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| DISTRICT COURT  JEFFERSON COUNTY, COLORADO  100 JEFFERSON COUNTY PARKWAY D  F  GOLDEN, COLORADO 80401 C | ATE FILED: July 27, 2017 11:27 AM ILING ID: B66D91699A5C1  ASE NUMBER: 2016CR1463   COURT USE ONLY  |
| **THE PEOPLE OF THE STATE OF COLORADO**  Plaintiff, v.  **GARY NICKAL**,  Accused. |
| MULLIGAN BRIET, LLC  Patrick Mulligan, #16981  1801 Broadway, Suite 1203  Denver, CO 80202  PH. 303-295-1500 FAX:  EMAIL: [Patrick@MulliganBriet.com](mailto:Patrick@MulliganBriet.com)  THE LAW OFFICE OF JENNIFER E. LONGTIN, LLC  Jennifer E. Longtin, #43509 2401 S. Downing St.  Denver, CO 80201  Ph. 303.747.6898  Fax. 800.243.2691  [Jen@jlongtinlaw.com](mailto:Jen@jlongtinlaw.com) | Case No. 16CR001463  Division: 12 |
| **MOTION FOR IMPEACHMENT INFORMATION** | |

Gary Nickal, through counsel, hereby moves this Honorable Court for an order directing the prosecution to make inquiry and disclose any material listed below that is within their possession, custody, and control, or the existence of which is known, or by the exercise of due diligence, could become known to the prosecution. Counsel makes

this motion pursuant to Colorado Rule of Criminal Procedure 16, the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Article II, §§ 16 and 25 of the Colorado Constitution, and *Brady v. Maryland*, 373 U.S. 83 (1963), and requests the following be ordered for production by the prosecution:

1. Any and all records, reports, internal memoranda, or notes related to administrative findings or disciplinary action taken by any police department against or related to any witness, or co-defendant, for the prosecution.
2. Any and all records, police reports and information regarding prior criminal convictions, guilty verdicts, juvenile adjudications, or pending criminal or juvenile cases of all prosecution witnesses, or co-defendant, including but not limited to relevant "rap sheets". As grounds for this paragraph, counsel states as follows:
3. Crim. P. 16(I)(a)(1)(I) requires production of "prior criminal convictions" of all prosecution witnesses, or co-defendant. This rule is not by its terms limited to felony convictions. This also includes any security officers mentioned in discovery.
4. Felony convictions may be used for impeachment purposes. C.R.S. § 13- 90-101.
5. Juvenile adjudications may be used for impeachment purposes. *People v.*

*Pate*, 625 P.2d 369 (Colo. 1981).

1. Misdemeanor convictions probative of untruthfulness or dishonesty may be used for impeachment purposes. C.R.E. 608; *People v. Armstrong*, 704 P.2d 877 (Col. App. 1985).
2. The fact of probation, or parole, at any time throughout the duration of this case is probative of bias or motive, and is admissible regardless of the type of underlying conviction. *Davis v. Alaska*, 415 U.S. 308 (1974); *Pate, supra; People v. Bowman*, 669 P.2d 1369 (Colo. 1983).
3. The existence of cases pending at any time throughout the investigation or duration of this case is admissible as to bias or motive. *People v. Jones*, 675 P.2d 9 (Colo. 1984); *People v. King*, 179 Colo. 94, 498 P.2d 1142 (1972).
4. Specifically, counsel is requesting not only the arrest records of any prosecution witness, or co-defendant, but also, any and all CCIC and/or NCIC and/or Blackstone documents.
5. Counsel also requests any and all records or information, revealing prior misconduct or bad acts, attributed to any prosecution witness, or co- defendant. Such misconduct may be admissible under C.R.E. 608(b), even though no conviction resulted, or may lead to the discovery of character evidence admissible under C.R.E. 608(a).
6. Any promise, benefit, plea bargain, financial consideration, or other

inducement made to any prosecution witness, or co-defendant, by the government at any time throughout the investigation, or duration of this

case, up to, and including, the time of trial, whether or not the government is willing to admit that such inducement was in formal "exchange" for testimony, or aid, in this case. Any such evidence is admissible as to motive or bias. This extends to all co-defendants and witnesses, or co- defendants. *Van Arsdall v. Delaware*, 475 U.S. 673 89 L.Ed.2d 874 (1986); *Davis, supra; Pate, supra*.

1. Any and all records and information concerning prior psychiatric or psychological treatment, evaluation or hospitalization of all prosecution witnesses, or co-defendants. The mental condition of witness, or co- defendants, is admissible for impeachment. *People v. Schuemann*, 548 P.2d 911 (Colo. 1976); *People v. Borrelli*, 624 P.2d 900 (Colo. App. 1980). In addition, such records may contain information bearing upon the witness, or co-defendant, character for truthfulness or specific instances of untruthfulness. C.R.E. 608. Finally, this evidence may have bearing on the witnesses’, or co-defendants’ competence to testify.
2. Any and all records or information concerning drug and alcohol use, evaluation, or treatment, of prosecution witnesses, or co-defendants. The use of drugs or alcohol is admissible to the extent that it affects a witness, or co-defendant, ability to perceive, remember, or testify. *People v. Roberts*, 553 P.2d 93 (Colo. App. 1976). In addition, such records may contain

information bearing upon a witness’, or co-defendant’s, character for truthfulness or specific instances of untruthfulness. C.R.E. 608.

Mr. Nickal makes this request, through counsel, pursuant to his rights under both the Colorado and United States’ constitutions, to due process and a fair trial, as well as pursuant to Rule 16, C.R.E.

Dated: July 27, 2017 Respectfully Submitted,

/s/

Patrick Mulligan Registration # 16981

Jennifer Longtin, #43509

The Law Office of Jennifer E. Longtin, LLC

**Certificate of Service**

The undersigned does hereby certify that on July 27, 2017, s/he served the foregoing REQUEST FOR NOTICE to all opposing counsel of record via ICCES:

