ANDERSON ALDRICH <u>Chief Deputy District Attorney:</u> JENNIFER VIEHMAN Address: 105 E. Vermijo, Colorado Springs, CO. 80903 Phone Number: 520-6000 Attorney Registration #: 33163 District Attorney: Michael J. Allen, #42955	
PEOPLE'S MOTION TO UNSEAL ARREST AND CRIMINAL RECORDS	

COMES NOW, the People of the State of Colorado, by and through their elected District Attorney, Michael J. Allen, and his duly appointed deputy, and hereby motions this court to unseal arrest and criminal records of the above-named defendant.

On August 11, 2022, this Court signed an order sealing arrest and criminal records of this case. Pursuant to C.R.S. §24-72-703(2)(VI), "the sealing of a record pursuant to this article 72 and section 13-3-117 does not preclude a court's jurisdiction over any subsequently filed motion, including a motion to amend the record, a postconviction relief motion or petition, or any other motion concerning a sealed conviction record." Further, §24-72-703(5)(a) states, "inspection of the court records included in an order sealing criminal records may be permitted by the court only upon petition by the petitioner or the defendant who is the subject of the records or by the prosecuting attorney and only for those purposes named in the petition. This petition to inspect the criminal justice records must be filed by the petitioning party within the case in which the sealing order was entered."

It is important to note the legislative declaration for the Open Records, Criminal Justice Records statute.

- (1) The general assembly hereby finds and declares that the maintenance, access and dissemination, completeness, accuracy, and sealing of criminal justice records are matters of statewide concern and that, in defining and regulating those areas, only statewide standards in a state statute are workable.
- (2) It is further declared to be the public policy of this state that criminal justice agencies shall maintain records of official actions, as defined in this part 3, and that such records shall be open to inspection by any person and to challenge by any person in interest, as provided in this

part 3, and that all other records of criminal justice agencies in this state may be open for inspection as provided in this part 3 or as otherwise specifically provided by law. §24-72-301.

The clear intent of the legislature is that the courts and criminal justice agencies are transparent in their dealings and the public has a significant interest in inspection of these records and an understanding of the process. The People are petitioning to unseal these records for this legitimate public interest. This Defendant is the suspect in a high-profile homicide case that occurred on November 19, 2022. This has garnered significant media interest in the criminal justice process that took place in this case. As the case currently stands in sealed posture, the people have been unable to answer public inquiries into the criminal justice process and court process. Keeping this information hidden from the public only causes further damage to the integrity of the criminal justice process and the court system in general.

Further, this Defendant and the facts surrounding his arrest in this case are already in the public eye. The public in general, and any media outlet, can simply Google this defendant's name and find information surrounding the events that took place in this case that gave rise to the charges.¹ In fact, this has already taken place. The only information that is not in the public eye is the court process. An inability to explain the process could damage the criminal justice agencies and the Colorado courts as it appears that these agencies are hiding information or engaged in some sort of "star chamber" type process.

The Defendant likewise has a strong interest in unsealing these records. By keeping these records sealed, it will damage his right to a fair trial. The public has been allowed to wildly speculate as to what occurred in this case and it is only enraging the passions of the public against the Defendant. The Defendant is being vilified through social media as well due to the limited information published about this case. The limited information doesn't give the proper context as to what occurred here. This lack of information and breadth of context is leading to a perception that will make it extremely difficult to achieve a fair and unbiased jury. If left sealed, the potential jury pool will only hear speculation and not the actual facts. To achieve fairness and to obtain a fair and impartial jury, transparency is required.

Steven Zansberg represents several media outlets, to include local and national media outlets, and he has filed a motion to unseal the records in this case. The People have no objection to his motion.

The People up to this point have been significantly hindered in explaining the process that occurred here. It is important to have an open and fair court process to preserve the rights of the defendant as well as the public's right to know what occurred. As such, there is a significant public interest in unsealing these records that outweighs the interest of keeping them sealed. "[J]ustice cannot survive behind walls of silence. A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field," *Sheppard v. Maxwell*, 384 U.S. 333, 349 (1966). Access to these records by the public and the press only "helps the public keep a watchful eye on public institutions and the activities of government," *Valley Broad Co. v. United States Dist. Court*, 798 F.2d 1289 (9th Cir. 1986).

¹ See <https://krdo.com/news/top-stories/2021/06/19/bomb-threat-in-lorson-ranch-neighborhood-friday-night/>

WHEREFORE, the People respectfully request this Honorable Court GRANT the People's Motion to Unseal Arrest and Criminal Justice Records

Respectfully submitted this 21st day of November, 2022

MICHAEL J. ALLEN, #42955
DISTRICT ATTORNEY

/s/ Jennifer A. Viehman

Jennifer A. Viehman, # 33163
Chief Deputy District Attorney
105 E. Vermijo Avenue
Colorado Springs, CO 80903

CERTIFICATE OF SERVICE

I certify on the 21st day of November 2022, a true and correct copy of People's Motion to Unseal Arrest and Criminal Records was mailed to the last known Attorney of Record, Joshua Lindley, through the US Postal Service at the below address

Joshua Lindley
Attorney Registration # 47427
James Newby Law
128 S. Tejon, Suite 402
Colorado Springs, CO 80903

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, CO 80903		DATE FILED: November 21, 2022
PEOPLE OF THE STATE OF COLORADO v. ANDERSON LEE ALDRICH		FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO NOV 21 2022 JS SHERI KING CLERK OF COURT ▲ COURT USE ONLY ▲
Attorneys for Petitioners The News Media Coalition Name: Steven D. Zansberg, # 26634 Address: LAW OFFICE OF STEVEN D. ZANSBERG, L.L.C. 100 Fillmore Street, Suite 500 Denver, CO 80206 Telephone: 303-385-8698 Facsimile: 720-650-4763 E-Mail: steve@zansberglaw.com		
PETITION TO UNSEAL CRIMINAL COURT RECORDS FORTHWITH		

ABC News, The Associated Press, Bloomberg LP, The Colorado Freedom of Information Coalition, Colorado Public Radio, The Colorado Springs Gazette, The Colorado Sun, The Denver Post, New York Times Company, USA Today, The Washington Post (collectively, "The News Media Coalition"), by and through their undersigned counsel, hereby respectfully petition this honorable Court to unseal criminal justice records associated with the above-referenced Defendant. As grounds therefor, Petitioners state:

1. On information and belief, in June 2021, Defendant was the subject of a law enforcement investigation in connection with his suspected threat to use explosives. The case file associated with that incident was subsequently sealed by order of this Court.

2. On November 20, 2022, Defendant was apprehended following his armed assault on patrons of the Club Q nightclub in Colorado Springs, resulting in five deaths and dozens of others wounded.

3. Section 24-72-703(5)(c), C.R.S. declares that

Notwithstanding any other provision of this section, any member of the public may petition the court to unseal any court file of a criminal conviction that has previously been sealed upon a showing that circumstances have come into existence since the original sealing and, as a result, the public interest in disclosure now outweighs the defendant's interest in privacy.

4. As a result of the Defendant's recent acts, the public interest in disclosure of his prior criminal justice records now greatly outweighs his interest in privacy. Accordingly, it is no longer appropriate to maintain those records under seal.

WHEREFORE, Petitioners respectfully request that the Court forthwith unseal all prior sealed criminal justice records associated with this Defendant.

DATED: November 21, 2022

Respectfully submitted,

/s/ Steven D. Zansberg

Steven D. Zansberg

Counsel for Petitioners

The News Media Coalition

CERTIFICATE OF (NON-)SERVICE

I hereby certify that on November 21, 2022, I tried, without success, to determine the case number in this case, and could not identify any attorneys of record upon whom I could serve this filing. I will send a courtesy copy to the District Attorney for the Fourth Judicial District, and will serve any attorney for the Defendant upon being notified of his/her/their identity

/s/ Steven D. Zansberg
Steven D. Zansberg

Redacted

<input type="checkbox"/> County Court <input type="checkbox"/> District Court <u>EL PASO</u> County, Colorado Court Address: <u>270 S. Tejon St., Colorado Springs, CO</u> Plaintiff(s)/Petitioner(s): <u>State of Colorado 80903</u> v. Defendant(s)/Respondent(s): <u>Anderson Lee Aldrich</u> Attorney or Party Without Attorney (Name and Address): Phone Number: E-mail: FAX Number: Atty. Reg. #: MOTION TO <u>UN-suppress this case</u>		FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO DATE FILED: November 21, 2022 NOV 21 2022 SHERI KING CLERK OF THE DISTRICT/COUNTY COURT COURT USE ONLY Case Number: <u>2021CR3485</u> Division Courtroom
---	--	--

For the following reasons: (cite any applicable law)

Please UN-suppress and release the affiant affiliated
with the June 2021 case involving Anderson Lee Aldrich
Case number is believed to be ~~an~~ 2021CR3485.

This suspect is now a suspect in a mass murder. Learning
details of this case is and should be available to the public
I request the Court to:

Please Unsuppress and release, publicly, the arrest
affiant and all filings associated with any case
involving Anderson Lee Aldrich DOB 5/20/2000

Date: 11/20/22
(filed online)
11/21/22

[Signature]
Signature of ☐ Petitioner/Plaintiff or ☐ Respondent/Defendant
Lori Jane Gliha
Address
Scripps (News)
City, State and Zip Code
303-817-3177
Telephone Number (Home) (Work)
Lorijane.gliha@scripps.com

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of the Motion to _____
was served on the other party by:
☐ Hand Delivery, ☐ E-filed, ☐ Faxed to this number _____, or
☐ by placing it in the United States mail, postage pre-paid, and addressed to the following (include name and
address):

To: _____

☐ Petitioner/Plaintiff or ☐ Respondent/Defendant

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 S. Tejon, Colorado Springs, CO 80903		DATE FILED AND FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO NOV 22 2022 TNL SHERI KING CLERK OF COURT NOV 22 2022	
People of the State of Colorado v. Defendant Anderson Aldrich		<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/> Case Number: 2021CR3485	
Nathan J. Whitney, # 39002 Office of the County Attorney of El Paso County, Colorado 200 S. Cascade Ave. Colorado Springs, CO 80903 Phone: (719) 520-6485 Email: nathanwhitney@elpasoco.com		Div.: 19	
PETITIONER SHERIFF BILL ELDER'S MOTION TO UNSEAL CRIMINAL JUSTICE RECORDS			

Petitioner Sheriff Bill Elder ("Elder"), in his individual capacity as a member of the public and official capacity as the Sheriff of the El Paso County Sheriff's Office, by and through counsel, the Office of the County Attorney of El Paso County, Colorado, hereby submits this Petition to Unseal Criminal Justice Records as follows:

1. The shooting at Club Q is an unspeakable tragedy. Anderson Aldrich ("Aldrich") is alleged to have killed five people and wounded seventeen others during a hate-filled assault on a Colorado Springs LGBTQ+ nightclub.

2. Aldrich was the subject of a criminal prosecution in the District Court of El Paso County, Colorado arising from a June 2021 incident that has been widely reported on by local, state, and national news media. According to these media reports, Aldrich threatened his mother with a homemade bomb and was subsequently charged with felony kidnapping and menacing.

3. Upon information and belief, the criminal justice records concerning Aldrich's 2021 arrest and prosecution were sealed by a division of the District Court of El Paso County pursuant to Colorado's Criminal Justice Record Sealing Act, C.R.S. § 24-72-701, *et seq.* (the "Act"). The Act prevents criminal justice agencies from providing meaningful commenting on, or releasing records related to, sealed criminal cases.

4. The Act, however, provides that,

any member of the public may petition the court to unseal any court file of a criminal conviction that has previously been sealed upon a showing that circumstances have come into existence since the original sealing and, as a result, the public interest in disclosure now outweighs the defendant's interest in privacy.

C.R.S. § 24-72-703(5)(c).

5. The public's interest in inspecting court and criminal justice records related to Aldrich's 2021 arrest and prosecution is well-settled and long-standing. *See, e.g., Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 510-11 (1984) (recognizing that the public's right to inspect court records is protected by the First Amendment to the United States Constitution); *Office of State Ct. Adm'r v. Background Info. Sys.*, 994 P.2d 420, 428 (Colo. 1999) (access to court documents involving matters of public interest or concern is recognized by Article II, Section 10 of the Colorado Constitution); Colorado's Criminal Justice Records Act, C.R.S. § 24-72-301, *et seq.* (codifying the public's right to access criminal justice records).

6. The public interest in favor of unsealing Aldrich's 2021 criminal records greatly outweighs Aldrich's privacy interest because Aldrich is alleged to have perpetrated a heinous mass shooting targeted at the LGBTQ+ community in Colorado Springs. The public has a right to know the facts surrounding Aldrich's 2021 arrest; what weapons, if any, were seized from Aldrich during his 2021 arrest; whether any weapons seized from Aldrich during his 2021 arrest

were ever returned to Aldrich; why Aldrich's 2021 criminal case was dismissed; and so on. In other words, the public has a strong interest in evaluating criminal justice records related to Aldrich's 2021 arrest and prosecution. The public will be deprived of this interest unless local law enforcement agencies, such as the El Paso County Sheriff's Office, are able to respond to the public's inquiries unconstrained by the Act.

7. Likewise, the El Paso County Sheriff's Office has a strong interest in responding to public inquiries regarding Aldrich's 2021 arrest and prosecution with accurate information so that the public and media are not left to speculate over what actions were or were not taken by law enforcement. The Act is inhibiting the flow of accurate and relevant information on a matter of great public importance to our community.

WHEREFORE, Sheriff Bill Elder respectfully requests that the Court enter an order unsealing the criminal justice records related to Aldrich's 2021 arrest and prosecution and for such other and further relief the Court deems just and proper.

Respectfully submitted this 22nd day of November 2022.

OFFICE OF THE COUNTY ATTORNEY
OF EL PASO COUNTY, COLORADO

BY: s/ Nathan J. Whitney
Nathan J. Whitney, # 39002
First Assistant County Attorney
200 S. Cascade Ave.
Colorado Springs, CO 80903
(719) 520-6485
Fax (719) 520-6487

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was hand-filed with the Court on this 22nd day of November 2022, and will be hand-delivered to Anderson Aldrich when he is booked into the El Paso County Criminal Justice Center.

By: /s/ Nathan J. Whitney

Redacted

<input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court El Paso County, Colorado Court Address: 270 South Tejon Street, Colorado Springs, CO 80901	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO NOV 22 2022 DATE FILED: November 22, 2022 KS SHERI KING CLERK OF COURT * COURT USE ONLY *
Re: The Matter of: THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s) <u>Anderson Lee Aldrich (2021)</u>	Case Number: <u>21CR3485</u> Division Courtroom
Attorney or Party Without Attorney (Name and Address): Phone Number: E-mail: FAX Number: Atty. Reg. #:	
MOTION TO <u>unseal arrest records</u>	

For the following reasons: (cite any applicable law)

public interest has outweighed the defendant's interest in privacy

I request the Court to:

unseal the arrest records including the arrest report for defendant Aldrich on June 18, 2021.

Dated: 11/22/22

Robert Klemko

☒ Petitioner/Plaintiff OR ☐ Respondent/Defendant

9530 Pinon Pine circle

Address

Colorado Springs, CO 80920

City, State and Zip Code

301-452-2589

Telephone Number (Home)

(Work)

CERTIFICATE OF MAILING

I certify that on 11/22/22 (date) the original of this Motion was filed with the Court; and a true and accurate copy of this MOTION TO unseal criminal records was served on the other party(ies) by placing it in the United States mail, postage pre-paid and addressed to the following:

Office of the District Attorney
105 E. Vermijo Avenue
Colorado Springs, CO 80903



☐ Petitioner/Plaintiff OR ☐ Respondent/Defendant

non-party

Redacted

District Court, El Paso County, Colorado Court Address: P.O. Box 2980 Colorado Springs, CO 80901	FILED-DISTRICT & COUNTY COURTS-EL PASO CO., CO NOV 23 2022 DATE FILED: November 23, 2022 10:56 AM DIVISION 19
THE PEOPLE OF THE STATE OF COLORADO v. ANDERSON ALDRICH, Defendant.	▲ COURT USE ONLY ▲ Case Number: 21CR3485 Division: 19 Courtroom: S404
ORDER TO RESPOND	

Several motions to unseal this case have been filed. The Defense is ordered to respond with their position regarding unsealing by end of business on Wednesday, November 30, 2022.

