REDACTED

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 South Potomac St. Centennial, Colorado 80112	
Plaintiff: **PEOPLE OF THE STATE OF COLORADO** v. **Defendant:** **JAMES HOLMES**	▲ COURT USE ONLY ▲
Attorney for Officer Joshua Schol BRUNO, COLIN & LOWE, P.C. David M. Goddard, Atty. Reg. # 34930 1999 Broadway, Suite 3100 Denver, Colorado 80202 Telephone: (303) 831-1099 Facsimile: (303) 831-1088 E-mail: dgoddard@brunolawyers.com	Case No. 12CR1522 Div: 201

AURORA POLICE OFFICER JOSHUA SCHOL'S MOTION TO QUASH SUBPOENA DUCES TECUM [DSDT – 1]

COMES NOW, Aurora Police Officer Joshua Schol, by and through his attorneys, BRUNO, COLIN & LOWE, P.C., by David M. Goddard, and hereby respectfully submits the following Motion to Quash Defendant's Subpoena *Duces Tecum*. AS GROUNDS THEREFOR, IT IS STATED AS FOLLOWS:

INTRODUCTION

1. Defendant Holmes, through counsel, served on the Aurora Police Department a subpoena *duces tecum* requesting production of the following:

> ORIGINAL records of all Aurora Police Department internal affairs investigations pertaining to Officer Joshua Schol (#300390), including but not limited to all information concerning a sustained internal affairs finding in September of 2008 for "untruthfulness regarding information he supplied in a police report."

(See Defendant's *Subpoena Duces Tecum* [DSDT – 1])

2. Defendant, however, has not demonstrated the relevance or materiality of the requested information to his defense and therefore, cannot overcome the Officer's constitutional privacy interest in his files. As such, Defendant is not entitled to even an *in camera* review of the Officer's files, and Defendant's subpoena should be quashed. Alternatively, should the court determine that an *in camera* review and limited disclosure of certain information is necessary, the Court must enter any appropriate protective orders.

ARGUMENT

Defendant Holmes Cannot Demonstrate Any Relevance or Materiality of the Officer's Records To His Case; Therefore, He is Not Entitled to Disclosure or an *In Camera* Review of the Officer's Records.

3. Police officers possess a constitutionally protected privacy interest in their own personnel records, which the Colorado Supreme Court describes as the "right to confidentiality." *Martinelli v. District Court*, 612 P.2d 1083, 1091 (Colo. 1980). That right "encompasses the power to control what we shall reveal about our intimate selves, to whom, and for what purpose." *Id.* Allowing criminal defendants unfettered access to such information runs the risk of making the witness box a "slaughterhouse of reputations." *People v. Coleman*, 349 N.Y.S.2d 298, 304 (1973). Therefore, a subpoena directed at an officer's records cannot be used as a fishing expedition by a criminal defendant to simply determine if any relevant evidence may exist. *See People v. Spykstra*, 234 P.3d 662, 669 (Colo. 2010).

4. Specifically, under the *Spykstra* case, the Colorado Supreme Court held that the requesting party must demonstrate that (1) there is a reasonable likelihood that the subpoenaed material exists; (2) that the materials are evidentiary and relevant; (3) that the materials are not otherwise procurable reasonably in advance of trial by the exercise of due diligence; (4) that the requesting party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; and (5) that the application is made in good faith and is not intended as a general fishing expedition.

5. In the present matter, the defendant received a letter dated March 7, 2014 from the 18th Judicial District Attorney's Office notifying him of the existence of information regarding a 2008 internal affairs finding and instructing the defendant to comply with the process established in *Martinelli v. District Court*, 612 P.2d 1083 (Colo. 1980) in requesting access to this information. Arguably, the District Attorney's letter satisfies the first prong of *Spykstra* as it relates to the 2008 finding only, however, it does not satisfy the first prong of *Spykstra* with regards to "...all Aurora Police Department internal affairs investigations pertaining to Officer Joshua Schol..." With respect to any request above and beyond the 2008 finding, the defendant has failed to meet any of the *Spykstra* burdens.

6. As held by the *Spykstra* Court, when the materials sought may be protected by a privilege or right to confidentiality, the requesting party also must make a greater showing of need and might not gain access to otherwise material information depending on the nature of the interest against disclosure. *People v. Spykstra*, 234 P.3d 662, 670 (Colo. 2010), citing *Martinelli v. District Court*, 612 P.2d 1083, 1088 (Colo. 1980). Here then, the Defendant must not only satisfy the five-part *Spykstra* test, the Defendant must also overcome the privacy and confidentiality rights recognized by the Colorado Supreme Court in *Martinelli v. District Court*, *supra*, which will be discussed in more detail below.

