**SAMPLE — Declaration in support of request to get police misconduct records**

SUPERIOR COURT OF THE STATE OF X FOR THE COUNTY OF X

I, Colette Tvedt, declare:

1. I am the attorney for the defendant in this action.
2. I am informed and believe that the X Police Department (XPD) was involved in the illegal stop, search and seizure of Mr. Jones and those officers are the subject of this discovery request.
3. I am informed and believe that on occasion arrestees, or the attorneys, friends, or relatives of such arrestees, make complaints to the XPD concerning its law enforcement officers. These complaints allege that the officers committed acts of unnecessary or excessive force, acts demonstrating racial or ethnic prejudice, acts of illegal arrest and improper search and seizure, and acts of dishonesty.
4. I am informed and believe that said agency assigns investigators or personnel to investigate the complaints (as described in the preceding paragraph). That these investigators or other personnel conduct correspondence with or interview witnesses and other persons and make notes, memoranda, and recordings of conversations in connection with their investigations, and prepare and file reports, findings, opinions, and conclusions concerning their investigations. That, on occasion, disciplinary proceedings are commenced or taken as a result of these investigations. That the police agency keeps in its personnel record files, or other files, notes, findings, memoranda, recordings, reports, transcripts, opinions, and conclusions of the investigations made and of the disciplinary proceedings commenced or taken as the result of such complaints. The files contain the names, addresses, and telephone numbers of persons interviewed during such investigation and during the disciplinary proceedings commenced or taken as the result of such complaints. The files also contain the names, addresses, and telephone numbers of persons who initiate complaints (as are described in the preceding paragraph). The items requested may also contain records showing disciplinary actions and suspensions of said officer(s) following review of the complaints by superior officers and fellow officers concerning past incidents of the officer(s) engaging in illegal or false arrests, improper tactics, improper search and seizure, dishonesty, and false imprisonment.
5. That the records, data, and materials sought are in the exclusive possession and control of the XPD and/or the office of the District Attorney and are readily available to each of them. These materials are not known to the defendant or myself and will not be made available except upon order of this court.
6. A substantial issue in the trial of this case will be the excessive use of force and the false arrest of Mr. Jones on the evening of January 31, 2016 at the Golden Pyramid Casino and Lounge by the officers involved in the illegal stop, search, and seizure of Mr. Jones.
   1. The credibility of the arresting officer(s) is the entirety of the case against the defendant, Mr. Jones. I am informed and believe that the arrest did not occur as Officer Bailey wrote in the arrest report and there are fabrications contained in the report. The defendant denies using any force against the officers. This is supported by the video of the stop, seizure and beating of Mr. Jones which was captured on the surveillance video of the Golden Pyramid Casino (see attached Exhibit A). Mr. Jones was an innocent bystander who was jumped by a group of 6 unknown white men when he stepped outside the casino to smoke a cigarette shortly before midnight. As seen on the video, Mr. Jones was thrown to the ground and repeatedly punched and kicked by 6 unknown white males. An anonymous 911 call was made reporting that “a young black male wearing a Seahawks hoodie is being beaten by a large group of white males. He appears to be hurt. You need to send someone here immediately.” (See attached 911 recording Exhibit B). On the surveillance video, the officers are seen arriving at 11:56 AM. They immediately force Mr. Jones face down on the ground. Within 17 seconds of arriving Officer Johnson is seen tasing Mr. Jones twice in the back as he was lying face down on the ground. A third officer, Officer Hitch, arrived shortly thereafter and is seen running up to Mr. Jones’ prone body and repeatedly beating him on the back and buttocks with his baton. Officer Bailey is then seen pulling out his baton and hitting Mr. Jones as he was lying motionless, face down on the cement. Photographs taken by the XPD and turned over after the defense filed a subpoena duces tecum, show Mr. Jones in another area of the Golden Pyramid Casino parking lot at 12:15 AM (17 minutes after the officers arrived at the scene) hog tied and wearing a spit mask. (See attached photographs, Exhibit C). It is the defense contention that the officer used excessive and illegal force against the defendant in making an illegal arrest. The police report (attached hereto Exhibit D) shows that force was used in making the arrest. Evidence that a police officer has a history of excessive use of force, falsifying police reports, making false arrests, and giving false testimony would be relevant and admissible to establish the officer's character for honesty and truthfulness.

Officer Baily claims that he found 2 grams of marijuana in Mr. Jones’ pocket after Mr. Jones consented to being searched. The evidence in the instant case was obtained by means of illegal police conduct in violation of the Fourth Amendment guarantee against unreasonable searches and seizures. The credibility of the officer is central to the determination of the legality of the search. I am informed and believe that the defendant refused to consent to the search that led to the seizure of the evidence and the assertions of consent attributed to the defendant in the police reports are false. A history of dishonesty and using improper tactics would be relevant to impeach the officer and establish the officer acted in this case in conformity with a habit and custom to act outside the law.

1. The above listed materials are necessary for the proper preparation of this case for trial.
2. To locate and investigate witnesses or other evidence of the dishonest character of the officer(s) involved to show that the officer(s) acted in conformity with that character at the time of this incident;
3. To locate and investigate witnesses or other evidence of aggressive character of the officer(s) involved to show that the officer(s) acted in conformity with that character at the time of this incident;
4. To refresh the recollection of witnesses to incidents of fabrication of charges and/or evidence by the officer(s) involved and/or to incidents of the use of illegal or excessive

force by the officer(s) so that defense counsel may accurately ascertain the facts and circumstances of those incidents.

1. To properly prepare for cross-examination and impeachment of witnesses to be called by the prosecution;
2. To have the trier of fact properly assess the credibility of the defendant and defense witnesses; and
3. To impeach the testimony of the officers involved with acts showing a morally lax character and hence a readiness to lie.

I declare under penalty of perjury that the foregoing is true and correct, except as to the matters stated on information and belief, and as to those matters, I believe them to be true.

Executed on *(date)*, at X County.

Attorney for Defendant