Dated: November 23, 2022

BY THE COURT:



Robin Chittum
District Court Judge

CERTIFICATE OF SERVICE

I certify that on 11/23/22, I served a copy of this *Order to Respond* by email to the following:

Joseph Archambault
Office of the Public Defender

Michael Bowman
Office of the Public Defender

Joshua Lindley
James Newby Law

Jennifer Viehman
Office of the District Attorney


Division 19 Clerk

Redacted

dees, chad

From: dees, chad
Sent: Wednesday, November 23, 2022 10:56 AM
To: 'Joshua Lindley'; Bowman, Michael; 'Joseph Archambault@coloradodefenders.us';
'Jenniferviehman@elpasoco.com'
Cc: benore, kimberly
Subject: 21CR3485 - Aldrich order to respond and motions to unseal
Attachments: DA motion - 21CR3485.pdf; Atty Zansberg motion - 21CR3485.pdf; Scripps motion -
21CR3485.pdf; Order to Respond 2021CR3485.pdf

Judge Chittum wanted these motions and her order to respond sent to you.

Best regards,
Chad

Chad Dees
Judicial Assistant
Division 19
4th Judicial District
270 South Tejon Street
Colorado Springs, CO 80903
719-452-5353
chad.dees@judicial.state.co.us



Redacted

District Court, El Paso County, Colorado Court Address: 270 S. Tejon St. Colorado Springs, CO 80903 People of the State of Colorado, Plaintiff(s) vs. ANDERSON ANDY ALDRICH, Defendant	DATE FILED: November 23, 2022 1:21 PM COURT USE ONLY
Attorney: JAMES NEWBY LAW, LLC Joshua Lindley, Reg. No. 47427 128 South Tejon Street, Suite 402 Colorado Springs, CO 80903 Phone number: (719) 247-2700 FAX number: (719) 635-7625	Case Number: 21CR3485 Division: 19
MOTION TO WITHDRAW	

Counsel hereby moves this Court for an Order permitting counsel to withdraw from representation of the Defendant, James Sorensen. In support thereof, counsel states the following:

1. Counsel formally entered his appearance in this matter on or about July 19, 2021.
2. This matter is currently not scheduled for any hearings.
3. Counsel has no contact with defendant and defendant has new counsel.

WHEREFORE, counsel respectfully moves to withdraw from any further representation and involvement in the present matter.

Respectfully submitted,

/s/ Joshua Lindley
Joshua Lindley, # 47427

CERTIFICATE OF SERVICE

I certify that on the 23rd day of November, 2022, a copy of the foregoing was served on the District Attorney's Office by E-file to the following:

El Paso County District Attorney
105 E. Vermijo Ave.
Colorado Springs, CO 80903

/s/ Ruth Daniel
Paralegal to James Newby Law

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	DATE FILED: November 28, 2022 8:35 AM
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH, Defendant	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	Case No. 21CR3485 Division 19
MOTION FOR DEFENSE COUNSEL'S ACCESS TO COURT FILE AND RECORD IN ORDER TO RESPOND TO 11/23/22 "ORDER TO RESPOND" IN THIS MATTER	

Mx. Anderson Aldrich¹, by and through counsel moves² this Court for the time and date prior to November 30, 2022, that counsel may access the court file and record in this matter.

1. Mx. Anderson was represented by attorney Joshua Lindley in this case, this case was sealed sometime in the past. Mr. Lindley moved to withdraw as counsel of record on this case on November 23, 2022.
2. Mx. Anderson is currently housed at the El Paso County Jail, and is now represented by attorneys from the Colorado State Public Defender's Office.
3. On November 23, 2022, counsel received emails from Mr. Lindley, and the Court's clerk. Mr. Lindley emailed two motions to withdraw. The Court's clerk emailed two motions to unseal the court record in this case, a motion from the District Attorney's Office asking for one of the motions to unseal be granted, and an order from the Court for the defense to respond to the motions to unseal by close of business on November 30, 2022.
4. The sealing and unsealing of criminal records statutes have many different provisions which are applicable or inapplicable depending on the facts and circumstances.. See

¹ Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

² Because this is a sealed case, this motion cannot even be filed into ICCES and instead will be emailed to the Court's clerk.

C.R.S. § 24-72-701 *et seq.* However Mx. Anderson and their counsel are entitled to access the court record in this case. *See* C.R.S. § 24-72-703(2)(c).

5. At a bare minimum, the due process clause requires that a defendant's attorney be allowed to know the nature of the allegations, contents of the court file and the documents within it when the defendant has been ordered to respond to a motion. U.S. Amends V., XIV, Colo. Const. Art. II, § 3, 16, and 25.
6. The Sixth amendment to the United States Constitution and article II, section 16 of the Colorado Constitution guarantees a criminal defendant the right to counsel which is a fundamental part of the criminal justice system and this includes the right to an effective assistance of counsel. *See* U.S. Const. amend. VI, XIV; Colo. Const. art. II § 16; *Hutchinson v. People*, 742 P.2d 875, 880-881 (Colo. 1987). (*citing to United States v. Cronin*, 466 U.S. 648 (1984)); *McMann v. Richardson*, 397 U.S. 759, (1970).
7. In order to effectively assess any objection, or lack thereof, to the unsealing requests filed thus far, defense counsel must have access to the court file.
8. Counsel is ineffective when counsel lacks factual or legal knowledge of the situation. *See People v. White*, 514 P.2d 69 (Colo. 1973).

Therefore counsel moves the Court to allow counsel access to the court file immediately and at least 48 hours prior to any date that counsel will be required to respond to motions to unseal this case.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Joseph Archambault #41216
Chief Trial Deputy



Michael Bowman #48652
Deputy State Public Defender

Certificate of Service

I certify that on November 28, 2022, I served the foregoing document electronically through Colorado Courts E-Filing to all opposing counsel of record.
s/skoslosky

Dated: November 28, 2022

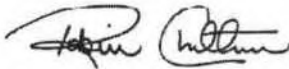
Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO		DATE FILED: November 28, 2022 8:37 AM
Court Address: 270 S. TEJON, COLORADO SPRINGS, CO, 80903		
THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s) ANDERSON LEE ALDRICH		
		⚠ COURT USE ONLY ⚠
		Case Number: 2021CR3485 Division: 19 Courtroom:
Order Allowing Counsel to Withdraw/Appointing Public Defender		

The motion/proposed order attached hereto: GRANTED.

The Office of the Public Defender is appointed in this case.

Issue Date: 11/28/2022



ROBIN LYNN CHITTUM
District Court Judge

MOTION TO WITHDRAW

1. Counsel formally entered his appearance in this matter on or about July 19, 2021.
2. This matter is currently not scheduled for any hearings.
3. Counsel has no contact with defendant and defendant has new counsel.

Respectfully submitted,

/s/ Joshua Lindley
Joshua Lindley, # 47427

CERTIFICATE OF SERVICE

I certify that on the 23rd day of November, 2022, a copy of the foregoing was served on the District Attorney's Office by E-file to the following:

El Paso County District Attorney
105 E. Vermijo Ave.
Colorado Springs, CO 80903

/s/ Ruth Daniel
Paralegal to James Newby Law

Attachment to Order - 2021CR3485

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 270 South Tejon Street Colorado Springs, CO 80903		DATE FILED: November 28, 2022 8:42 AM
PEOPLE OF THE STATE OF COLORADO v. ANDERSON LEE ALDRICH		FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO NOV 21 2022 JS SHERI KING CLERK OF COURT ▲ COURT USE ONLY ▲
Attorneys for Petitioners The News Media Coalition Name: Steven D. Zansberg, # 26634 Address: LAW OFFICE OF STEVEN D. ZANSBERG, L.L.C. 100 Fillmore Street, Suite 500 Denver, CO 80206 Telephone: 303-385-8698 Facsimile: 720-650-4763 E-Mail: steve@zansberglaw.com		
		Case Nos.: 2021-CR-____ Ctvm.:
PETITION TO UNSEAL CRIMINAL COURT RECORDS FORTHWITH		

ABC News, The Associated Press, Bloomberg LP, The Colorado Freedom of Information Coalition, Colorado Public Radio, The Colorado Springs Gazette, The Colorado Sun, The Denver Post, New York Times Company, USA Today, The Washington Post (collectively, "The News Media Coalition"), by and through their undersigned counsel, hereby respectfully petition this honorable Court to unseal criminal justice records associated with the above-referenced Defendant. As grounds therefor, Petitioners state:

1. On information and belief, in June 2021, Defendant was the subject of a law enforcement investigation in connection with his suspected threat to use explosives. The case file associated with that incident was subsequently sealed by order of this Court.

2. On November 20, 2022, Defendant was apprehended following his armed assault on patrons of the Club Q nightclub in Colorado Springs, resulting in five deaths and dozens of others wounded.

3. Section 24-72-703(5)(c), C.R.S. declares that

Notwithstanding any other provision of this section, any member of the public may petition the court to unseal any court file of a criminal conviction that has previously been sealed upon a showing that circumstances have come into existence since the original sealing and, as a result, the public interest in disclosure now outweighs the defendant's interest in privacy.

4. As a result of the Defendant's recent acts, the public interest in disclosure of his prior criminal justice records now greatly outweighs his interest in privacy. Accordingly, it is no longer appropriate to maintain those records under seal.

WHEREFORE, Petitioners respectfully request that the Court forthwith unseal all prior sealed criminal justice records associated with this Defendant.

DATED: November 21, 2022

Respectfully submitted,

/s/ Steven D. Zansberg

Steven D. Zansberg

Counsel for Petitioners

The News Media Coalition

CERTIFICATE OF (NON-)SERVICE

I hereby certify that on November 21, 2022, I tried, without success, to determine the case number in this case, and could not identify any attorneys of record upon whom I could serve this filing. I will send a courtesy copy to the District Attorney for the Fourth Judicial District, and will serve any attorney for the Defendant upon being notified of his/her/their identity

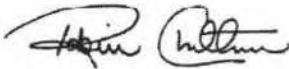
/s/ Steven D. Zansberg
Steven D. Zansberg

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO		DATE FILED: November 29, 2022 8:00 AM
Court Address: 270 S. TEJON, COLORADO SPRINGS, CO, 80903		
THE PEOPLE OF THE STATE OF COLORADO v. Defendant(s) ANDERSON LEE ALDRICH		△ COURT USE ONLY △ Case Number: 2021CR3485 Division: 19 Courtroom:
ORDER REGARDING ACCESS		

The Office of the Public Defender has been appointed in this case. The Office of the Public Defender shall have access to all records in this case.

Issue Date: 11/29/2022



ROBIN LYNN CHITTUM
District Court Judge

Redacted

TRANSCRIPT REQUEST FORM*Pursuant to Chief Justice Directive 2005-03 (Amended January 1, 2018)***email request:** 04TranscriptRequest@judicial.state.co.us

This transcript request form must be completed by any person requesting a transcript from any court proceeding whether reported stenographically or by electronic recording means. Upon completion of this Transcript Request Form, please follow established policies and procedures for each judicial district which outline instructions for ordering transcripts, tapes or digital recording disks. This information is available on the Colorado Judicial website at or www.courts.state.co.us

Transcript Rates

DATE FILED: November 30, 2022 8:45 AM

Ordinary Rate (State Paid)
(within 30 days or per C.A.R. 10)

Original Price (\$3.00/page)
Copy to State Agency (\$0/page)
Copy to Non-State Agency Party (\$.75/page)
Add'l Copy to Non-Party (\$.75/page)

Expedited Rate
(within 10 days)

Original Price (\$3.75/page)
Copy to State Agency (\$0/page)
Copy to Non-State Agency Party (\$.75/page)
Add'l Copy to Non-Party (\$.75/page)

Ordinary Rate (Private Paid)
(within 11 days and up to 30 days, or as agreed upon by the requesting party and transcriber)

Original Price (\$3.00/page)
Copy to State Agency (\$.75/page)
Copy to Non-State Agency Party (\$.75/page)

Hourly Rate
(within 2 hours of adjournment)

Original Price (\$6.25/page)
Copy to State-Agency (\$1.25/page)
Copy to Non-State Agency Party (\$1.25/page)
Add'l Copy to Non-Party (\$1.25/page)

Daily Rate
(following adjournment and prior to normal opening of court the following day)

Original Price (\$5.25/page)
Copy to State-Agency (\$0/page)
Copy to Non-State Agency Party (\$1.00/page)
Add'l Copy to Non-Party (\$1.00/page)

Email form to:

04TranscriptRequest@judicial.state.co.us

Transcripts will not be started and the time limits stated for delivery of transcripts will not commence until satisfactory payment arrangements are made for required fees. To avoid any disputes as to dates or payment, a dated receipt for payment shall be provided to requester.

ORDERING PARTY INFORMATION

1. Full Name (Include Firm Name) District Attorneys – Kim Daniluk for Reggy Short	2. Phone Number 719-520-6141	3. Email Address: kimdaniluk@elpasoco.com
4. Mailing Address: 105 E. Vermijo	5. City: Colo. Springs	6. State: CO 7. Zip Code: 80919

TRANSCRIPT INFORMATION

8. Case No. 21CR3485	9. Case Caption (i.e. People v. John Doe) People v. Anderson Aldrich	10. County: El Paso
11. Judicial Officer/Division: Judge Chittum – Div. 19	12. Order For <input type="checkbox"/> Appeal <input type="checkbox"/> Civil <input type="checkbox"/> Upcoming Hearing/Trial on _____ <input type="checkbox"/> Non-Appeal <input type="checkbox"/> Criminal <input checked="" type="checkbox"/> Other	

13. Transcript Requested (Specify portion(s) and date(s) of proceeding(s) requested)

Portion(s)	Date(s)	Time(s)	Portion(s)	Date(s)	Time(s)
<input checked="" type="checkbox"/> Entire Proceedings	6-22-21 7-1-21 7-29-21 8-5-21 8-26-21 10-21-21 12-16-21 1-27-22 4-7-22 5-19-22 5-31-22 6-23-22 7-1-22 7-5-22 8-11-22		<input type="checkbox"/> Testimony (Specify Witness)		
<input type="checkbox"/> Jury Voir Dire					
<input type="checkbox"/> Opening Statements					
<input type="checkbox"/> Closing Arguments			<input type="checkbox"/> Pre/Post Trial Hearing (Spcy)		

<input type="checkbox"/> Jury Instructions					
<input type="checkbox"/> Judge's Ruling					
ORDERING INFORMATION					
14. Date of Request/Date Transcript Needed 11/28/22 – Need expedited		15. Rate Category: <input type="checkbox"/> Ordinary (State Pd.) <input checked="" type="checkbox"/> Expedited <input type="checkbox"/> Hourly <input type="checkbox"/> Ordinary (Private Pd.) <input type="checkbox"/> Daily			
16. Orig. + Copies (Spcy #) _____ + _____ = _____		17. Certification (By signing below, I certify that I will pay all charges.) Signature: _____ Date: _____			
FOR COURT USE ONLY (ERO = Electronic Records Operator)					
Date of Request		Transcript To Be Prepared By (Name of Court Rpt/ERO)		Date Court Rptr/ERO Contacted	
Notice of Estimate to Ordering Party Date _____ # of pages _____		Date of Deposit/Satisfactory Payment Arrangements		Deposit Paid \$ _____	Bal Pd/Refund \$ _____
Date Transcript Mailed/Delivered		I certify that the preparation of this transcript is in compliance with the fee & format prescribed by CJD 05-03. Reporter/ERO Signature _____ Date _____			

JDF 4 R7/19 TRANSCRIPT REQUEST FORM

DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	DATE FILED: November 30, 2022
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH, Defendant	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	Case No. 21CR3485 Division 19
OBJECTION TO ALL PETITIONS TO UNSEAL	

Mx. Anderson Aldrich¹, by and through counsel moves this Court to deny all requests to unseal the records in this case:

Procedural History

1. On July 5, 2022, on the morning of trial, the district attorney was unable to proceed in this case and the matter was dismissed for failure to prosecute.
2. On July 8, 2022, defense counsel filed a motion to seal records. The case was set for a hearing on the motion on August 11, 2022.
3. At the hearing the district attorney lodged no objection, and the matter was ordered sealed by the court.
4. That order informed the Sheriff's Department, District Attorney's Office, Colorado Bureau of Investigation, and State Court Administrator's Office of the cases immediate sealing. *See Order to Seal Arrest and Criminal Records Pursuant to C.R.S. 24-72-705 (Simplified Process).*
5. On November 21, 2022, the court began receiving petitions to unseal the records in this case. Several from media outlets, and one from the district attorney's office.

