



IV.

The information is not privileged, or, if privileged, then the privilege must give way to the overriding interest defendant has in preparing and presenting his case and in order to preserve defendant's right to confront and cross-examine the witnesses against him and to effective assistance of counsel and compulsory process, the Sixth Amendment to the United States Constitution and Article I § 10 of the Texas Constitution and his right to "due process" guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Article I §§ 13 and 19 of the Texas Constitution.

V.

The defendant asserts that:

1. The items requested are in the exclusive possession, custody and control of the State of Texas or the United States Government by and through its agents, the police or the prosecuting attorney's office, and the Defendant has no other means of ascertaining the disclosures requested.
2. The items requested are not privileged.
3. The items and information are material to this cause and the issues of guilt or innocence and punishment to be determined in this cause.
4. The Defendant cannot safely go to trial without production of the requested items, such information and inspection, nor can the Defendant adequately prepare the defense to the charges against him.
5. The absent such discovery the Defendant's rights under Article 39.14, Article I, §§ 3, 10, 13 and 19 of the Constitution of the State of Texas, and the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States of America will be violated, to his irreparable injury and thus deprive the Defendant of a fair trial herein.

WHEREFORE, PREMISES CONSIDERED, defendant respectfully requests that he be allowed to inspect, copy or photograph the aforementioned records prior to trial. In the alternative, Defendant requests that this Court conduct an in-camera inspection of these records to determine questions of materiality, relevance and privilege.

Respectfully submitted:

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Attorney for Defendant

### **CERTIFICATE OF SERVICE**

I certify that a copy of this motion has been delivered to the Bexar County District Attorney's Office, 101 W. Nueva St.; San Antonio, Texas, on April 1, 2018.

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MARK STEVENS

### **ORDER**

On this the \_\_\_ day of \_\_\_\_\_, 2018, came to be considered Defendant's Motion for Production of Officer's Personnel Records, and said motion is hereby

(GRANTED)

(DENIED)

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JUDGE PRESIDING