7. Furthermore, even if a criminal defendant has information to show there is a reasonable likelihood that the requested records exist, when a criminal defendant seeks records of a police officer, as done here, the defendant possesses a specific burden that must be met before he can be entitled to the records or before an in camera inspection of such records can be made by the court. *See Cedar Street Ventures, LLC v. Judd*, 256 P.3d 687, 691 (Colo. 2011). The defendant "**must** always first prove that the information requested **is relevant** to the subject of the action." *Id.* (emphasis added). An allegation that the evidence may be relevant is insufficient, as is an allegation that the officer's credibility is at stake. *People v. Blackmon*, 20 P.3d 1215, 1220 (Colo.App. 2000). Impeachment evidence is **only** required to be disclosed **if** the reliability of a witness will be determinative of guilt or innocence. *See generally Bagely,*473 U.S. at 677 (citing *Napue v. Illinois*, 360 U.S. 264, 269 (1959))(emphasis added).

8. The Defendant has failed to establish that the records he seeks are relevant and material to his defense, instead the Defendant has just generally asserted that as an endorsed witness, this officer's credibility may very well be an issue at trial. *See Defendant's Motion for In Camera Review of Internal Affairs Investigative Files and/or Personnel Files [D-220]*, ¶ 4. This blanket assertion is insufficient to warrant disclosure and a trial court is not required to conduct an *in camera* review of police files and reports if the Defendant fails to show how the information requested is relevant to the case at issue. *Blackmon*, 20 P.3d at 1220; *see generally United States v. Flagg,* 919 F.2d 499 (8th Cir.1990) (affirming trial court's denial of request for *in camera* review of police department file because defendant, *inter alia,* did not show that the alleged evidence in the file was critical to a finding of probable cause); *United States ex rel. Drain v. Washington*, 52 F.Supp.2d 856 (N.D.Ill.1999) (affirming the trial court's decision not to hold *in camera* review of police records because defendant could not show how the records were specifically relevant to his case). The defendant cannot merely allege that there may or may not be information contained in the file which could be relevant to the defendant's defense, *Cedar Street Ventures*, 256 P.3d at 691, as is the case here.

9. Decisions regarding the disclosure of potentially exculpatory information to a criminal defendant are exclusively the obligation of the prosecutor. However, the prosecutions obligation to disclose favorable evidence is limited to evidence that is *material* to the defendant's guilt or punishment. *Brady v. Maryland,* 373 U.S. 83, 87 (1963); *U.S. v. Bagley*, 473 U.S. 667, 682 (1985) (emphasis added). It is well settled that the establishment of a due process violation under *Brady* requires the defense to prove: 1) that the government suppressed evidence; 2) the evidence would have been favorable to

the defendant: and 3) that the suppressed evidence was material *to the case at hand. See e.g. United States v. Sneed,* 34 F.3d 1570, 1581 (1994) (emphasis added).

10. In fact, materiality is the most critical of the three requirements, because "there is never a real '*Brady* violation' unless the nondisclosure was so serious that there is a reasonable probability that the suppressed evidence would have produced a different verdict." *Strickler v. Greene,* 527 U.S. 263, 281 (1999) (stating the test for materiality under *Brady.*) The Colorado Supreme Court has specifically held that the "materiality standard of *Brady* and *Bagley* applies to Rule 16 disclosures in Colorado." *In re Matter of Attorney C,* 47 P.3d 1167, 1170-71 (Colo. 2002) (citing to and quoting *People v. District Court,* 790 P.2d 332, 338 (Colo. 1990)).

11. In the instant case, because of the limited involvement of Officer Schol, his personnel and internal affairs records are not material to the Defendant's guilt or innocence and the minimal exculpatory value, if any, of the information sought is far outweighed by the prejudice to Officer Schol's privacy interests should such information be disclosed. Officer Schol's position is further supported by the prosecution's offer of proof indicating "...it is extremely unlikely that the People will call [him] as a witness at trial, although it is possible that they will do so." *See People's Response to Defendant's Motion D-220,* ¶ 2.