¹ Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

6. On November 22, 2022, a motion to unseal was filed by Sheriff Bill Elder.
7. One day later, on November 23, 2022, the Court directed the defense to respond to the motions by close of business on November 30, 2022. Also on November 23, 2022, Mx. Anderson's former counsel Joshua Lindley was allowed to withdraw as counsel on this case, and the Public Defender was entered as Mx. Anderson's counsel of record.
8. Counsel was granted access by the Court to the written documents in the court file on November 29, 2022, but certainly has not had time to adequately review them in detail and has not had time to order the transcript from the many hearings that are very briefly summarized in the minute orders.
9. Mx. Aldrich is currently being held without bond in the El Paso County Jail and appears about to be charged with five counts of First degree murder and multiple other crimes in case number 22CR6008. That case is set for a first appearance/filing of charges on December 6, 2022. There will be a proof evident presumption great/preliminary hearing set to occur in the future. The media coverage of 22CR6008 has not only been extensive but it also not been limited to just Colorado but also has been coverage on a national and international level.
10. Mx. Aldrich has received no reports, documents, or digital media in 22CR6008 which the District Attorney and other members of law enforcement have access to. Counsel has not even received the arrest affidavit. Counsel is at an extreme disadvantage in being ordered to respond to a petition to unseal this case without having enough time² to get up to speed what is involved in this case. Counsel also is at a complete disadvantage to know any real factual details about the allegations in 22CR6008, in order to understand respond to how the un-sealing of this case will effect Mx. Aldrich.

Law and Analysis

11. C.R.S. §24-72-705 directs that a court shall order the defendant's criminal justice record sealed when a case is completely dismissed. By this act, legislature enacted an expedited process for the sealing of records specifically for instances where a case was dismissed. In doing so, the legislature recognized a great privacy interest in protecting individuals from public scrutiny, inquiry, or persecution based upon charges and arrests where the allegations went unproven.
12. This sealing statutes have been changed over time since 1977, and they have continued to be amended to allow the sealing of more and more types of criminal cases. This shows a clear legislative intent that, subject to certain provisions, more cases should be sealed from the public than in years past.
13. The United States Supreme Court has made clear that "the right to inspect and copy Judicial records is not absolute," and "[e]very court has supervisory power over its own records and files. *See Nixon v. Warner Communications*, 435 U.S. 589, 598 (1978).

² If the Court is inclined to entertain actually granting a petition to unseal, Mx. Aldrich requests more time and a hearing to actually be thoroughly prepared to address this issue.

14. In addition, the Colorado Supreme Court has recognized that at times, the media's first amendment rights must yield to the a defendant's right to a fair trial.

"We recognize that constitutional guarantees are not always absolute and that full exercise thereof is not always entirely possible. *Anderson v. People*, Colo., 490 F.2d 47; *Hampton v. People*, 171 Colo. 153, 465 P.2d 394; *Thompson v. People*, 156 Colo. 416, 399 P.2d 776. On occasion, one right must necessarily be subordinated to another. The interest of the accused, whose life and liberty are in jeopardy, to a fair trial by an impartial jury is paramount, and may require, depending on the circumstances of the case, limitations upon the exercise of the right of free speech and of the press. The problem is one of balancing of interests so that irreconcilable conflict need not necessarily result from the simultaneous exercise of those constitutional rights. Whether in a particular case there has been an actual accommodation in the simultaneous exercise of the two rights, depends upon the circumstances of the case."

Stapleton v. Dist. Ct. of Twentieth Jud. Dist., 499 P.2d 310, at 312 (1972).

**PETITIONERS SHERIFF BILL ELDER AND THE FOURTH
JUDICIAL DISTRICT ATTORNEY'S OFFICE LACK STANDING
TO REQUEST UNSEALING.**

15. The district attorney's motion to unseal this case relies upon C.R.S. §24-72-703(5)(a), which governs the inspection of the records of a sealed case for a specific purpose, and does not allow for or contemplate "unsealing." *See* C.R.S. §24-72-703(5)(a). None of the purposes described in its motion are contemplated by the sealing statute.
16. Nevertheless, the district attorney's motion, seems to argue that inspection under this subsection is necessary because the records contained therein are necessary for several purposes, to include their ability to discuss the case with the media, and "explaining the process of what occurred here." *See People's Motion to Unseal Arrest and Criminal Records*.
17. The Sheriff's Department asserts that its request to unseal records is based in C.R.S. §24-72-703(5)(c). That subsection, however, refers to the "any member of the public may petition the court" is does NOT say that any member of law enforcement may petition a court. *Id.* In Colorado, the statutes and the caselaw interpreting them have certainly drawn lines between law enforcement and the public when it comes to the access to records. *See generally* §24-72-201 *et seq* and §24-72-301 *et seq*. In addition, the plain language of much of § 24-72-703 gives law enforcement access to this record.
18. To the extent the district attorney's motion can be viewed as a request to unseal as a "member of the public," the district attorney's office lacks standing for the same reasons outlined above that Sheriff's Office lacks standing.

19. Therefore, it is clear that the Sheriff and the District Attorney's Office are not the "public" under the law and they do not have standing on this issue and their motions and arguments have no relevance on this issue.

**MX. ALDRICH'S RIGHT TO DUE PROCESS RIGHTS AND A
FAIR TRIAL IN PENDING CRIMINAL LEGAL PROCEEDINGS,
WILL BE EVISCERATED IF THE RECORD IS UNSEALED AND
THIS OUTWEIGHS ANY PUBLIC INTEREST IN ADDITIONAL
DETAILS IN THE RECORD**

20. Mx. Aldrich is guaranteed the right to a trial by jurors who are fair and impartial. *Ross v. Oklahoma*, 487 U.S. 81 (1988); *Witherspoon v. Illinois*, 391 U.S. 510, 518 (1968); *Irvin v. Dowd*, 366 U.S. 717, 722 (1961); *People v. Sandoval*, 733 P.2d 319, 320 (Colo. 1987); *Oaks v. People*, 150 Colo. 64, 371 P.2d 433, 477 (1962); *Smith v. People*, 8 Colo. 457, 8 P.1045 (1885).
21. Unsealing of the records in this case will generate even more prejudicial pretrial publicity, which will destroy Mx. Aldrich's ability to receive a fair trial under the United States and Colorado constitutions. *See, e.g., Sheppard v. Maxwell*, 384 U.S. 333, 350-51 (1966) (public scrutiny of a criminal trial "must not be allowed to divert the trial from the very purpose of a court system to adjudicate controversies . . . in the calmness and solemnity of the courtroom according to legal procedures," including "the requirement that the jury's verdict be based on evidence received in open court, not from outside sources." (internal quotations and citation omitted)).
22. Case 22CR6008 has received a tremendous amount of media scrutiny following Mx. Aldrich's arrest. Details of this case are a prime example of that. Despite the case being dismissed, sealed, and the proper agencies being notified, several details of the allegations have been posted to both local and national news agencies. The further unsealing of records will lead to public access of information that may be confidential, privileged, or otherwise be inadmissible at any future trials. As will be discussed in more detail later on, the contents of the record implicate allegations that formed the basis of a criminal complaint which was dismissed. However, the allegations detail threats of violence involving guns and explosive devices and made against family members. In the record there are also allegations of a standoff/hostage situation with law enforcement. None of these allegations were ever admitted to, or found beyond a reasonable doubt by a jury or judge. However, if the record is un-sealed the media and public will treat them as if they are factually true and Mx. Aldrich will be convicted in the court of public opinion and have no hope at a presumption of innocence in case 22CR6008.
23. "Every individual, whether detested or revered, is entitled to a fair trial before an impartial jury." *People v. Harlan*, 8 P.3d 448, 459 (Colo. 2000) (citing to *Oaks v. People*, 371 P.2d 443, 447 (Colo. 1962) reversed on other grounds by *People v. Miller*,

113 P.3d 743 (Colo. 2005). If this record is un-sealed, Mx. Aldrich will be further detested and further vilified in the media and his right to a fair trial will be gone.

24. There is also no reason that this Court needs to act on this issue at the current time. Case 22CR6008 has just been opened, and the formal charges have not even been filed yet. The case will be set for a preliminary hearing and likely multiple hearings prior to any trial. In 22CR6008, the only hearing which has occurred was open to the public and expanded media coverage was allowed. There is no indication that all hearings in that case will not be open to the public, including the media now and in the future. Therefore, there is no reason given in any of the other pleadings filed with this Court to suggest that this record should be un-sealed now³.
25. As a result, the court should resist taking action which will negatively impact Mx. Aldrich's chances of receiving a fair trial, and deny all motions to unseal, from all petitioners.

**EVEN IF THE COURT WERE TO IGNORE AND DISREGARD
MX. ALDRICH'S RIGHT TO A FAIR TRIAL, DUE PROCESS
AND THE PRESUMPTION OF INNOCENCE, THE RECORD
SHOULD STILL REMAIN SEALED**

26. When determining if a record should be unsealed the Court must consider if, "there has been a showing that circumstances have come into existence since the original sealing, and, as a result, the public interest in disclosure outweighs the defendant's interest in privacy." C.R.S. § 24-72-703(5)(c). The must also determine if the need to protect the defendant's right to a fair trial which takes priority over any other interest; requires limitation on access to a record. *Stapleton*, 499 P.2d 310, at 312.
27. The District Attorney's motion does not point to the proper legal standard and caselaw which this Court must apply. *See* People's Motion to Unseal Arrest and Criminal Records. The prosecution's motion argues that they are not able to answer questions from the media and the public about what occurred in this case, but this is by the design of the Colorado law. *See* § 24-72-701 *et seq.* And the prosecution identifies no legal basis that entitles it to parade details about prior criminal allegations to the media. If the prosecution does not like any of the laws in Colorado, they are allowed to petition the legislature. The implication from the prosecution's motion is troubling, as it seems to suggest they are trying to give damaging information out about a prior dismissed criminal case involving Mx. Aldrich. It seems that the prosecution is prohibited from doing so at this time due to the pending case in 22CR6008 and their own ethical obligations, as any such statements about the prior case has a substantial likelihood of heightening public condemnation of Mx. Aldrich. *See* Colo. RPC 3.8 (f). To the extent the prosecution

³ Mx. Aldrich would note that in another high profile case dealing with a similar issue the court documents were sealed until after even the preliminary hearing had occurred. 2013 WL 3982191.

insists it makes this unsealing request to protect Mx. Aldrich's rights, its request should be disregarded. Undersigned represent Mx. Aldrich—not the prosecution. "It is not the role of the prosecution to determine whether a defendant's rights are violated." *People v. Guzman-Rincon*, 369 P.3d 752, 757 (Colo. App. 2015). Mx. Aldrich will rely on their attorneys, not the prosecution, to protect their rights and furnish to the public any information they believe is necessary to protect their rights.

28. The prosecution does point out that Mx. Aldrich has already been vilified in the public and online. *See* People's Motion to Unseal Arrest and Criminal Records, p 2. They also explain that his right to a fair trial has already been damaged. *Id.* Mx. Aldrich agrees that they have been vilified already. Mx. Aldrich objects to the un-sealing of this record and that will only increase the condemnation and further destroy any chance at a fair trial. The "context" that the prosecution seems to be referring to, is unproven allegations of violence and criminal activity, that "context" will only enhance the public condemnation of Mx. Aldrich. The prosecution's claim that there sealing gives rises to claims of a "star chamber" process are unfounded. This case was a public court case held in open and public court and went through the normal criminal justice process, it was only after the dismissal of the case that the normal legal process also sealed the court file.
29. When the Court applies the proper legal standard to the prosecution's argument, the prosecution has not pointed to a circumstance that outweighs Mx. Aldrich's privacy interest, and therefore the record should not be un-sealed under (5)(c). The prosecution's arguments have also not shown that unsealing the record would not further violate Mx. Aldrich's right to a fair trial in front of fair jurors.
30. While the petition from the Sheriff Bill Elder's Office makes attempts at weighing the competing public versus private interest, its argument fails. It asserts, *inter alia*, that a public interest has been created by the allegations levied against Mx. Aldrich in 22CR6008. *See Petitioner Sheriff Bill Elder's Motion to Unseal Criminal Justice Records.*
31. The Sheriff makes no attempt to afford Mx. Aldrich even the basic right to the presumption of innocence, referring to the allegations in 22CR6008 as "...because Aldrich is alleged to have perpetrated a *heinous mass shooting targeted at the LGBTQ+ community in Colorado Springs*. *Id.* at ¶ 6 (emphasis added).
32. Even the matters that the Sheriff wants to tell the public are inadmissible and inflammatory facts. *See* CRE 404(b). For example, the pleading mentions things they want to talk to the public about are such things as, what guns were involved, what happened to those guns.
33. The Sheriff also wants to tell the public why the case was dismissed. That is a difficult issue to explain to people not well versed in the criminal justice system. While judges and many attorneys understand the complexities and nuances of a criminal case set for trial, many in the public will not understand this and it is likely if the record is un-sealed that

GREATER unsupported speculation and scorn will be heaped upon Mx. Aldrich, the district attorney, the defense attorney, and even the Court.

34. The Sheriff's pleading makes a bald assertion that the public has an interest in knowing such details, but does not offer why, and the strong implication from their pleading is that they seem to want the public to further vilify and despise Mx. Aldrich and wants the record un-sealed to give the public more ammunition to do so. It is unclear how the Sheriff can be allowed even if the record was un-sealed, to make such public inflammatory comments, unless the design was to ensure that Mx. Aldrich is denied the right to a fair trial.
35. The Sheriff's pleading makes the claim that law enforcement should not be required by law to keep the details of sealed case undisclosed, but that is the exact purpose of the Colorado sealing statutes and the statutes have explicit requirements on what law enforcement agency must and must not do. *See* C.R.S. §24-72-703. If a law enforcement agency could just claim that they want to talk about the details of a sealed case, and that was enough to make the sealed record unsealed, it would destroy the entire purpose and effect of the sealing statute. The pleading also misses the mark of the explicit language of the sealing statutes, it is only upon a CONVICTION of a future case that a sealed case becomes un-sealed. *See* C.R.S. §24-72-703 (2)(V). Therefore, the fact that Mx. Aldrich is accused of a new criminal charge(s) is not the circumstance contemplated in (5)(c), otherwise that portion of the statute would be superfluous.
36. When the Court applies the proper legal standard to the Sheriff's pleading, it is clear that the pleading has not pointed to a circumstance that outweighs Mx. Aldrich's privacy interest, and therefore the record should not be un-sealed under (5)(c). The Sheriff's arguments have also not shown that unsealing the record would not further violate Mx. Aldrich's right to a fair trial in front of fair jurors, and if anything seem to make it clear, that if the record was unsealed information would be shared to make the right to a fair trial impossible.
37. Finally, law enforcement agencies seeking to unseal the records should not be permitted to benefit from their own lack of compliance with the sealing statute and order of this Court.
38. Both Petitioner Elder's Office and the Fourth Judicial District Attorney's office indicate in their motions, a need to be able to respond to media inquiry accurately as a reason for unsealing these records. *See Petitioner Sheriff Bill Elder's Motion to Unseal Criminal Justice Records* (arguing "[l]ikewise, the El Paso County Sheriff's Office has a strong interest in responding to public inquiries regarding Aldrich's 2021 arrest and prosecution with accurate information so that the public and media are not left to speculate over what actions were or were not taken by law enforcement. The act is inhibiting the flow of accurate and relevant information on a matter of great public importance to our community."); *See also People's Motion to Unseal Arrest and Criminal Records* (arguing, "[t]he people up to this point have been significantly hindered in explaining the process that occurred here. . ."). The Sheriff does not explain—nor could it—how unsealing the record will ameliorate any alleged harm from potential criticism of its actions that it mentions in its motion.

