Colorado State Supreme Court

STATE OF COLORADO
Case number _____

OPENING BRIEF

Steve Douglas Gartin,
Plaintiff-Appellant,
v.
The Jefferson County District Court,
Defendant-Appellee.

ORIGINAL WRITS IN THE NATURE OF
HABEAS CORPUS - MANDAMUS - QUO WARRANTO - PROHIBITION

Steve Douglas Gartin
Plaintiff/Appellant
No Representation
c/o 200 Jefferson County Parkway
Golden, Colorado 80401

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The Jefferson County Court, Defendant.

ORIGINAL WRITS IN THE NATURE OF
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The Petitioner Steve Douglas Gartin submits this opening brief.

STATEMENT OF THE CASE

On September 19, 2000, Steve Douglas Gartin, (hereinafter or "Plaintiff") suffered an unlawful arrest in Lakewood, Colorado at the hands of Colorado State Attorney General Investigator Gary Clyman (hereinafter "Clyman") in command and deployment of the Lakewood S.W.A.T. Team. Plaintiff was departing from a business meeting with two business associates in a private conveyance when a "Felony Traffic Stop" was conducted by the Lakewood S.W.A.T. Team and all three parties injured were arrested without warrants, without exigent circumstances and without anyone witnessing any sort of crime in commission. The arrest was conducted unlawfully, with excessive force and unnecessary torture of the Plaintiff and witnesses.

Plaintiff was then unlawfully arrested and illegally incarcerated in the Jefferson County Detention Facility for four days. (See: Attachment **Exhibit # 1 – UnSigned Warrant – 97M811**)

Plaintiff's business associates were subjected to a roadside custodial interrogation by Colorado State Attorney General Investigator Gary Clyman while in hand-cuffs and surrounded by quasi-military S.W.A.T. Agents brandishing and menacing deadly weapons . Later that night, Clyman conspired with Jefferson County Sheriff's Deputy Donald L. Estep (hereinafter "Estep") to use the fruits of that unlawful roadside custodial interrogation to construct a false and misleading untitled document purporting to be an affidavit in support of a search warrant of Plaintiff's business location and private conveyance.

Clyman and Estep did then conspire with a Jefferson County Judge, to-wit: Judge Jack Berryhill

to devise a plan to unlawfully obtain a search warrant for a business location in the City and County of Denver, which appears to be an abuse of judicial power in addition to the unlawful predicate actions leading up to and supporting that departure from appropriate judicial conduct.

Clyman and Estep then elicited aid and assistance from the FEDERAL BUREAU OF INVESTIGATION, Special Agent Curtis Maleri (hereinafter "Maleri"), to conduct the midnight search and seizure of private registered business equipment and private papers which were then held in FEDERAL BUREAU OF INVESTIGATION custody and were copied, searched and eventually turned over to the Jefferson County Sheriff's Department for further investigation. That private, registered property remains in the custody of the Jefferson County Sheriff's Department and the District Court cannot hear a motion to suppress unlawfully seized property and a motion to return that property until after arraignment.

Arraignment cannot be made until after the grand jury challenge is heard, and the grand jury challenge cannot be heard until the Rule 16 Discovery relating to the Grand Jury impanelment, colloquy between the Prosecution and the Grand Jurors, the written Order from the Governor authorizing the Prosecution of this matter and the Grand Jury Voir Dire and Attendance is tendered to the Defense. The un-authorized Prosecution, to-wit: COLORADO STATE ATTORNEY GENERAL'S OFFICE has neglected, refused and denied full discovery in this matter although the Honorable Leland P. Anderson has very directly ordered the Prosecution to comply and has stated that the un-authorized prosecutor, to-wit: Marleen M. Langfield, Esquire Reg. No. 10355 would loose her license to practice law if she were to refuse to comply. Ms. Langfield has refused to comply.

Grand Jury misconduct is clearly established by the fact that two Co-Defendants were indicted on EXACTLY the same charges as the Plaintiff in defiance of the fact that Charles Harry Clements was only mentioned in ONE count and Eric Gordon Mitchell was only mentioned in ONE count and no evidence or testimony was presented that implicated either of them in any of the other Sixteen Counts with which they were BOTH charged, arrested and incarcerated. All charges have since been dismissed against Charles Harry Clements. [See Attachment: **Exhibit #2 Affidavit by Charles Harry Clements**] The status of the Mitchell case is unknown to Plaintiff.

Plaintiff has additionally specifically identified FRAUD, PERJURY, and testimony by instruments of the Prosecution, to-wit: C.S.A.G. Investigator Clyman calculated to inflame the passion of the Grand Jury against the Plaintiff. [See Attachment: **Exhibit #3** Grand Jury Points 9-1-2001 and Grand Jury Challenge Impaneling 9-16-2001]

The mandatory discovery pursuant to Rule 16 has been verbally, in open court, and formally by motion, requested and those requests have been refused or denied. [See Attachment: **Exhibit #4 – Motions for Grand Jury Discovery**]

No hearing has yet been held relative to the matter of Quashing the Grand Jury Indictment. [See Attachment: **Exhibit #5 – Notice of Mistake 11-5-2001**].