12. The mere existence of an officer on the prosecutions witness list does not render their testimony as relevant or material *per se.* The Defendant must still make a showing that the witness' testimony meets the relevancy and materiality thresholds established in *Bagely, Cedar Street Ventures,* and *Blackmon.* The Defendant has failed to do so in this case and the Court's quashing of the subpoena *duces tecum* will not adversely affect the Defendant's due process rights, but will preserve the officer's right to confidentiality in his personnel and internal affairs files.

13. The vast majority of federal decisions concerning alleged *Brady* violations hold that the suppression of evidence more peripheral in nature does not amount to a due process violation. *See, e.g., United States v. Bowie,* 198 F.3d 905 (D.C. Cir. 1999) (suppression by prosecution that testifying police officer was under investigation for perjury not material under *Brady* where credible officer testified to same events); *United States v. Rosario-Peralta,* 199 F.3d 552 (1st Cir. 1999) (suppression of agency communications records and logs not *Brady* violation when other evidence substantially determined guilt); *Tankleff v. Senkowski,* 135 F.3d 235 (2nd Cir. 1998) (nondisclosure of impeachment evidence to two key witnesses not *Brady* violation due to thorough cross-examination at trial); *Hollman v. Wilson,* 158 F.3d 177 (3rd Cir. 1998) (nondisclosure of witnesses' *crimen falsi* convictions not *Brady* violation); *Royal v. Taylor,* 188 F.3d 239 (4th Cir. 1999) (nondisclosure of evidence that police planted weapon to induce corroborative testimony from witness not *Brady* evidence); *Pyles v. Johnson,* 136 F.3d 986 (5th Cir. 1998) nondisclosure of possible deal with witness by prosecution not *Brady* violation); *Braun v. Powell* 227 F.3d 908 (7th Cir. 2000) (nondisclosure of terms of witness' plea agreement not *Brady* violation); *Knox v. Iowa,* 131 F.3d 1278 (8th Cir. 1997) (nondisclosure of initial opinion of expert witness concerning bloody fingerprint

not *Brady* violation); *United States v. Ciccone*, 219 F.3d 1078 (9th Cir. 2000) (suppression of extent of witness' involvement in FBI investigation not *Brady* violation); *United States v. Hanzilek*, 187 F.3d 1228 (10th Cir. 1999) (suppression of law enforcement agency's summary of fraudulent checks not *Brady* violation); *Newsted v. Gibson* 158 F.3d 1085 (11th Cir. 1998) (suppression of police report that suggested altercation at crime scene not *Brady* violation, even though report was held to be material to case).

14. In the present matter, defendant has failed to meet his burden. Defendant Holmes cannot make a showing how any and all information contained in the Officer's files could possibly be relevant to his case such that he could override the Officer's privacy interest in the records. Therefore, Defendant Holmes is not entitled to the Officer's constitutionally protected records, nor is he entitled to even an *in camera* inspection of those records. Thus, his subpoena *duces tecum*, with respect to those records, should be quashed.

This officer enjoys a reasonable expectation of confidentiality in his internal affairs and personnel files and disclosure of those files under the facts of this case would violate this officer's constitutional privacy rights.

15. Although the United States Constitution does not explicitly mention any right to privacy, the United States Supreme Court has recognized that the right to privacy is implicit in various amendments to the Constitution, including the First,[1] Fourth,[2] Fifth,[3] Ninth,[4] and Fourteenth[5] Amendments, and the penumbra of the Bill of Rights.[6] In *Martinelli v. District Court, supra*, the Colorado Supreme Court also acknowledged the right to privacy. *Martinelli* at 1091. And in the context of the discovery of a police officer's personnel file, the *Martinelli* Court characterized the right as the "right to confidentiality," meaning, having the "power to control what we shall reveal about our intimate selves, to whom, and for what purpose." *Martinelli,* at 1091; *see also Stone v. State Farm Mut.Auto.Ins.Co.*, 185 P.3d 150, 155 (Colo. 2008); *Corbetta v. Albertson's, Inc.*, 975 P.2d 718, 720 (Colo. 1999). The right of confidentiality is by no means absolute, and courts must engage in a balancing process when applying the right in specific cases. *Martinelli* at 109 (additional citations omitted).

16. In assessing such a claim, the trial court is to engage in a "tripartite balancing inquiry" that determines (1) whether the claimant has a legitimate expectation that the materials or information will not be disclosed; (2) whether disclosure is nonetheless required to serve a compelling state interest; and (3) if so, whether the necessary disclosure will occur in the least intrusive manner. *Martinelli* at 1091; *American Civil Liberties Union of Colorado v. Whitman*, 159 P.3d 707, 710 (Colo. App. 2006).