39. The “difficulty” identified by both parties is largely attributable to the agencies inability to comply with the sealing statute up to this point.
40. The statute directs, “upon an inquiry into a sealed record, a criminal justice agency shall reply that a public criminal record does not exist with respect to the defendant who is the subject of the sealed record.” C.R.S. §24-72-703 (2)(b).
41. Despite the clear language restricting disclosure, the national news media has had no problem obtaining detailed information, far exceeding what statute allows. On November 22, 2022, CNN published a story indicating, “Aldrich was arrested in June 2021 in connection with a bomb threat which led to a standoff at his mother’s home, according to a news release from the El Paso County Sheriff’s Office . . .” ELIZABETH WOLFE, DAKIN ANDONE, *WHAT WE KNOW ABOUT THE SUSPECT IN THE COLORADO SPRINGS LGBTQ NIGHTCLUB SHOOTING*, CNN.COM, November 22, 2022, <https://www.cnn.com/2022/11/21/us/anderson-lee-aldrich-colorado-springs-shooting-suspect>.
42. The same CNN.com article indicates that, “two law enforcement sources confirmed the suspect in Saturday’s shooting and the bomb threat were the same person based on [their] name and date of birth.” *Id.*
43. The news release referenced was published on June 18, 2021, and despite sealing orders directed to the El Paso County Sheriff’s Office on August 11, 2022, the release remains posted today. *See* <https://www.epcsheriffsoffice.com/news-releases/sheriffs-office-responds-to-bomb-threat-in-lorson-ranch-neighborhood>.
44. The same improper disclosures are indicated in the local news media as well. A Colorado Springs Gazette article states, “the El Paso County Sheriff’s Office arrested a man with the same name and matching age in June of 2021 in connection with a bomb threat that forced residents in Lorson Ranch . . . according to an earlier report by the Sheriff’s Office.” BROOKE NEVINS AND CARLON MCKINLEY, ANDERSON LEE ALDRICH, COLORADO SPRINGS MASS SHOOTING SUSPECT, MAY HAVE HAD EARLIER RUN-INS WITH POLICE, COLORADO SPRINGS GAZETTE, November 20, 2022, https://gazette.com/news/crime/anderson-lee-aldrich-colorado-springs-mass-shooting-suspect-may-have-had-earlier-run-ins-with/article_5b7f1478-68f5-11ed-ac02-d730cef006ab.html.
45. That same article continues that, “[n]o formal charges were pursued in the case, which has since been sealed, the 4th Judicial District Attorney’s Office told The Gazette after Aldrich called an editor in August and asked that the story . . . be removed since the case was dropped.” *Id.*
46. Any complications both Sheriff Elder’s Office and the District Attorney’s office, may be facing in appropriately responding to media and public inquiry can only be attributed to their own over disclosure, and failure to comply with their obligations under the sealing statute.
47. It is blatant violation of equal protection, fundamental fairness, and due process for law enforcement and the media to work together to gather information and make the information public, in violation of this Court’s sealing order; and then turn around and claim they need file unsealed to explain more context about the case. U.S. Amends V,

IV., XIV, Colo. Const. Art. II, § 3, 6 16, 23, 25, and 28. As a result, Mx. Aldrich's privacy rights should not be made to pay the price for the actions of these state actors.

**MEDIA PETITIONERS HAVE MADE NO SHOWING THAT
THE PUBLIC INTEREST IN UNSEALING THE RECORDS OUT
WEIGHS THE PRIVACY INTEREST MX. ALDRICH
MAINTAINS.**

48. Most of the media petitioners who filed motions to unseal the records rely on the authority outlined in C.R.S. § 24-72-703 (5)(c), which allows for the unsealing of records "upon a showing that circumstances have come into existence since the original sealing and, as a result, the public interest in disclosure now outweighs the defendant's interest in privacy." C.R.S. § 24-72-703(5)(c).
49. Despite citing to the statute, none of the media petitioners address the potential privacy interests at stake. Several petitioners simply state that the balance weighs in favor of unsealing without any analysis or discussion. As such, none of these motions, on their face, have made a showing sufficient to warrant the unsealing of records. As the media identifies no particular interest favoring unsealing the case, there presumably is none.
50. It is notable that all three of motions filed on behalf of the media gives no explanation for how information in a dismissed and legally sealed case creates a public interest in disclosure. It also notable that for some reason, maybe leaks by members of law enforcement, the information which the media is seeking has already been made public and is making the rounds at various media outlets. See attached Exhibit A, one of the many news articles. <https://www.cnn.com/2022/11/21/us/anderson-lee-aldrich-colorado-shooting-suspect>, last accessed 11/30/22.
51. Once again it is a blatant violation of equal protection, fundamental fairness, and due process that law enforcement and the media can work together to gather information and make the information public, in violation of this Court's sealing order; and then turn around and claim they need file unsealed to explain more context about the case. U.S. Amends V, IV., XIV, Colo. Const. Art. II, § 3, 6 16, 23, 25, and 28.
52. Nevertheless, the privacy interest held by Mx. Aldrich in these sealed records are substantial. It is clear from the minute orders in this case that there were several court appearances where Mx. Aldrich's
Mx. Aldrich has constitutional and statutory protections in this information.
privileges afforded to
Defendant under the Colorado and United States Constitutions, the Health Insurance Portability and Accountability Act, and C.R.S. 13-90-107.
53. The record includes not only the fact that Mx. Aldrich was
Mx. Aldrich has separate
protections under Federal law with regards to

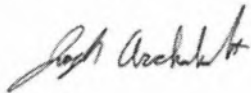
Neither the Court, the media, or law enforcement is entitled to violate the Federal law in this area. There are very specific provision that must followed under Federal law for a Court to address records in this area. Counsel has not received any indication of the procedures or the date and time that for the required hearing to address these issue has been set by the Court. *Id.*

54. Mx. Aldrich has a significant privacy interest in those details remaining sealed, particular in light of the dismissal of all charges in the case. As to all
Defendant has ever received, they are entitled to not only privacy but also protection from the Federal law and the Constitutional and to State law and constitutional protections.
55. Furthermore, as the contents of this record clearly impact private records,
the Court needs to be mindful of privacy interests that individuals that will be impacted by the Court's decision. *See Harris v. Denver Post Corp.*, 123 P.3d 1166, 1175 (Colo. 2005).
56. Additionally, several letters are contained in the court file which outline interactions, conversations, family history, and significant life events including abuse of Mx. Aldrich at a time that they were a minor child. The identity of some the abusers can be gleaned from the documents in the court file but the full extent and nature of the abuse is talked about more vaguely.
57. While courts regularly are tasked with assessing the credibility of such letters, and assigning appropriate weight, there is no guarantee the public, especially those in the media will show any restraint, consideration, or respect. It is much more likely that if the record is unsealed that many in addition to Mx. Aldrich, including all the names mentioned in file and probably the attorneys and even the Court will be subject to unfair condemnation.
58. Granting the various conclusory requests to allow members of law enforcement and the media to parade the sealed materials in public will deny Mx. Aldrich their constitutional rights to the due process guarantees of fundamental fairness, a fair trial, and the right to be treated with fairness by law enforcement. *See* U.S. Const. amend. XIV; Colo. Const. art. II, § 25; *Irwin v. Dowd*, 366 U.S. 717, 722 (1961); *Bloom v. People*, 185 P.3d 797, 805-06 (Colo. 2008) ("The due process clauses of the Colorado and United States Constitutions guarantee every criminal defendant the right to a fair trial," which "includes the right to an impartial jury."); *see also Brady v. Maryland*, 373 U.S. 83, 87 (1963) ("Society wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly."); *People v. Romero*, 745 P.2d 1003, 1009-10 (Colo. 1987) (citing *Santobello v. New York*, 404 U.S. 257 (1971)). Granting the unsealing requests will also violate Mx. Aldrich's constitutional guarantees to an impartial jury and effective assistance of counsel. *See* U.S. Const. amends. VI, XIV; Colo. Const. art. II, §16; *Strickland v. Washington*, 466 U.S. 668 (1984); *Irwin v. Dowd*, 366 U.S. 717, 722 (1961).
59. The prosecution, Sheriff's department, and the media all intend to provide the public, Mx. Aldrich's jurors (should his 2022 case go to trial) as much inflammatory information about them as possible. Much, if not all, of this information will be inadmissible in a trial. The various entities seeking to taint the potential jury pool, fail to even acknowledge, let alone reconcile, the profound legal issues and problems this will cause. *See, e.g., Harper v. People*, 817 P.2d 77, 85 (Colo. 1991). Mx. Aldrich agrees with the prosecution that they will likely not receive a fair trial, but Mx. Aldrich disagrees that the path to a fair trial requires that further details about prior alleged criminality be broadcast to potential jurors in their pending case, as doing so will only guarantee Mx. Aldrich is denied a fair trial.

60. Mx. Aldrich requests a hearing on this matter.

WHEREFORE, it is respectfully requested that this Court deny all motions to unseal the records in the above captioned matter, and not deny Mx. Aldrich's constitutional rights to privacy, due process and a fair trial.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Joseph Archambault #41216
Chief Trial Deputy



Michael Bowman #48652
Deputy State Public Defender

Certificate of Service

I certify that on November 28, 2022, I served the foregoing document electronically through Colorado Courts E-Filing to all opposing counsel of record.
s/skoslosky

Dated: December 7, 2022

DATE FILED: November 30, 2022

Exhibit A

What we know about the suspect in the Colorado Springs LGBTQ nightclub shooting



By Elizabeth Wolfe and Dakin Andone, CNN

Updated 11:29 PM EST, Tue November 22, 2022



Editor's Note: Read our latest coverage of the suspect [here](#).

CNN —

The suspect in a shooting at a Colorado LGBTQ nightclub this weekend has been identified as Anderson Lee Aldrich, who police say walked into Club Q in Colorado Springs and immediately opened fire, killing five people and injuring at least 19 others.

Aldrich, 22, faces five counts of first-degree murder and five counts of a bias-motivated crime causing bodily injury in connection to the shooting, according to an online docket in the El Paso County Courts.

The suspect was taken into police custody and was being treated at a hospital, police said, adding officers did not shoot at him. Aldrich remained hospitalized as of late Monday morning, when Colorado Springs Police Chief Adrian Vasquez said the suspect had not made any statements to police, despite their attempts to interview him for the investigation.

“I haven’t heard that he has not been cooperative, just simply that he has determined not to speak to investigators,” Vasquez said, adding he expected charges would be formally filed “relatively soon after” Aldrich is released from the hospital.

Here’s what else we know about the suspected gunman.

Gunman entered with ‘tremendous firepower,’ owner says

Police received several 911 calls about the shooting beginning at 11:56 p.m. local time, according to police. Officers were dispatched at 11:57 p.m. and an officer arrived at Club Q at midnight. The suspect was detained at 12:02 a.m., police said.

Police said two firearms were recovered at the scene, including a long rifle Vasquez described in an interview with CNN as an AR style weapon. The suspect also possessed a handgun, he

told CNN on Monday, though the long rifle was the main weapon used in the shooting.

Two law enforcement sources told CNN records indicate the suspect purchased both weapons, an AR style rifle and a handgun. CNN has not confirmed when those purchases were made.

The gunman appeared heavily armed and wearing a military-style flak jacket as he arrived at the club, the club’s owners told The New York Times, citing their review of surveillance footage.

Matthew Haynes, one of the club’s owners, said the gunman entered with “tremendous firepower,” the Times reported.

While the suspect is already facing state charges, numerous federal agencies and offices, including the Department of Justice’s Civil Rights Division, are aware of the shooting, the US Attorney’s Office for the District of Colorado said in a statement Monday. The office said it would “review all available facts of the incident to determine what federal response is warranted.”

Online court records showed Aldrich has no bond. The docket did not reflect whether he has retained an attorney.

Club patrons stopped the rampage

The shooting lasted only minutes because people inside the club were able to subdue the suspect, police said.

“At least two heroic people inside the club confronted and fought with the suspect and were able to stop the suspect,” Vasquez said. “We owe them a great debt of thanks.”

One customer “took down the gunman and was assisted by another,” Haynes told the Times.

“He saved dozens and dozens of lives,” Haynes said of the first patron. “Stopped the man cold. Everyone else was running away, and he ran toward him.”

Among those injured was one of the people who stopped the gunman, Vasquez told CNN on Monday, adding the injury was non-life-threatening. The second person was not injured, Vasquez said.

He changed his name about 6 years ago

In 2016, the suspect – then known as Nicholas F. Brink – petitioned a Texas court to change his name, though it remains unclear why.

Just before his 16th birthday, the suspect asked a district court in Bexar County to allow him to legally change his name to Anderson Lee Aldrich.

A judge granted the petition days later, a summary of the case shows.

Suspect previously arrested in connection with a bomb threat

Aldrich was arrested in June 2021 in connection with a bomb threat which led to a standoff at his mother’s home, according to a news release from the El Paso County Sheriff’s Office at the time and his mother’s former landlord. Colorado Springs is in El Paso County.

Two law enforcement sources confirmed the suspect in Saturday’s shooting and the bomb threat were the same person based on his name and date of birth.

Video obtained by CNN shows Aldrich surrendering to law enforcement last year after allegedly making a bomb threat. Footage from the Ring door camera of the owner of the home shows Aldrich exiting the house with his hands up and barefoot, and walking to sheriff’s deputies.

Sheriff’s deputies responded to a report by the man’s mother he was “threatening to cause harm to her with a homemade bomb, multiple weapons, and ammunition,”

according to the release. Deputies called the suspect, and he “refused to comply with orders to surrender,” the release said, leading them to evacuate nearby homes.

In new video obtained by CNN, Aldrich appears to rant about the police and challenging them to breach the house where he was holed up.

“I’ve got the f**king sh*theads outside, look at that, they’ve got a bead on me,” Aldrich says on the video, pointing the camera at a window with blinds covering it. “You see that right there? F**king sh*theads got their f**king rifles out.”

“If they breach, I’mma f**king blow it to holy hell,” Aldrich adds, as he walks in and out of a bedroom.

He ends the video with what seems like a message to law enforcement outside: “So, uh, go ahead and come on in, boys! Let’s f**king see it!”

The video does not actually show any officers outside the house and it’s not clear from the video whether Aldrich had any weapons in the house.

What we know about the Colorado Springs LGBTQ nightclub shooting

Several hours after the initial police call, the sheriff’s crisis negotiations unit was able to get Aldrich to leave the house, and he was arrested after walking out the front door, which was seen in other video footage previously reported by CNN. Authorities did not find any explosives in the home.

Leslie Bowman, who owns the house where Aldrich’s mother lived, provided CNN with the videos. Aldrich’s mother rented a room in the house for a little over a year, Bowman said, and Aldrich would come visit his mother there.

Attempts by CNN to reach Aldrich’s mother for comment were unsuccessful. Vasquez said Monday she had not cooperated with the investigation into Saturday’s shooting, but authorities would “welcome an interview with her at any time.”

It is not immediately clear how the bomb threat case was resolved, but the Colorado Springs Gazette reported the district attorney’s office said no formal charges were

pursued in the case. The district attorney's office did not respond to a request for comment from CNN.

Aldrich's arrest in connection to the bomb threat would not have shown up in background checks, according to the law enforcement sources who said records indicate he purchased the weapons, because the case was never adjudicated, the charges were dropped and the records were sealed. It's unclear what prompted the sealing of the records.

Aldrich also called the Gazette in an attempt to get an earlier story about the 2021 incident removed from the website, the newspaper reported. "There is absolutely nothing there, the case was dropped, and I'm asking you either remove or update the story," Aldrich said in a voice message, according to the Gazette.

Grandson of a California lawmaker

Aldrich is the grandson of outgoing California Assemblyman Randy Voepel, according to social media reports and CNN interviews.

Voepel, who has served as a state lawmaker since 2016, lost his re-election bid earlier this month. He could not be reached for comment. It's unclear how much Voepel, the father of Aldrich's mother, interacted with his grandson.

As a lawmaker, Voepel attracted attention when he compared the January 6 attack on the US Capitol to the Revolutionary War.

"This is Lexington and Concord. First shots fired against tyranny," he said, according to The San Diego Union Tribune. "Tyranny will follow in the aftermath of the Biden swear in on January 20th."

Voepel later tried to walk back his comments by tweeting a statement which read in part, "I do not condone or support the violence and lawlessness that took place on Wednesday, January 6th, at our nation's capital. The loss of life, theft of government property, and blatant disregard for law and order is reprehensible and unnecessary."

Suspect's background puts spotlight on Colorado red flag law

The revelation about the suspect's run-in with law enforcement last year has raised questions about Colorado's red flag law and whether it should have applied to Aldrich, or if it would have prevented the shooting at Club Q.

Colorado, which has been the site of numerous high-profile mass shootings in the last two decades, passed its red flag law in 2019. It's intended to temporarily prevent an individual in crisis from accessing firearms through a court order, triggered by the individual's family, a member of their household or a law enforcement officer. It's not clear if Aldrich had purchased firearms prior to his June 2021 arrest.

Asked Monday if the red flag law should have been implemented in Aldrich's case, Colorado Attorney General Phil Weiser said it was "too early to make any decisions."

"It's still a new tool that we are learning how to use," Weiser said. "We know that each tragedy is a learning opportunity to ask what did we miss? What can we do better in the future?"

CNN's Amanda Watts, Nelli Black, Casey Tolan, John Miller, Michelle Watson, Blake Ellis, Rob Kuznia, Daniel A. Medina, Scott Glover, Scott Bronstein, and Majlie de Puy Kamp contributed to this report.

Redacted

District Court, El Paso County, Colorado Court Address: P.O. Box 2980 Colorado Springs, CO 80901		DATE FILED: December 05, 2022 9:49 AM
THE PEOPLE OF THE STATE OF COLORADO		
v.		▲ COURT USE ONLY ▲
ANDERSON ALDRICH, Defendant.		Case Number: 21CR3485
		Division: 19 Courtroom: S404
NOTICE OF HEARING		

Several Motions to Unseal have been filed under this case number. A hearing on this issue will be held on **Thursday, December 8, 2022 at 8:00 am** in this Division.

Dated: December 5, 2022

BY THE COURT:



Robin Chittum
District Court Judge

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO Address: 270 S. Tejon Street, Colorado Springs, CO 80903	DATE FILED: December 06, 2022
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH	▲ COURT USE ONLY ▲
ATTORNEY FOR LAURA VOEPEL, NAMED AS ALLEGED VICTIM: CARRIE LYNN THOMPSON NO. 17081 Law Offices of Carrie Lynn Thompson 1544 Race Street Denver, CO 80206 Phone: (720) 475-1179/ Cell: (303) 990-1993 Email: carriecourtney8@gmail.com	Case No. 21CR3485 DIV. 19
LAURA VOEPEL'S REQUEST FOR CONTINUANCE OF THE HEARING CONCERNING PENDING PETITIONS TO UNSEAL SO THAT SHE MAY ATTEND THE HEARING AND BE HEARD AS TO HER POSITION AGAINST THE POTENTIAL UNSEALING	

Laura Voepel, through her attorney, Carrie Lynn Thompson requests that the hearing concerning the petitions to unseal be continued to allow her to attend the hearing and be heard as to her position against the potential unsealing and as grounds states as follows:

1. Ms. Laura Voepel is named as one of the alleged victims in the above captioned case.
2. Ms. Voepel was provided notice of a hearing to be held Thursday, December 8, 2022 at 8:00 a.m. concerning the unsealing of the above-captioned case through an email delivered to undersigned counsel at 12:56 p.m. today (December 6, 2022).
3. Despite Ms. Voepel's desire to attend and be heard on the issue of the petitions to unseal, she is unable to attend the hearing at that date and time because she has travel plans that morning that will prevent her from being present at the hearing.

4. The Colorado Constitution grants certain rights to crime victims. Colo. Const. Art. II, §16a. Crime victims have a right to be notified of a hearing on sealing a case. C.R.S. §24-4.1-302.5 (1)(z); 24-4.1-303 (11)(b.7).
5. The District Attorney's Office and law enforcement have failed to give Ms. Voepel reasonable notice of the hearing. Had she been notified in a reasonably timely manner, she would have scheduled her travel around the hearing so that she could attend the hearing and be heard on the issue of unsealing the case.
6. The purpose behind the Victim's Bill of Rights is to prevent victims from being harmed, harassed, intimidated or retaliated against for reporting a crime. See C.R.S. §24-4.1-303 (1), (5). Ms. Voepel has a right to be heard on the issue of her opposition to unsealing information about this case, particularly in light of the likelihood she will suffer potential harm, harassment, intimidation and/or retaliation if this case is unsealed.
7. Ms. Voepel can be available to attend a hearing held any time after her return, December 28, 2022.

WHEREFORE, Ms. Voepel respectfully requests that this Court continue the hearing concerning the pending petitions to unseal until a date after December 28, 2022.

s/ Carrie Lynn Thompson

CARRIE LYNN THOMPSON, NO. 17081

Dated: December 6, 2022

I hereby certify that on the 6th day of December, 2022, a copy of the foregoing motion was served on the Office of the District Attorney via Colorado Courts E-Filing (CCE) System.

s/ Carrie Lynn Thompson

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	DATE FILED: December 06, 2022
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH, Defendant	<input type="checkbox"/> COURT USE ONLY <input type="checkbox"/>
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	Case No. 21CR3485 Division 19
REQUEST FOR COURT AND DISTRICT ATTORNEY TO COMPLY WITH VICTIMS BILL OF RIGHTS	

Mx. Anderson Aldrich¹, by and through counsel moves this Court and the prosecution to comply with the Victims Bill of Rights prior to any hearing in this case, and in support states the following:

1. On July 5, 2022, on the morning of trial, the district attorney was unable to proceed in this case and the matter was dismissed for failure to prosecute. On July 8, 2022, defense counsel filed a motion to seal records. The case was set for a hearing on the motion on August 11, 2022.
2. At the hearing the district attorney lodged no objection, and the matter was ordered sealed by the court. That order informed the Sheriff's Department, District Attorney's Office, Colorado Bureau of Investigation, and State Court Administrator's Office of the cases immediate sealing. *See Order to Seal Arrest and Criminal Records Pursuant to C.R.S. 24-72-705 (Simplified Process).*
3. On November 21, 2022, the court began receiving petitions to unseal the records in this case. Several from media outlets, and one from the district attorney's office. On November 22, 2022, a motion to unseal was filed by Sheriff Bill Elder. One day later, on November 23, 2022, the Court directed the defense to respond to the motions by close of business on November 30, 2022. Also on November 23, 2022, Mx. Anderson's former counsel Joshua Lindley was allowed to withdraw as counsel on this case, and the Public Defender was entered as Mx. Anderson's counsel of record.

¹ Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

4. Counsel was granted access by the Court to the written documents in the court file on November 29, 2022 Mx. Aldrich is currently being held without bond in the El Paso County Jail and has been charged with ten counts of first degree murder and hundreds of other charges in case number 22CR6008. The media coverage of 22CR6008 has been extensive and has not been limited to just Colorado. The national and international media have covered the case extensively.
5. Mx. Aldrich filed an objection to unsealing this case on November 30, 2022. This matter is set for a hearing on December 8, 2022, at 8 a.m.
6. The Colorado Constitution grants certain rights to crime victims. Colo. Const Art. II, § 16a. Crime victims have a right to be notified of a hearing on sealing a case. C.R.S. § 24-4.1-302.5 (1)(z); 24-4.1-303 (11)(b.7). Law enforcement is obligated to ensure that victims receive the rights they are supposed to obtain under the Victim's Bill of Rights and also to try to prevent victims from being harmed, harassed, intimidated or retaliated against for reporting a crime. See 24-4.1-303 (1), (5).
7. The person named as alleged victims in this case are Pamela Pullen, Jonathan Pullen, and Laura Voepel.
8. The District Attorney's motion and the Sheriff's motion make no mention of contacting the victims in this case about the petitions to unseal and whether they are opposed to unsealing information about the case. Counsel has learned through her attorney that Ms. Voepel has not been contacted about this issue. It is unclear if the prosecution has contacted the other victims. However, it seems that these victims would certainly want to be contacted, as it is their right, and due to the likelihood they will suffer potential harm, harassment, intimidation and/or retaliation if this case is un-sealed.

Wherefore, Mx. Aldrich respectfully requests that this Court give notice to the victims case of the motions and hearing date on this issue with enough notice to be heard, or Order law enforcement to give such notice to the victims.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Joseph Archambault #41216
Chief Trial Deputy



Certificate of Service

I certify that on December 6, 2022, I served the foregoing document through email, to opposing counsel of record. Counsel cannot access into ICCES for this case. s/ JArchambault

Michael Bowman #48652
Deputy State Public Defender

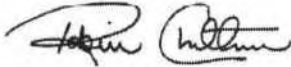
Dated: December 6, 2022

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO		DATE FILED: December 07, 2022 8:46 AM
Court Address: 270 S. TEJON, COLORADO SPRINGS, CO, 80903		
THE PEOPLE OF THE STATE OF COLORADO		
v. Defendant(s) ANDERSON LEE ALDRICH		
		△ COURT USE ONLY △
		Case Number: 2021CR3485
		Division: 19 Courtroom:
Order Denying Request for Continuance		

A request to continue the hearing set December 8, 2022 has been filed by alleged victim, Laura Voepel. This request is denied. Ms. Voepel may appear by WebEx at the hearing.

Issue Date: 12/7/2022



ROBIN LYNN CHITTUM
District Court Judge

Redacted

<u>DISTRICT</u> District Court, El Paso County, Colorado Court Address: 270 S. Tejon Colorado Springs, CO. 80903	DATE FILED: December 07, 2022
People of the State of Colorado vs. Defendant: ANDERSON ALDRICH	▲ COURT USE ONLY ▲ Case #: 21CR3485 Division #: 19 Courtroom #:
District Attorney: Michael J. Allen, #42955 Chief Deputy District Attorney: Reginald Short #35656 Chief Deputy District Attorney: Jennifer Viehman, #33163 105 E. Vermijo Colorado Springs, CO 80903 Phone Number: 719-520-6000	
PEOPLE'S RESPONSE TO DEFENSE MOTION TO DISMISS ALL PETITIONS TO UNSEAL BASED ON LAW ENFORCEMENT MISCONDUCT	

COMES NOW, the People of the State of Colorado, by and through their elected District Attorney, Michael J. Allen, and his duly appointed deputy, and hereby responds to Defense motion to dismiss all petitions to unseal based on law enforcement misconduct as follows:

- 1) The People filed a motion to unseal criminal justice records in this case on November 21, 2022. As noted in this motion, the facts and circumstances surrounding the defendants arrest in this case were already in the public sphere. One example was noted (see:<https://krdo.com/news/top-stories/2021/06/19/bomb-threat-in-lorson-ranch-neighborhood-friday-night/>) but attached are two additional articles from local media in June of 2021. (Attachment A). One simply cannot seal Google or previously archived news reports.
- 2) Defense filed an objection to unsealing on November 30, 2022. The Associated Press (AP) published an article titled "Next Mass Killer: Dropped Case Foretold Colorado Bloodbath." Defense then filed this motion, arguing that some nefarious law enforcement misconduct must have occurred for this AP article to be published and requests that all petitions should be dismissed as a sanction for this misconduct.
- 3) The Defense is incorrect that the information is only accessible from law enforcement inappropriately disclosing the information to the AP. The information could have come from a variety of sources, to include; prior articles from 2021, interviews with neighbors that lived nearby the Defendant in 2021, posting of information on news

agency websites or any number of sources. Clearly, the AP obtained “ring doorbell” footage from someone not covered by any sealing order.

1. Defense cites to *People v. Auld*, 815 P.2d 956 (Colo. App. 1991) as authority for dismissal of the petitions to unseal. *Auld* is the only case where outrageous government conduct resulted in dismissal of a case. In *Auld*, dismissal may have been an appropriate sanction given the governmental misconduct that occurred in that case. Here, dismissal of all the petitions to unseal would be an inappropriate sanction, even if law enforcement violated the ceiling provisions in this case. It is of some note that the Defendant cites to the case of *United State v. Russell*, 411 U.2. 423 (1973), a case where the Supreme Court ultimately concluded that an agent’s submission of a critically needed legal substance to a narcotics manufacturer did not in fact violate fundamental fairness shocking to a universal sense of justice. *Russell*, 411 U.S. at 435. The same holds true for the *Effland v. People*, 240 P.3d 868 (Colo. 2010) case cited by the defendant, wherein the Effland Court concluded that there was no outrageous governmental conduct in the context of a prosecutorial statement in a closing argument. Dismissal of the petitions would be an extreme remedy that should not occur here.
- 4) The People have taken great pains to comply with the sealing order in this case. On numerous occasions, media and public inquires have been made to this office as to what happened in the 2021 case at bar. The responses from this office have repeatedly been “no such record exists.” That is evident even from the AP article cited by the defense where the reporter states, “ but charges against Aldrich for the actions that day were dropped for reasons the district attorney has refused to explain due to the case being sealed,” and “for his part, Allen has repeatedly declined to comment on why those charges didn't go forward, citing a Colorado law that automatically seals records in cases where charges are dropped and requires him to not even acknowledge the records exist.”

WHEREFORE, the People respectfully request this Honorable Court DENY THE Defendant’s motion to dismiss all petitions to unseal based on law enforcement misconduct and GRANT the People’s Motion to Unseal Arrest and Criminal Justice Records

Respectfully submitted,

December 7, 2022
Date

/S/ Jennifer Viehman
Jennifer A. Viehman, # 33163
Chief Deputy District Attorney
105 E. Vermijo Avenue
Colorado Springs, CO 80903

CERTIFICATE OF SERVICE

I certify on the 7th day of December 2022, a true and correct copy of People's Response to Defense Motion to Dismiss All Petitions to Unseal Based on Law Enforcement Misconduct to the Public, was served via Colorado Courts E-Filing on all parties who appear of record and have entered their appearances according to Colorado Court's E-Filing.

/s/
Kim Daniluk, Paralegal

Redacted

People's Attachment A to People's Response to Defense
Motion to Dismiss All Petitions to Unseal Based on Law
Enforcement Misconduct
People v. Aldrich -
Case No. 21CR3485



DATE FILED: December 07, 2022

By Sean Rice
December 1, 2022 5:52 PM
Published December 1, 2022 5:49 PM

Club Q accused shooter's possible criminal past shines spotlight on Colorado's sealed records laws

COLORADO SPRINGS, Colo. (KRDO) -- A point of frustration for many community members since the Club Q shooting has been the limited information available regarding the suspected shooter's past criminal interaction with police.

In June 2021, the 22-year-old accused killer was arrested on five felony charges for making bomb threats. At that time, the El Paso County Sheriff's Office said the suspect's mother was the one threatened. That case against the suspect was never continued.

However, each time the media has asked 4th Judicial District Attorney Michael Allen what happened to the case, he has stated, "no such records exist."

Currently in Colorado, when a criminal case is dropped or dismissed, that charge record is automatically sealed. Allen has yet to say what happened with the suspect's 2021 bomb threat.

The way records are sealed stems from a 2019 piece of legislation called "Increased Eligibility For Criminal Record Sealing."

The act creates a simplified process to seal criminal justice records when:

- A case against a defendant is completely dismissed because the defendant is acquitted of all counts in the case;
- The defendant completes a diversion agreement when a criminal case has been filed; or
- The defendant completes a deferred judgment and sentence and all counts are dismissed.

Thursday, *13 Investigates* spoke with Timothy Lane, the Legislative Liaison for the Colorado District Attorney's Council and former 18th Judicial District Attorney George Brauchler.

Both said the sealing records law was created as a way to prevent someone from feeling the impacts of a charge that doesn't result in a conviction, but it has had "unintended consequences."

"They're guessing as to what led it here. And in the absence of the truth, we may end up seeing, and we've seen this before under the gold dome, legislation being passed based on anecdote and rumor. That's not good for Colorado," Brauchler said.

The former republican DA argues Aldrich's prior case should already be unsealed given the heightened public interest surrounding the event and what followed.

"I don't see the downside [for not unsealing] to anyone other than potentially law enforcement, the judge, or the prosecutor in revealing this information," Brauchler said.

Lane believes prosecutors wish they could say more regarding records that are sealed, but if they say the wrong thing, they could be held in contempt of court.

"I hope folks understand that's what we're required to do. It's not our personal decision," Lane said. "It is an act that the court has ordered, and it is something the legislature has told the court that they must order."

13 Investigates reached out to the 4th Judicial District Attorney's Office to ask if they had petitioned to court to unseal Aldrich's prior criminal case. They were not able to speak on the case.