---

[1] *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705 (1972).
[2] *Katz v. United States*, 389 U.S. 347, 88 S.Ct. 507 (1967).
[3] *Bellis v. United States*, 417 U.S. 85, 94 S.Ct. 2179 (1974).
[4] *Griswold v. Connecticut*, 381 U.S. 479, 85 S.Ct. 1678 (1965).
[5] *Carey v. Population Services International*, 431 U.S. 678, 97 S.Ct. 2010 (1976).
[6] *Griswold v. Connecticut, supra*.

Officer Schol has a legitimate expectation of nondisclosure.

17. The test for whether an officer has a legitimate expectation that the materials or information will not be disclosed is comprised of two parts: (1) an actual or subjective expectation that the information will not be disclosed, as, for example, by showing that the officer divulged the information to the state pursuant to an understanding that it would be held in confidence or that the state would disclose the information for stated purposes only; and (2) that the material or information which the officer seeks to protect against disclosure is "highly personal or sensitive" and that its disclosure would be offensive and objectionable to a reasonable person of ordinary sensibilities. *Martinelli* at 1091.

18. Because this officer is a public employee, pursuant to the express provisions of the Aurora City Charter and Aurora Police Department Policies and Procedures the officer was required to accurately and truthfully participate in Departmental internal investigations ***under the threat and penalty of termination***. In fact, as part of any non-criminal departmental internal investigation, officers are required to review and sign what has become known as a "*Garrity* Advisement."[7] As pertinent here, the Aurora Police Department's *Garrity* Advisement provides that "[t]he information I provide shall remain confidential and no truthful information will be used in any criminal proceeding against me. Any request for this statement, whether criminal or civil, will be analyzed by the Chief of Police and the Department to resist any disclosure not mandated by law." *See Exhibit A.* Consequently, the officer, by virtue of the express terms of the Aurora City Charter and the Aurora Police department's policies and procedures, has at least a limited expectation of nondisclosure or confidentiality. *See American Civil Liberties Union of Colorado v. Whitman*, 159 P.3d 707, 711 (Colo. App. 2006) (*Garrity* advisement and related Denver City Charter gave police officers a reasonable expectation of "limited confidentiality").

19. Furthermore, this officer's expectation of nondisclosure is buttressed by the Colorado Open Records Act (CORA), § 24-72-204(2)(a)(I) and (3)(a)(II), C.R.S., as amended, and the Colorado Criminal Justice Records Act (CCJRA), § 24-72-305(5), C.R.S., as amended. Both sanction the nondisclosure of the records requested by the Defendant in this case. In fact, § 24-72-204(2)(a)(I) and (3)(a)(II)(A) provides:

> (1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (2) or (3) of this section:
>
> (2)(a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that

[7] *See Garrity v. New Jersey*, 385 U.S. 493, 87 S.Ct. 616 (1967).

> disclosure to the applicant would be contrary to the public interest:
>
> (I) Any records of the investigations conducted by any sheriff, prosecuting attorney, or police department, any records of the intelligence information or security procedures of any sheriff, prosecuting attorney, or police department, or any investigatory files compiled for any other law enforcement purpose *** .
>
> (3)(a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law ***:
>
> (II)(A) Personnel files; but such files shall be available to the person in interest and to the duly elected and appointed public officials who supervise such person's work.

§ 24-72-204(2)(a)(I) and (3)(a)(II)(A), C.R.S., as amended.

Section 24-72-305(5) provides:

> (1) The custodian of criminal justice records may allow any person to inspect such records or any portion thereof except on the basis of any one of the following grounds or as provided in subsection (5) of this section:
>
> (5) On the ground that disclosure would be contrary to the public interest, and unless otherwise provided by law, the custodian may deny access to records of investigations conducted by or of intelligence information or security procedures of any sheriff, district attorney, or police department or any criminal justice investigatory files compiled for any other law enforcement purpose.

§ 24-72-305(5), C.R.S., as amended.