Redacted

People's Attachment B to Motion to Dismiss All Petitions to Unseal Based
on Law Enforcement Misconduct
People v. Aldrich -
Case No. 21CR3485



Club Q Shooting: The latest



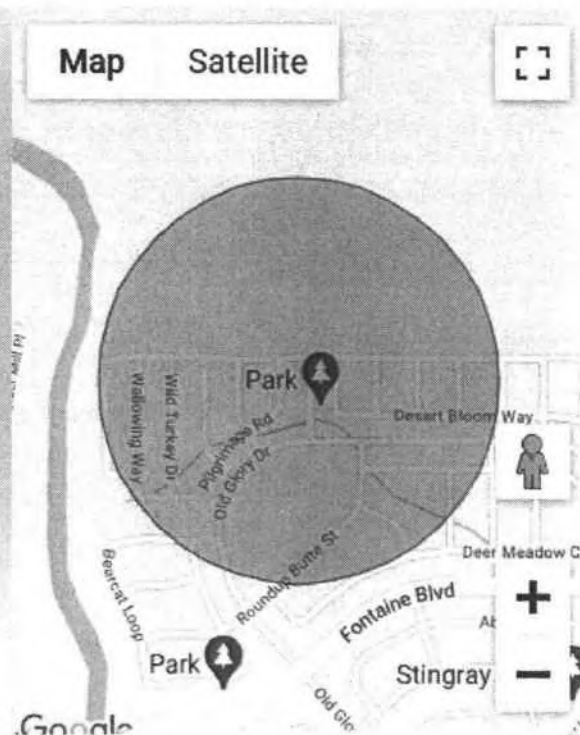
20

DATE FILED: Dec 2022

https://gazette.com/suspect-arrested-in-connection-to-bomb-threat-that-forced-evacuations-in-lorson-ranch-neighborhood/article_163dd35e-d094-11eb-8a50-5f08d4355829.html

Suspect arrested in connection to bomb threat that forced evacuations in Lorson Ranch neighborhood

By Esteban Candelaria esteban.candelaria@gazette.com
Jun 18, 2021



Map of the area June 18th's evacuation order applied to.
EPCSO

Editor's note: No formal charges were pursued in this case, which has since been sealed, according to the DA's office.

A 21-year-old man was arrested in connection to a bomb threat that forced residents in a Lorson Ranch neighborhood to evacuate from their homes for about three hours Friday night, the El Paso County Sheriff's Office said.

The man was arrested after deputies responded to a report of a bomb threat from the man's mother, who said her son had made threats with a homemade bomb, several weapons, and ammunition, and that she didn't know where he was, El Paso County Sheriff's office spokeswoman Deborah Mynatt said in a press release.

Around 4:40 p.m., deputies evacuated an area encompassing a quarter-mile radius around the 6300 block of Pilgrimage Road, which was roughly a mile from the address they responded to, after they made contact with the man and he refused to comply with deputies' orders.

Eventually, negotiators were able to get the man to come out of the house he was in, and deputies took him into custody.

The sheriff's office said the man is accused of two counts of felony menacing three counts of first-degree kidnapping.

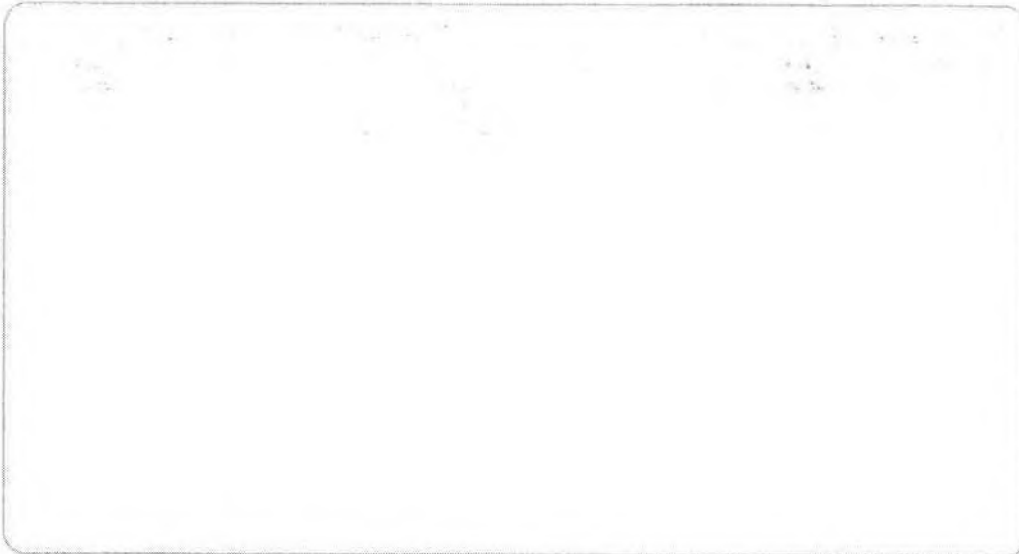
At about 8:07 p.m., the sheriff's office tweeted that the area was safe, and residents were free to return to their homes.

EPCSheriff 

@EPCSheriff · **Follow**



Attention - law enforcement has determined the area previously evacuated in the area of 6300 Pilgrimage as safe. You are clear to return to your residence.



8:07 PM · Jun 18, 2021



16



Reply



Share

Read 11 replies

MORE INFORMATION



Evacuations ordered for Vosgurg Pike fire in southwestern Colorado

Colorado wildfire updates: Containment increased in 2 blazes

Anderson Lee Aldrich, Colorado Springs mass shooting suspect, may have had earlier run-ins with police

Esteban Candelaria

Criminal Justice Reporter

Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	DATE FILED: December 07, 2022
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH, Defendant	σ COURT USE ONLY σ
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	Case No. 21CR3485 Division 19
MOTION TO DISMISS ALL PETITIONS TO UN-SEAL BASED ON LAW ENFORCEMENT MISCONDUCT	

Mx. Anderson Aldrich¹, by and through counsel moves this Court to deny all requests to unseal the records in this case, based upon the law enforcement misconduct in this case:

Procedural History

1. On July 5, 2022, on the morning of trial, the district attorney was unable to proceed in this case and the matter was dismissed for failure to prosecute. On July 8, 2022, defense counsel filed a motion to seal records. The case was set for a hearing on the motion on August 11, 2022.
2. At the hearing the district attorney lodged no objection, and the matter was ordered sealed by the Court.
3. That order informed the Sheriff's Department, District Attorney's Office, Colorado Bureau of Investigation, and State Court Administrator's Office of the cases immediate sealing. *See Order to Seal Arrest and Criminal Records Pursuant to C.R.S. 24-72-705 (Simplified Process).*
4. On November 21, 2022, the Court began receiving petitions to unseal the records in this case. Several from media outlets, and one from the district attorney's office.
5. On November 22, 2022, a motion to unseal was filed by Sheriff Bill Elder.

¹ Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

6. Both Petitioner Elder's Office and the Fourth Judicial District Attorney's office indicate in their motions, a need to be able to respond to media inquiry accurately as a reason for unsealing these records. *See Petitioner Sheriff Bill Elder's Motion to Unseal Criminal Justice Records* (arguing "[l]ikewise, the El Paso County Sheriff's Office has a strong interest in responding to public inquiries regarding Aldrich's 2021 arrest and prosecution with accurate information so that the public and media are not left to speculate over what actions were or were not taken by law enforcement. The act is inhibiting the flow of accurate and relevant information on a matter of great public importance to our community."); *See also People's Motion to Unseal Arrest and Criminal Records* (arguing, "[t]he people up to this point have been significantly hindered in explaining the process that occurred here. . ."). Both petitioners argued that the media's coverage strengthened their position for the Court to unseal the record.
7. One day later, on November 23, 2022, the Court directed the defense to respond to the motions by close of business on November 30, 2022. Also on November 23, 2022, Mx. Anderson's former counsel Joshua Lindley was allowed to withdraw as counsel on this case, and the Public Defender was entered as Mx. Anderson's counsel of record.
8. Counsel was granted access by the Court to the written documents in the court file on November 29, 2022.
9. Mx. Aldrich is currently being held without bond in the El Paso County Jail and has been charged with five counts of murder, three hundred other charges in case number 22CR6008. A proof evident presumption great/preliminary hearing is currently scheduled to occur in February 2023.
10. Mx. Aldrich filed an objection to unsealing this case on November 30, 2022. This matter is set for a hearing on December 8, 2022, at 8 a.m. The media coverage of 22CR6008 has not only been extensive but it also not been limited to just Colorado: there has been extensive national and international level. *See* attachment to Exhibit A, to Defense Objection filed 11/30/22, <https://www.cnn.com/2022/11/21/us/anderson-lee-aldrich-colorado-springs-shooting-suspect>, last accessed 11/30/22.
11. In their Objection, Mx. Aldrich argued law enforcement should not be allowed to violate Colorado law by disclosing information to the public, which includes the media, only to later point to the result of their illegal conduct—more media coverage about sealed record—as a reason to un-seal. *See* Defense Objection filed 11/30/22, ¶¶ 37-47. Mx. Aldrich specifically objected to law enforcement breaking the law to gain an advantage to unseal as a violation of their constitutional rights. U.S. Const. Amends. V, IV., XIV, Colo. Const. Art. II, § 3, 6 16, 23, 25, and 28; *Id.*
12. Since the filing of Defense objection, there has only been more extensive media coverage of this case. However sometime late last night, the Associated Press ("AP") published a story which gave extensive detail coming directly from documents within this sealed case. *See* Attachment A, AP story "Next mass killer Dropped case foretold Colorado bloodbath" last accessed 12/7/22. The AP cites to multiple statements and facts that are within the documents from this sealed case. *Id.* The AP even refers to the documents as coming from "sealed law enforcement documents." *Id.* **The AP is clear that law enforcement spoke to the media about this sealed case and verified the documents came from the sealed case. *Id.***

13. It appears clear that a member of law enforcement, and also potentially courthouse staff, gave sealed documents to the media. It also appears clear that law enforcement staff (and potentially courthouse staff) spoke to the media about the contents of the information in the sealed record in clear violation of Colorado law.
14. Law enforcement's attempt to create a basis to unseal the court file in this case by violating Colorado law—the very statute that they ask this Court to limit—is egregious, illegal, unconstitutional, and sanctionable.

Law and Analysis

15. C.R.S. §24-72-705 directs that a court shall order the defendant's criminal justice record sealed when a case is completely dismissed. By this act, legislature enacted an expedited process for the sealing of records specifically for instances where a case was dismissed. In doing so, the legislature recognized a great privacy interest in protecting individuals from public scrutiny, inquiry, or persecution based upon charges and arrests where the allegations went unproven.
16. Colorado law is very clear that after a case has been sealed by a trial court, law enforcement is prohibited from disclosing information that the sealed record even exists. C.R.S. §24-72-703 (2)(VII)(b). The statute even states "...Upon an inquiry into a sealed record, a criminal justice agency shall reply that a public criminal record does not exist with respect to the defendant who is subject of the sealed record." *Id.*
17. At a petition to un-seal the petitioner(s) bear the burden of proof and must meet this burden, by proving to the trial court that circumstances show the public interest outweighs the defendant's right to privacy. C.R.S. §24-72-703 (5)(c).
18. Mx. Aldrich is guaranteed the right to a trial by jurors who are fair and impartial. *Ross v. Oklahoma*, 487 U.S. 81 (1988); *Witherspoon v. Illinois*, 391 U.S. 510, 518 (1968); *Irvin v. Dowd*, 366 U.S. 717, 722 (1961); *People v. Sandoval*, 733 P.2d 319, 320 (Colo. 1987); *Oaks v. People*, 150 Colo. 64, 371 P.2d 433, 477 (1962); *Smith v. People*, 8 Colo. 457, 8 P.1045 (1885). Unsealing of the records in this case will generate even more prejudicial pretrial publicity, which will destroy Mx. Aldrich's ability to receive a fair trial under the United States and Colorado constitutions. *See, e.g., Sheppard v. Maxwell*, 384 U.S. 333, 350-51 (1966) (public scrutiny of a criminal trial "must not be allowed to divert the trial from the very purpose of a court system to adjudicate controversies . . . in the calmness and solemnity of the courtroom according to legal procedures," including "the requirement that the jury's verdict be based on evidence received in open court, not from outside sources." (internal quotations and citation omitted)).
19. Colorado courts follow the Supreme Court decisions *United States v. Russell* and *United States v. Hampton*, which recognize that a court may dismiss an indictment or otherwise sanction the government for behavior that "violates fundamental fairness and is shocking to the universal sense of justice." *See Effland v. People*, 240 P.3d 868, 878 (Colo. 2010) (quoting *United States v. Russell*, 411 U.S. 423, 432 (1973)); *Bailey v. People*, 630 P.2d 1062, 1068 (Colo. 1981) (recognizing *Russell* and *Hampton* and agreeing that a case may be dismissed for government conduct that dramatically impinges a defendant's due process rights).

20. The government is not above the law. *Trump v. Vance*, 140 S. Ct. 2412, 2431 (2020) (“In our system of government, as this Court has often stated, no one is above the law.”) (Kavanaugh, J. concurring). It owes the same duty to follow the law as any citizen, no matter how seemingly noble its cause:

Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

Olmstead v. United States, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting), *quoted with approval in United States v. Gonzalez*, 719 F. Supp. 2d 167, 170 (D. Mass. 2010).

21. All members of law enforcement are expected to know the law and follow it. *See People v. Lopez*, 2022 COA 70M ¶¶ 33-34 (“[L]aw enforcement has a duty to stay abreast of changes in the law.”).
22. As Colorado courts have repeatedly noted by citing the language of the Supreme Court in *Berger v. United States*, “A prosecutor, while free to strike hard blows, is not at liberty to strike foul ones” *See* 295 U.S. 78, 88 (1935); *Wend v. People*, P.3d 1089, 1096 (Colo. 2010); *Wilson v. People*, 743 P.2d 415, 418 (Colo. 1987). The trial court must ensure that the prosecutor’s tactics do not cross the line and encroach on the defendant’s due process rights, and it must take action to ameliorate any abuses that undermine the fairness of the proceedings. *See Doming-Gomez*, 125 P.3d at 1049.
23. To determine whether the government’s behavior warrants sanctions, this Court must consider the totality of the facts in a case. *See People v. Burlingame*, 434 P.3d 794, 795 (Colo. App. 2019) (citing *People v. McDowell*, 219 P.3d 332, 336 (Colo. App. 2009)). If, when taken as a whole, the facts indicate that the government—not just the prosecution—has egregiously abused its authority, the Court is empowered to order sanctions, including dismissal. *See People v. Auld*, 815 P.2d 956, 958 (Colo. App. 1991).
24. Sanctions, like dismissal, against the government for its lawlessness and other misconduct not only protect the defendant’s due process rights, as guaranteed to him by the federal and state constitutions, they ensure the continued integrity of the well-established legal principle that the government’s compelling interest in a case is not to punish all suspected criminals, but to determine truth and administer justice. *See U.S.*

Const. amend. VII; Colo. Const. art. II, § 25; *Berger v. United States*, 295 U.S. 78, 88 (1935); *People v. Perez*, 238 P.3d 665, 670 (Colo. 2010); *Domingo-Gomez v. People*, 125 P.3d 1043, 1049 (Colo. 2005); *Wilson v. People*, 743 P.2d 415, 418 (Colo. 1987); *DeGesualdo v. People*, 364 P.2d 374, 378 (Colo. 1961). Also, sanctions serve to deter the prosecution and police from using similarly dishonest tactics in future cases. *See People ex rel. Gallagher v. District Court*, 656 P.2d 1287, 1293 (Colo. 1983).

25. Thus, sanctions are not contingent upon prejudice to the defendant. *Auld*, 815 P.2d at 958. And fault need not lie at the prosecution's feet to warrant severe sanctions. The Court must protect the defendant from the prosecutions' agents' misconduct (e.g., the police). *See, e.g., Gonzalez*, 719 F. Supp. 2d at 186.
26. In *Auld*, for example, the prosecution made false statements to the court and presented perjured testimony in a fabricated case against an undercover agent who was trying to investigate the attorney he hired to defend him. The court was unaware the case was a sham and was intended to implicate the defense attorney, Auld, who was ultimately prosecuted after he accepted an illegal weapon as payment for representing the fake defendant. *See id.* at 958-59. The trial court dismissed the charges against Auld as a sanction against the prosecution once it learned it had fabricated a case and used the court as a means of ensnaring Auld. *See id.*
27. The court's dismissal of the charges was upheld on appeal, with the court of appeals concluding "that when the integrity of the court is compromised, as here, by overzealous prosecution, dismissal of the case is an appropriate remedy." *See id.* The court was particularly concerned with the government's criminality (perjury and false swearing) and the prosecution's violations of the rules of professional responsibility when it misrepresented facts to the trial court—both of which are present in this case. *See id.* at 958; *supra* ¶¶ 15-20.
28. Dismissal is not the only remedy for misconduct. *See People ex rel. Gallagher v. Dist. Ct.*, 656 P.2d 1287, 1292-93 (Colo. 1983). In *Gallagher*, for example, the state supreme court upheld the trial court's reduction of a first degree murder count to second degree murder due to the government's mishandling of evidence and failure to preserve exculpatory evidence.²
29. And, in *Gonzalez*, the district court concluded that the government could not avail itself of the inevitable discovery exception to the exclusionary rule due, in significant part, to police misconduct, which included perjury and excessive force. *See Gonzalez*, 719 F. Supp. 2d at 170. Though this was a crippling sanction for the prosecution's case against the defendant on federal weapons charges, the court noted that "even if all the evidence is

² The test courts used to address destruction of evidence claims has since changed. *See California v. Trombetta*, 467 U.S. 479 (1984).

suppressed and the case dismissed, the cost to society of condoning the police misconduct in this case would be unacceptable..." *See id.* at 170, 186.

30. Here the law enforcement agency(ies) have engaged in illegal misconduct to gain tactical advantage and to gain favor with this Court.
31. Both the Sheriff and the District Attorney's Office pointed to the media coverage in their petitions as reason that the record had to be unsealed. It was pointed out in detail, in the pleading filed on November 30, 2022, there was a lot of media coverage that came from documents only found within this sealed record, which seemed to have come from law enforcement or the courthouse. Now on the eve of the hearing to address the un-sealing of the record, law enforcement acted illegally and in bad faith again in leaking even more details from this sealed record to the media.
32. This was done either intentionally to manipulate this Court or done because the actors will not comply with the law and the Court's orders.
33. The extent of the illegal conduct by law enforcement and who the law breaking, law enforcement agents are, is unclear to Mx. Aldrich right now. Mx. Aldrich demands the Court and law enforcement disclose the identity of the individuals that violated the law in regards to the AP story, immediately.
34. Here the law enforcement illegal activity done in bad faith requires this Court to conduct a hearing and after that hearing determine the appropriate sanction for their misconduct.
35. Mx. Aldrich moves for an evidentiary hearing to occur, and for it to occur in advance of any hearing on the petitions to unseal. The Court cannot be hoodwinked by manipulations and actions done illegally and in bad faith. This Court must engage in fact finding when determining which petitioners, and what role they played in violating the law, when determining if the burden to un-seal has been met and if it only has been met through the bad faith use of illegally leaking information to the public. Letting law enforcement and the government's behavior stand uncorrected violates Mx. Aldrich's due process rights to fundamental fairness, the right to be treated with fairness by the State, and the right to a fair trial by an impartial jury. *See* U.S. Const. amends. VI, XIV; Colo. Const. art. II, §§ 16, 25; *Ake v. Oklahoma*, 470 U.S. 68 (1985); *Irwin v. Dowd*, 366 U.S. 717, 722 (1961); *Bloom v. People*, 185 P.3d 797, 805-06 (Colo. 2008) ("The due process clauses of the Colorado and United States Constitutions guarantee every criminal defendant the right to a fair trial," which "includes the right to an impartial jury.").

WHEREFORE, it is respectfully requested that this Court to deny all requests to unseal the records in this case, based upon the law enforcement misconduct in this case

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Joseph Archambault #41216

Certificate of Service

Chief Trial Deputy

A handwritten signature in black ink, appearing to read 'Michael Bowman', with a stylized flourish at the end.

Michael Bowman #48652
Deputy State Public Defender

I certify that on December 7, 2022, I
served the foregoing document via email
to the Court's clerk and to the
prosecution.
s/ jarchambault

Dated: December 7, 2022

Redacted

‘Next mass killer’: Dropped case foretold Colorado bloodbath

AP apnews.com/article/colorado-gun-politics-springs-government-and-b50a5145593afe1f7f4c18ac06f70600 DATE FILED: December 07, 2022

December 6, 2022



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COLORADO SPRINGS, Colo. (AP) — Anderson Lee Aldrich loaded bullets into a Glock pistol and chugged vodka, ominously warning frightened grandparents not to stand in the way of an elaborate plan to stockpile guns, ammo, body armor and a homemade bomb to become “the next mass killer.”

“You guys die today and I’m taking you with me,” they quoted Aldrich as saying. “I’m loaded and ready.”

So began a day of terror Aldrich unleashed in June 2021 that, according to sealed law enforcement documents verified by The Associated Press, brought SWAT teams and the bomb squad to a normally quiet Colorado Springs neighborhood, forced the grandparents to flee for their lives and prompted the evacuation of 10 nearby homes to escape a possible bomb blast. It culminated in a standoff that the then-21-year-old livestreamed on Facebook, showing Aldrich in tactical gear inside the mother's home and threatening officers outside — "If they breach, I'm a f---ing blow it to holy hell!" — before finally surrendering.



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But charges against Aldrich for the actions that day were dropped for reasons the district attorney has refused to explain due to the case being sealed and there was no record showing guns were seized under Colorado's "red flag" law with similarly no explanation from the sheriff. All of it could be one of the most glaring missed warnings in America's sad litany of mass violence because, just a year and a half later, Aldrich was free to carry out the plan to become "the next mass killer."

Clad in body armor and carrying an AR-15-style rifle, Aldrich entered the Club Q gay nightclub just before midnight on Nov. 19 and opened fire, authorities say, killing five people and wounding 17 others before an Army veteran wrestled the attacker to the ground.

"It makes no sense," said Jerecho Loveall, a former Club Q dancer who is recovering from a wound to the leg from one of the high-powered rounds. "If they would have taken this more seriously and done their job, the lives we lost, the injuries we sustained and the trauma this community has faced would not have happened."

"It was absolutely preventable," said Wyatt Kent, who held the hand of a woman as she bled to death on top of him, and who also lost his partner that night. "Even if charges aren't filed for a bomb threat, maybe you're not mentally sound enough to own a firearm."

Why apparently nothing was done to stop Aldrich since coming onto law enforcement's radar last year is a question that has haunted this picturesque Rockies city of 480,000 since the shooting, even as loved ones have begun burying the victims and the shuttered Club Q has become a shrine surrounded by hundreds of bouquets, wreaths and rainbow flags.

Criminal defense lawyers with whom AP shared the law enforcement documents say they questioned why charges were not pursued in the 2021 incident given the grandparents' detailed statements, a tense standoff at the mother's home and a subsequent house search that found bomb-making materials that Aldrich claimed had enough firepower to blow up an entire police department and a federal building.

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The documents were obtained by Colorado Springs TV station KKTV and verified as authentic to AP by a law enforcement official who was not authorized to discuss the sealed case and kept anonymous. Documents also included a judge's order to jail Aldrich on \$1 million bond and a listing by District Attorney Michael Allen of seven offenses "committed, or triable," including three felony counts of kidnapping and two of menacing.

For his part, Allen has repeatedly declined to comment on why those charges didn't go forward, citing a Colorado law that automatically seals records in cases when charges are dropped and requires him to not even acknowledge the records exist. The law was passed three years ago as part of a nationwide movement to help prevent people from having their lives ruined if cases are dismissed and never prosecuted.

Videos shows club shooter's standoff with police

The man suspected of shooting a gay club in Colorado was involved in a bomb threat standoff in 2021 at the house where his mother rented a room. (Nov. 21)

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The suspect in the shooting a gay club in Colorado was involved in a bomb threat standoff in 2021

And even though Allen said during a news conference soon after the nightclub shooting that he "hoped at some point in the near future" to share more about the 2021 incident, he has yet to do so. AP and other news organizations have gone to court seeking to unseal the entire case file, a request scheduled to be heard later this week.

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In the absence of that file, there are only scattered clues about what happened after Aldrich's 2021 arrest, including Aldrich telling The Gazette of Colorado Springs in August about spending two months in jail as a result of the incident and asking the publication to remove or update its web coverage about it, asserting the case had been dismissed. "There is absolutely nothing there, the case was dropped," Aldrich said in a phone message, adding, "It is damaging to my reputation."

When a Gazette reporter followed up with a call and asked why the case was dropped, Aldrich declined to say anything more because the case had been sealed.

Such a troubling case — dropped or not — could still have been used to trigger Colorado's "red flag" law, which allows family members or law enforcement to ask a judge to order a removal of guns for a year from people dangerous to themselves or others, with possible extensions based on subsequent hearings.

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But an AP review shows no record that Aldrich's grandparents or mother went to a judge to get such an order. And there's no record the agency that arrested Aldrich, the El Paso County Sheriff's Office, did either.

El Paso County is especially hostile to the state's red flag law, among 2,000 counties nationwide declaring themselves a "Second Amendment Sanctuary" that opposes any infringement on the right to bear arms. It passed a resolution in 2019 specifically denying funds or staff to enforce the law.

Sheriff Bill Elder, who declined to comment on Aldrich's 2021 case, has previously said he would only remove guns on orders from family members, refusing to go to court himself to get permission except under "exigent circumstances."

"We're not going to be taking personal property away from people without due process," Elder said as the law neared passage in 2019.

Allen, the district attorney, also criticized the red flag law while running for the office in 2020, tweeting that it is "a poor excuse to take people's guns and is not designed in any way to address real concrete mental health concerns." He has noted since the shooting that DAs don't have the authority to initiate such seizures.

Colorado Gov. Jared Polis, the first openly gay man ever elected to lead a state, said in the wake of the nightclub shooting that the failure to take away guns from the alleged shooter needs to be investigated. Authorities have refused to say how the weapons used in the attack were obtained.

“There were many warning signs,” Polis spokesman Conor Cahill told the AP. “It appears obvious that an Extreme Risk Protection Order law could have and should have been utilized, which would have removed the suspect’s firearms and could very well have prevented this tragedy.”

Aldrich, now 22, remains jailed without bond on murder and hate crime charges in the nightclub shooting that carry a potential sentence of life behind bars. Defense attorneys have said Aldrich is non-binary, not strictly identifying with any gender. Aldrich’s attorneys did not respond to a request for comment.

In both a mugshot and first court appearance, the 6-foot-4, 260-pound Aldrich appeared slumped with deep bruises and cuts on a fleshy face. It was a stark contrast to the many smiling photos as a youngster on the mother’s Facebook page that belied a turbulent life marked by domestic violence, bullying and family run-ins with the law.

Aldrich’s parents split up soon after their child was born. The father, Aaron Brink, pursued a career as a mixed martial arts fighter and porn actor when he wasn’t doing time for drug convictions or contesting other charges, including battery against Aldrich’s mother.

In an interview after the shooting, Brink told San Diego television station KFMB that he had lost track of Aldrich a decade ago and thought the child had died by suicide, until Aldrich reached out to him by phone last year. Brink said that when he first heard about the shooting, he was troubled the alleged shooter had gone to a gay bar, citing the family’s Mormon religion.

“We don’t do gay,” Brink said, adding that he now regrets having praised his child for violent behavior when younger. “Life is so fragile and it’s valuable. Those people’s lives were valuable.”

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The alleged shooter, born Nicholas Franklin Brink, was so embarrassed by the father, according to 2016 Texas court documents, that weeks before turning 16, the teen filed for a formal name change to Anderson Lee Aldrich.

The filing came months after Aldrich was apparently targeted by online bullying. A website posting from June 2015 attacked a teen named Nick Brink. It included photos similar to ones of the shooting suspect and ridiculed the youngster for being overweight, not having much money and an interest in Chinese cartoons.

Laura Voepel, the mother, has her own history of outbursts and trouble with the law, including an arson count in Texas reduced to a lesser charge. She reportedly was recorded in a July 2022 video in an airport hurling racial epithets at a Hispanic woman who she felt had been taking too long to get her luggage off a plane.

And according to a court record, Voepel was arrested just hours after the Nov. 19 nightclub shooting on resisting arrest and disorderly conduct charges. She had refused to leave the apartment where she lived with Aldrich, according to FBI records obtained by AP. She can be heard crying out for help as she is pulled by officers away from her home on video she asked neighbors to record.

Aldrich's behavior on June 18, 2021, began, according to the sealed law enforcement documents, after the grandparents called a family meeting in their living room about their plans to sell their home and move to Florida. The grandchild responded with rage, telling them this couldn't happen because it would interfere with Aldrich's plans to store materials in the grandparents' basement to "conduct a mass shooting and bombing." The grandparents told authorities Aldrich threatened to kill them if they didn't promise to cancel the move.

The grandparents begged for their lives as Aldrich told them of the plans to "go out in a blaze." When Aldrich went to the basement, they ran out the door and called 911.

A short time later, doorbell video obtained by AP shows Aldrich arriving at the mother's home lugging a big black bag, telling her the police were nearby and adding, "This is where I stand. Today I die."

Another shot shows the mother later running from the house. "He let me go," the law enforcement documents quote her as saying. Neither Voepel nor Aldrich's grandparents, who now live in Florida, returned messages seeking more details.

In the end, Aldrich holed up in the mother's home, threatening to blow up the place as police swarmed and deployed bomb-sniffing dogs. "Come on in boys, let's f---ing see it!" Aldrich yelled on the Facebook livestream before later surrendering with hands up and tactical gear swapped for a short-sleeved shirt, shorts and bare feet.

Aldrich's next arrest would come 17 months later and a few miles away inside the Club Q.

Gunshot victim Loveall says his days since have been spent dealing with grief over those who died and bouts of crying he can't control. He also fears going to sleep because of the swarm of images in his head: Bullets flying, people diving for cover, shattering glass and blood all over.

"It happened so fast they didn't have time to scream," Loveall said as he smoked a cigarette outside his mobile home.

"There is no reason why he should have had access to an assault rifle ... especially for someone who has been quoted saying 'I'm going to be the next mass shooter.'"

Condon reported from New York. Reporter Michael Schneider in Orlando, Florida, and news researcher Rhonda Shafner in New York contributed.

Contact AP's global investigative team at Investigative@ap.org.

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DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH, Defendant	DEC 8 2022 SHERI KING CLERK OF COURT □ COURT USE ONLY □
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	Case No. 21CR3485 Division 19
<p align="center">VERIFIED MOTION TO HOLD BILL ELDER, EL PASO COUNTY SHERIFF, IN INDIRECT CONTEMPT OF COURT AND ISSUE CITATION TO SHOW CAUSE</p>	

Mx. Anderson Aldrich¹, by and through counsel, pursuant to C.R.C.P. 107, respectfully moves the Court to issue a citation to Bill Elder, Sheriff of the El Paso County Sheriff's Office, to appear before the Court to show cause as to why the Sheriff's Office should not be held in indirect contempt of this Court. As ground in support states the following:

Procedural History

1. On July 5, 2022, on the morning of trial, the district attorney was unable to proceed in this case and the matter was dismissed for failure to prosecute. On July 8, 2022, defense counsel filed a motion to seal records. The case was set for a hearing on the motion on August 11, 2022.
2. At the hearing the district attorney lodged no objection, and the matter was ordered sealed by the Court.
3. That order informed the Sheriff's Department, District Attorney's Office, Colorado Bureau of Investigation, and State Court Administrator's Office of the cases immediate sealing. *See Order to Seal Arrest and Criminal Records Pursuant to C.R.S. 24-72-705 (Simplified Process).*

¹ Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

4. On November 21, 2022, the Court began receiving petitions to unseal the records in this case. Several from media outlets, and one from the district attorney's office.
5. On November 22, 2022, a motion to unseal was filed by Sheriff Bill Elder.
6. Petitioner Elder's Office indicated in their motion, a need to be able to respond to media inquiry accurately as a reason for unsealing these records. *See Petitioner Sheriff Bill Elder's Motion to Unseal Criminal Justice Records* (arguing "[l]ikewise, the El Paso County Sheriff's Office has a strong interest in responding to public inquiries regarding Aldrich's 2021 arrest and prosecution with accurate information so that the public and media are not left to speculate over what actions were or were not taken by law enforcement. The act is inhibiting the flow of accurate and relevant information on a matter of great public importance to our community.") The Sheriff's Office argued that the media's coverage strengthened their position for the Court to unseal the record.
7. One day later, on November 23, 2022, the Court directed the defense to respond to the motions by close of business on November 30, 2022. Also on November 23, 2022, Mx. Anderson's former counsel Joshua Lindley was allowed to withdraw as counsel on this case, and the Public Defender was entered as Mx. Anderson's counsel of record. Counsel was granted access by the Court to the written documents in the court file on November 29, 2022.
8. Mx. Aldrich is currently being held without bond in the El Paso County Jail and has been charged with five counts of murder, three hundred other charges in case number 22CR6008. A proof evident presumption great/preliminary hearing is currently scheduled to occur in February 2023.
9. Mx. Aldrich filed an objection to unsealing this case on November 30, 2022. This matter is set for a hearing on December 8, 2022, at 8 a.m. The media coverage of 22CR6008 has not only been extensive but it also not been limited to just Colorado: there has been extensive national and international level. *See* attachment to Exhibit A, to Defense Objection filed 11/30/22, <https://www.cnn.com/2022/11/21/us/anderson-lee-aldrich-colorado-springs-shooting-suspect>, last accessed 11/30/22.
10. In their Objection, Mx. Aldrich argued law enforcement should not be allowed to violate Colorado law by disclosing information to the public, which includes the media, only to later point to the result of their illegal conduct—more media coverage about sealed record—as a reason to un-seal. *See* Defense Objection filed 11/30/22, ¶¶ 37-47. Mx. Aldrich specifically objected to law enforcement breaking the law to gain an advantage to unseal as a violation of their constitutional rights. U.S. Const. Amends. V, IV., XIV, Colo. Const. Art. II, § 3, 6 16, 23, 25, and 28; *Id.*
11. Since the filing of Defense objection, there has only been more extensive media coverage of this case. However sometime late last night, the Associated Press ("AP") published a story which gave extensive detail coming directly from documents within this sealed case. *See* Attachment A, to Motion to Dismiss All Petitions to Un-Seal based on Law Enforcement Misconduct, AP story "Next mass killer Dropped case foretold Colorado bloodbath" last accessed 12/7/22. The AP cites to multiple statements and facts that are within the documents from this sealed case. *Id.* The AP even refers to the documents as coming from "sealed law enforcement documents." *Id.* **The AP is clear that law**

enforcement spoke to the media about this sealed case and verified the documents came from the sealed case. *Id.*

12. It appears clear that a member of law enforcement, and also potentially courthouse staff, gave sealed documents to the media. It also appears clear that law enforcement staff (and potentially courthouse staff) spoke to the media about the contents of the information in the sealed record in clear violation of Colorado law.