20. This officer's internal affairs and personnel files contain highly personal and sensitive information and the disclosure of that information would be offensive and objectionable to a reasonable person of ordinary sensibilities. *See Martinelli,* at 1091. This officer has already experienced the objectionable and offensive consequences of disclosure of this highly personal and sensitive information when, unfortunately, he

learned of both the District Attorney's letter to the Defendant and the Defendant's subsequent Subpoena *Duce Tecum* when his name appeared in national media stories along with the details of the personal information contained in the District Attorney's letter. This officer does not wish to have his right to confidentiality further eroded by the review and disclosure of his internal affairs and personnel files. In fact, it is gainsaid that in the private employment sector it would be unheard of to produce such personal information as a matter of rote.

21. In addition, as part of this officer's official duties, this officer must testify before this court on a regular basis. Consequently, the Court should be reticent in reviewing this officer's internal affairs and personnel files because information in these files might cause the Court, albeit unjustifiably, to view this officer's testimony in subsequent cases with an unwarranted jaundiced eye. In other words, there is the great risk that the Court might judge this officer's credibility not based upon what this officer testifies to in any given case at bar, but instead based upon what the Court has previously reviewed and in this officer's internal affairs and personnel files.

22. This officer has an actual legitimate expectation of privacy based on the Aurora Police Department Garrity advisement and statutory expectation of non-disclosure under on the CORA and CCJRA statutes. Additionally, the personal and professional repercussions of additional disclosure of this highly personal and sensitive information would shock the sensibilities of the most reasonable individual. Accordingly, this officer has established both elements of the legitimate expectation of non-disclosure test.

There is no compelling state interest which would warrant the disclosure of this officer's personnel files.

23. Even if it is determined that this officer has a legitimate expectation that the materials or information in question will not be disclosed through state action, a compelling state interest can override the constitutional right to confidentiality which arises from that expectation. The compelling state interest must entail disclosure of the very materials or information which would otherwise be protected. To override constitutional privacy interests, a countervailing state interest must exist and be compelling at the point where those interests collide. *Martinelli*, at 1092.

24. In *Martinelli*, the Colorado Supreme Court held that a civil plaintiff seeking to prove a claim of negligent hiring, training or supervision had a right to obtain compensation for his or her injuries and that this right created a compelling state interest sufficient to justify the yielding of the officer's privacy interest in their right to confidentiality. In *People v. Walker*, 666 P.2d 113, 121-122 (Colo. 1983), the Court concluded that a criminal defendant charged with assaulting a police officer has a right to discovery of exculpatory evidence relating to the charge, and specifically to the conduct of the police officer victim where the affirmative defense of excessive force by the victim is available to the defendant.

25. Here, the Defendant has entered a plea of Not Guilty By Reason of Insanity (NGRI). This officer did not have any contact, at any time, with the Defendant. With the exception of the NGRI plea, it is unknown what the nature of the Defendant's additional defenses, if any, are or how this officer's peripheral conduct relates to them. The Defendant's request for the disclosure of this officer's internal affairs and personnel files is the precise type of fishing expedition the relevancy threshold noted above is intended to protect against. As noted above, Defendant cannot meet the materiality threshold mandated in *Brady*, let alone demonstrate any compelling state interest to warrant disclosure of this officer's internal affairs and personnel files.

26. Accordingly, such records are not discoverable absent a compelling state interest that outweighs the officer's privacy interest - specifically that such records could supply a criminal defendant with exculpatory evidence. *Martinelli*, 612 P.2d at 1091. In light of this officer's legitimate expectation of nondisclosure of his personnel files, and the absence of a compelling state interest, the Court should quash the Defendant's Subpoena *Duces Tecum*.

Assuming this Court finds that this officer's personnel files should be disclosed, any such disclosure must occur in the least intrusive manner.

27. In *Martinelli, supra*, the Court held that an *in camera* review by the trial court of the officer's records was the least intrusive means by which to provide the requesting party with the documentation he or she is allegedly entitled, while at the same time respecting the officer's privacy right to confidentiality. Here, because the Defendant has not alleged that the information requested is relevant to Defendant's defense, these Officers' records are irrelevant as a matter of law, and there is no need for this Court to conduct an *in camera* review. However, if following an *in camera* review, the Court determines that disclosure of some matter is appropriate, then the Court should provide the Officers with the opportunity to raise specific objections to all or portions of any document which the Court is considering releasing to counsel. If disclosure is thereafter ordered, the Officers respectfully request that the Court issue a protective order regarding such disclosure which includes the following terms:

a. Counsel for the parties be allowed to inspect, but not to copy, any documents released to them.

b. In the event the Court orders or allows any copies to be made, that all copies be returned to the Court at the conclusion of the case to be retained in a sealed file as part of the Court file.

c. Access to any material ordered to be provided to the parties be restricted to counsel.

d. Release of any information contained in the files to be produced be used solely for the purpose of this case.

e. The Court retain continuing jurisdiction for purposes of enforcing compliance with the Protective Orders issued in this case and that any violation may subject the offending party to court sanctions.

f. It shall be the responsibility of counsel of record to ensure that their clients be apprised of the Protective Orders in this case and that they understand the terms of said Order prior to any disclosure of the documents or information contained in the files to be produced.

WHEREFORE, Officer Schol respectfully request that this Court quash Defendant Holmes' subpoena *duces tecum* in its entirety. In the alternative, should the Court determine that Defendant has met his burden and that the requested records should be tendered to the Court and after an appropriate *in camera* inspection of the subject documents, Officer Schol respectfully request that any information released to the parties in this action be subject to a protective order as more particularly provided above.

Dated this 16th day of July, 2014.

Respectfully Submitted,

BRUNO, COLIN & LOWE, P.C.

By: _____
David M. Goddard
Attorney for Officer Schol

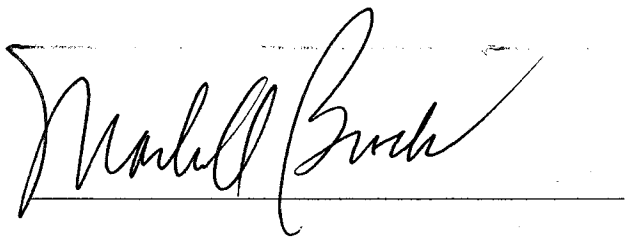
CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2014, I caused to be served a true and correct copy of the foregoing **AURORA POLICE OFFICER JOSHUA SCHOL'S MOTION TO QUASH SUBPOENA DUCES TECUM [DSDT – 1]** by facsimile transmission, addressed to the following:

Michael Hyman, Aurora City Attorney
David Lathers, Aurora Assistant City Attorney
15151 E. Alameda Parkway
Aurora, CO 80012
Fax No. (303) 739-7042

Daniel King, Chief Trial Deputy
Tamara Brady, Chief Trial Deputy
State Public Defenders
1300 Broadway, Suite 400
Denver, CO 80203
Fax No. (303) 764-1478

Karen Pearson, Chief Deputy District Attorney
Office of the District Attorney
6450 S. Revere Parkway
Centennial, CO 80111
Fax No. (720) 874-8501



INTERNAL ADMINISTRATIVE INVESTIGATIVE ADVISEMENT (GARRITY WARNING)

I understand that I am being ordered by the authority of the Chief of Police to answer questions and/or provide a written statement in connection with an Internal Administrative Investigation. I understand that my answers to those questions and/or my written statement must be truthful and complete. It is my further understanding that the scope of the questions asked will focus on and will be limited to activities, circumstances, events, conduct, or acts which pertain to the performance of my law enforcement duties and/or my fitness to perform the same and that I must answer all such questions asked of me. I have been advised that my failure to do so will result in the termination of my employment.

It is my belief and understanding that the Aurora Police Department is requiring this information solely and exclusively for Internal Administrative purposes. The information I provide shall remain confidential and no truthful information will be used in any criminal proceeding against me. Hoffler v. Colorado Dept. of Corrections, 27 P3d 371 (Colo. 2001) and United States v. Veal, 153 F3d 1233 (11th C.A. 1998). Any request for this statement, whether criminal or civil, will be analyzed by the Chief of Police and the Department to resist any disclosure not mandated by law.

If the information I am ordered to provide is used for any purpose other than an Internal Administrative Investigation, I hereby invoke my constitutional right to silence under the **FIFTH** and **FOURTEENTH AMENDMENTS** to the United States Constitution and rely specifically upon protections afforded me under the holdings in Garrity v. New Jersey, 385 U.S. 493 (1967); Spevack v. Klien, 385 U.S. 551 (1967); and Gardner v. Broderick, 392 U.S. 273 (1968).

Member: _____
(Signature)

_____
(Print Name and Employee #)

Date _____

Investigator _____
(Signature)

EXHIBIT A

Aurora Police Officer Joshua Schol's Motion to Quash Subpoena Duces Tecum [DSDT - 1]
People v. Holmes, 12CR1522