Law and Analysis

13. The judiciary has inherent authority to use all powers reasonably required to protect the efficient function, dignity, independence, and integrity of the court and judicial process. *People v. Aleem*, 149 P.3d 765 (Colo. 2007) (citation omitted). The power of contempt falls within a court's broad authority. *Id.* (citing *Illinois v. Allen*, 397 U.S. 337, 343-44 (1970); *In re J.E.S.*, 817 P.2d 508, 511 (Colo. 1991)).
14. "Contempt" includes not only disorderly, disruptive, boisterous, or violent conduct in the courtroom but also "conduct that unreasonably interrupts the due course of judicial proceedings; behavior that obstructs the administration of justice; [and] disobedience or resistance by any person to or interference with any lawful writ, process, or order of the court". C.R.C.P. 107(a)(1) (emphasis added).
15. 'Direct contempt' occurs in the presence of the court while 'indirect contempt' occurs out of the direct sight or hearing of the court. C.R.C.P. 107(a)(2),(3).
16. For indirect contempt proceedings, when "it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished." C.R.C.P. 107(c). A verified motion is also sufficient in lieu of a motion plus an affidavit, so long as it states facts which, if true, would constitute contempt. *See Spencer v. Kelly*, 470 P.2d 606 (Colo. App. 1970).
17. The motion and citation, if granted by the court, must be served on the alleged contemnor at least 21 days before the person is ordered to appear. *Id.*
18. Mx. Aldrich is requesting that the Court issue a citation to show cause and set a hearing at least 21 days after the issuance of the citation.
19. Here, the law enforcement agency(ies) have engaged in illegal misconduct to gain tactical advantage and to gain favor with this Court. The Sheriff's Office pointed to the media coverage in their petition as reason that the record had to be unsealed. It was pointed out in detail, in the pleading filed on November 30, 2022, there was a lot of media coverage that came from documents only found within this sealed record, which seemed to have come from law enforcement or the courthouse. Now on the eve of the hearing to address the un-sealing of the record, law enforcement acted illegally and in bad faith again in

leaking even more details from this sealed record to the media. This was done either intentionally to manipulate this Court or done because the actors will not comply with the law and the Court's orders. Given that the Sheriff's Office was the investigating agency, and was in the author of the arrest affidavit which is so heavily cited in the media, it is hard to believe that it was not a Sheriff's office agent(s) that violated the Court's sealing order and the law to disclose the documents here.

20. Intent to interfere with administration of justice, however, is not required for contempt finding. Rather, the contemnor's intent is guide to be used by trial court in exercising its discretion to punish. *In re: Stone*, 703 P.2d 1319 (Colo. App. 1985); *see also Hughes v. People*, 5 Colo. 436 (Colo. 1880) (contempt is not purged by an avowal that none was intended).
21. While the contemnor's intent is relevant to determining what type of sanctions should be imposed, for purposes of answering the threshold question of whether contempt has occurred; the conduct here alone is contempt.
22. The power of a court to punish for contempt is not derived from a legislature and cannot be made to depend upon the legislative—or executive—will. *See Austin v. City and County of Denver*, 397 P.2d 743, (Colo. 1964).
23. The Sheriff's violation of the sealing statute is illegal under the stealing statute, and it was also a direct violation of a court order sealing this case. Therefore the Sheriff's Office are in contempt of this Court.
24. The Court should impose remedial sanctions upon the Sheriff's Office. Mx. Aldrich is not seeking punitive sanctions.
25. A court's discretionary contempt powers are necessarily broad because of the power's broad purpose: to ensure that the court's functions remain unimpeded. *Aleem*, 149 P.3d 765 at 781 (citation omitted). The purpose of the contempt power is to maintain the dignity and authority of the court and to preserve its functionality. *Id.*
26. Sanctions imposed for contempt of court may be either remedial or punitive in nature, or both. C.R.C.P. 107; *see People v. Barron*, 677 P.2d 1370, 1372 n.2 (Colo. 1984).
27. Punitive sanctions (which are sometimes referred to as 'criminal' contempt sanctions) are used to punish and should be used by courts sparingly; in order to impose punitive sanctions, a court must find that the contemnor willfully disobeyed the court's order. *In re Marriage of Cyr and Kay*, 186 P.3d 88 (Colo. App. 2008). Heightened levels of procedural due process are required when punitive sanctions are sought. *Harthun v. District Court in and for Second Judicial District*, 495 P.2d 539 (Colo. 1972).
28. Remedial sanctions, on the other hand, are coercive in nature; they are intended to compel obedience with a court order, not to punish the contemnor. *People v. Razatos*, 699 P.2d

970 (Colo. 1985); *People v. Barron*, 677 P.2d 1370 (Colo. 1984); *see also United States v. Haggerty*, 528 F.Supp.1286 (D. Colo. 1981).

29. Mx. Aldrich is not seeking punitive sanctions against the Sheriff. They are seeking remedial sanctions.
30. Unlike punitive sanctions which require willful disobedience to a court order, it does not matter for purposes of imposing remedial sanctions what the contemnor intended when the contempt occurred. *In re Marriage of Cyr and Kay*, 186 P.3d 88 (Colo. App. 2008).
31. Damages may be imposed as a remedial sanction; any payments ordered under a remedial sanction order should reimburse the person injured by the contemnor's disobedience. *Eichhorn v. Kelley*, 56 P.3d 124 (Colo. App. 2002)
32. Remedial sanctions must be supported by findings of fact establishing that the contemnor (1) failed to comply with a lawful court order; (2) knew of the order; and (3) has the present ability to comply with the order. *In re A.C.B.*, 507 P.3d 1078 (Colo. App. 2022).
33. However, unlike punitive/criminal contempt sanctions in which strict procedural due process is required, the imposition of remedial sanctions does not require strict adherence to a rigid procedural formula. *In re Marriage of Barber*, 811 P.2d 451, 455 (Colo. App. 1991); *compare* C.R.C.P. 107(d)(1) and (2).
34. Here, the Court should consider the following remedial sanctions:
 - a. Order that the Court record in this case be permanently sealed.
 - b. In addition to ordering the court record to permanently sealed, order that the Sheriff's Office mandate training of all employees about the legal application of C.R.S. §24-72-701 *et seq* upon law enforcement agency personnel, and the application of Court orders upon such personnel and all employees complete such training by March 1, 2023.
35. When remedial sanctions may be imposed, courts "shall enter an order in writing or on the record describing the means by which the person may purge the contempt and the sanctions that will be in effect until the contempt is purged." C.R.C.P. 107(d)(2).
36. For the purpose of remedial sanctions, the trial court may impose an indefinite term of imprisonment until the contemnor performs the acts necessary to purge the contempt. *In re A.C.B.*, 507 P.3d 1078 (Colo. App. 2022) (*citing* C.R.C.P. 107(d)(2)); *see also* C.R.S. § 17-26-105 (individuals jailed for contempt "shall be kept in rooms separate and distinct from those in which prisoners convicted and under sentence are confined").

37. The objective of remedial contempt is to compensate the person who has suffered damage as a result of the contemnor's refusal to comply with a court order. The amount of any fine must not exceed the actual damages incurred as the result of the contempt. C.R.C.P. 107(d)(2); *Schnier v. District Court*, 696 P.2d 264 (Colo. 1985).
38. "The Supreme Court recognizes the contempt power as absolutely essential to the duties imposed upon the court." *People v. Aleem*, 149 P.3d 765, 774 (Colo. 2007) (citations omitted).
39. "The dual purpose of the contempt power is to vindicate the dignity and authority of the court and to preserve its viability." *Id.* (citations omitted).
40. If a court's orders are not taken seriously or treated as compulsory, then the viability of the judiciary cannot be preserved. *See Id.*
41. This type of behavior cannot be permitted.
42. The government is not above the law. *Trump v. Vance*, 140 S. Ct. 2412, 2431 (2020) ("In our system of government, as this Court has often stated, no one is above the law.") (Kavanaugh, J. concurring). It owes the same duty to follow the law as any citizen, no matter how seemingly noble its cause:

Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

Olmstead v. United States, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting), *quoted with approval in United States v. Gonzalez*, 719 F. Supp. 2d 167, 170 (D. Mass. 2010).

43. All members of law enforcement are expected to know the law and follow it. *See People v. Lopez*, 2022 COA 70M ¶¶ 33-34 ("[L]aw enforcement has a duty to stay abreast of changes in the law.").

44. It is necessary for this Court to vindicate its dignity and authority by punishing the El Paso Sheriff's Office. Compliance with this Court's—and all courts'—orders must be achieved in the first instance, and not only when the threat of contempt looms close.
45. The harm to Mx. Aldrich is clear. Under the law in Colorado when their case dismissed the Court was required to enter the sealing order and the Court did so. Law enforcement through the District Attorney was represented through these proceedings and did not object. Mx. Aldrich, and every other citizen charged with a crime which is dismissed is entitled to the protections of the Colorado statutes, which in the case of a sealed case, means that law enforcement will follow the law and the trial court's orders and NOT disclose information about the sealed case. That did not occur here, the information about that sealed case has been disclosed to the media and blasted to all corners of this state and country. The public condemnation of Mx. Aldrich has only been heightened since the release of the sealed records have been leaked and confirmed.
46. Mx. Aldrich was already going to have almost no chance at a constitutional right to a fair trial in this county and this state, but the contemptuous conduct has now guaranteed that it cannot occur. *See* U.S. Const. amends. VI, XIV; Colo. Const. art. II, §§ 16, 25.

WHEREAS, Mx. Aldrich, through undersigned counsel and pursuant to C.R.C.P. 107, respectfully moves the Court to set a hearing and issue a citation to show cause to Bill Elder, Sheriff of El Paso County Sheriff's Office, to appear before the Court and explain why his and his office should not be held in indirect contempt. Mx. Aldrich objects to the remote appearance of any party at any show cause hearing held pursuant to this motion.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Joseph Archambault #41216
Chief Trial Deputy



Michael Bowman #48652
Deputy State Public Defender

Certificate of Service

I certify that on December 8, 2022, I served the foregoing document via email to the Court's clerk and to the prosecution.

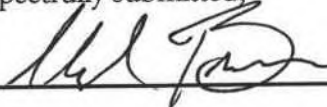
s/ jarchambault

Dated: December 8, 2022

VERIFICATION AND ACKNOWLEDGEMENT

I, John Gonglach, hereby affirm under oath that I have read the foregoing verified motion and that the statements set forth therein are true and correct to the best of my knowledge.

Respectfully submitted,



~~John Gonglach~~ Michael Bowman
~~Investigator~~ Deputy State Public Defender

Subscribed and affirmed or sworn to before me
in EL PASO County, State of
Colorado, this 8th day of December, 2022.



Notary Public

My commission expires: 4/15/2025

Certificate of Service

I hereby certify that on December 8, 2022, I ~~served~~ will serve the foregoing document by e-filing the same to all opposing counsel of record.



Redacted

DISTRICT COURT, EL PASO COUNTY, COLORADO 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. ANDERSON ALDRICH , Defendant	DEC 8 2022 COURT USE ONLY CLERK OF COURT
Megan Ring, Colorado State Public Defender Joseph Archambault #41216 Chief Trial Deputy Michael Bowman #48652 Deputy State Public Defender 30 East Pikes Peak Avenue, Suite 200 Colorado Springs, Colorado 80903 Phone: (719) 475-1235 Fax: (719) 475-1476 Email: springs.pubdef@coloradodefenders.us	Case No. 21CR3485 Division 19
MOTION TO STAY ORDER TO UNSEAL COURT RECORD FOR PURPOSES OF FILING C.A.R. 21 PETITION TO COLORADO SUPREME COURT	

Mx. Anderson Aldrich¹, by and through counsel moves this Court to stay the issuance any order un-sealing the court record in this case, and in support states the following:

1. This Court has ordered this sealed case, pursuant to C.R.S. §24-72-705, to now be unsealed.
2. Mx. Aldrich moves this Court to grant a stay of this un-sealing order to allow Mx. Aldrich the ability to file a Rule 21 petition to the Colorado Supreme Court. C.A.R. Rule 21 (f)(1).
3. The Supreme Court may exercise its original jurisdiction under C.A.R. 21 where the trial court proceeds without jurisdiction or in excess of its jurisdiction, or commits a serious abuse of discretion, and where an appellate remedy would be an inadequate remedy. *See People v. Ray*, 525 P.3d 1042 (Colo. 2011) (*citing to People v. Vlassis*, 247 P.3d 196, 197 (Colo. 2011)).
4. The un-sealing of this sealed court file cannot be addressed and remedied by a direct appeal. If no stay is granted, and the record is un-sealed the national and international media is likely to have the contents of this court file onto the internet and newspaper

¹ Anderson Aldrich is non-binary. They use they/them pronouns, and for the purposes of all formal filings, will be addressed as Mx. Aldrich.

within a day, if not minutes². No court can make the public “unlearn” this damaging—and inadmissible—information once it becomes available and widely known. *Cf. People v. Kilgore*, 455 P.3d 746, 749 (Colo. 2020) (The prejudice to the defendant of forcing them to share protected information “cannot be undone.”). Even if the Colorado Supreme Court agreed with Mx. Aldrich, either on appeal, or on a C.A.R. 21 without a stay being granted, Mx. Aldrich and others will have been vilified and demonized by the media, public, and potential jurors.

5. Mx. Aldrich is requesting a stay of only 30 days in order to file a C.A.R. 21 petition.
6. Mx. Aldrich makes this request to protect their rights to equal protection, fundamental fairness, due process and the right to a fair trial. U.S. Amends V, IV., XIV, Colo. Const. Art. II, § 3, 6 16, 23, 25, and 28

Wherefore, Mx. Aldrich respectfully requests that this Court to stay the issuance any order un-sealing the court record in this case.

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER



Joseph Archambault #41216
Chief Trial Deputy



Michael Bowman #48652
Deputy State Public Defender

Dated: December 7, 2022

Certificate of Service

I certify that on December 6, 2022, I served the foregoing document through email, to opposing counsel of record. Counsel cannot access into ICCES for this case. s/ JArchambault

² The media coverage of 22CR6008 has not only been extensive but it also not been limited to just Colorado but also has been coverage on a national and international level.

Redacted

District Court, El Paso County, Colorado Court Address: P.O. Box 2980 Colorado Springs, CO 80901		DATE FILED: December 8, 2022 12:31 PM
THE PEOPLE OF THE STATE OF COLORADO v. ANDERSON ALDRICH, Defendant.		▲ COURT USE ONLY ▲ Case Number: 21CR3485 Division: 19 Courtroom: S404
ORDER UNSEALING RECORDS		

Several Motions to Unseal have been filed under this case number. A hearing on this issue was held on December 8, 2022 at 8:00 am in this Division. This Order incorporates all verbal findings and orders from that hearing.

The records in this case shall be unsealed and made accessible to the public. Circumstances have come into existence since the original sealing and as a result, the public interest in disclosure now outweighs the Defendant's interest in privacy. C.R.S. §24-72-703(5)(c).

Dated: December 8, 2022

BY THE COURT:



Robin Chittum
District Court Judge