To date, the only issues that have been ruled on by the Honorable Court have been:

1. Probable Cause: Found

2. Private Advisory Counsel and Investigator: Granted
3. Computer Access for exculpatory information and Defense preparation: Granted
4. Bond Reduction: Granted Reduction from $100,000 to $50,000 – P.R. Denied
5. Law Library Access pursuant to the Right to Access the Courts: Granted
6. Full Discovery: Ordered by the Court, but contemptuously denied by Prosecution
7. Psychological Evaluation of Prosecution Witnesses: Denied

Motions outstanding and awaiting ruling (See EndNotes # [1])

The last Bond Reduction hearing was deliberately diverted by the Jefferson County Attorney in order to attempt to limit the law library access granted to the Plaintiff by the good grace of the Honorable Leland P. Anderson in order to provide Plaintiff a somewhat equal opportunity to prepare a defense.

The Honorable Court has heard direct testimony and received documentation and affidavits from the Defense establishing malice and vindictiveness by the Prosecution. The Honorable Court has termed the Defense's accusations of a malicious, vindictive and retaliatory prosecution as "**vituperative**." The Defense does not believe that the truth could be construed as verbally abusive. The Defense has presented documents and affidavits establishing outrageous government conduct that any reasonable person would perceive as just and sufficient cause for dismissing case #**00CR3371** with prejudice. For some reason, currently unknown to the Plaintiff, the Honorable Judge Leland P. Anderson has instead chosen to instigate Competency Proceedings against the Accused, presumably to delay the proceedings and toll the Speedy Trial timeline in order to gain time for some purpose yet unknown to the Plaintiff. The Plaintiff does not object to the Honorable Judge Anderson taking the time to research and ponder the issues that have been presented by the Defense, but the Accused does take issue with the fact that he is unlawfully incarcerated in draconian, overcrowded prison conditions that constitute cruel and unusual punishment while the Court and the Prosecution continue to deny, deprive and circumvent the Right to Speedy Trial.

In this matter, the Plaintiff was assaulted for the third time by S.W.A.T. Teams on March 13, 2001 in his hometown of Fairfax, California, once again at his business location, but worse yet in the presence of over thirty women and children arriving for AfterSchool Children's martial arts class.

There is clearly a pattern firmly established that removes any doubt that the government agents are not only endeavoring to place Plaintiff in real and credible fear of death or serious injury but it is also obvious that each of the S.W.A.T. Assaults and police threats have been targeted at Plaintiff's businesses, business associates and economic consortium. Agents Clyman and Estep have brazenly and criminally hacked into Plaintiff's websites and email and completely destroyed and disabled all internet advertising vehicles and websites. [*See* **Attachment: Exhibit #6 - Charles Harry Clements Affidavit of Computer Crime**] Estep and Clyman have openly threatened business associates with "blanket prosecution" and have then made good on those threats on at least three occasions, again establishing a pattern of criminal conduct that shocks the conscious of any reasonable person. [*See* **Attachment:**

Exhibit #7 - Clyman & Estep Criminal Complaint]

Therefore, the Plaintiff has thoroughly exhausted all possible remedies before applying to the Supreme Court for relief in the nature of Original Jurisdiction Writs enumerated above.

STATEMENT OF THE ISSUES

1. Whether Plaintiff is currently unlawfully incarcerated due to excessive bond.
2. Whether Plaintiff was unlawfully arrested in Colorado on 19 September, 2000.
3. Whether Plaintiff was unlawfully arrested in California on 13 March, 2001.
4. Whether Plaintiff was unlawfully extradited from California on 4 April, 2001.
5. Whether Colorado State Attorney General has authority to prosecute case #00CR3371
6. Whether Statewide Grand Jury was properly impaneled.
7. Whether Prosecutorial misconduct occurred during the Grand Jury process.
8. Whether Plaintiff was unlawfully indicted by the Statewide Grand Jury.
9. Whether Prosecutorial misconduct and due process violations have occurred during the pre-arraignment process in Case 00CR3371.
10. Whether the court erred by ordering a Psychological Evaluation of Plaintiff.
11. Whether Government agents conducted Illegal Searches and Seizures
12. Whether Plaintiff has been denied the right to speedy trial.

Request for Relief

1. **Habeas Corpus** relief as Immediate Release from Jefferson County Detention Facility
2. **Mandamus** to the District Court ordering a Granting of Personal Recognizance Bond
3. **Mandamus** to the District Court Ordering Dismissal of all charges with prejudice
4. **Quo Warranto** and estoppel of State Attorney General from Prosecution
5. **Prohibition** of District Courts improper Order for Competency Evaluation

Related and Connected Cases:

1. 91CR25: Malicious prosecution in Douglas County - Dismissed
2. 93CV211 through 93CV233: Civil Suits for malicious prosecution above #1
3. 95B1747: #2 Removed to Federal Court by U.S.D.O.J. after I.R.S.defaulted
4. 95DR2718: Separation/Divorce caused by malicious I.R.S. actions
5. 96CO7019: Gartin v. Merritt – Restraining Order Denied by Judge Roy Olson
6. Golden Municipal: #55233 – Golden Community Center Incident
7. 97-N-1501: Federal Civil Rights Action concerning above #6
8. 96CO7386/96CO7387/96CO7388: Void for Fraud Restraining orders – Rule 365 – Recused Judge Charles T. Hoppin – irregular proceedings - no service of P.R.O.
9. 97M811 / 97M812 / 97M472: Retaliatory Prosecutions to Cover-up S.W.A.T. Assault on Plaintiff's home on 26 February, 1997
10. 97-D-1036: Federal Civil Rights Action Concerning #8 & #9

11. 01CV1311: Appeal of 97M811/96CO7386-7-8
12. 00CR2419: Retaliatory prosecution to increase bond after Lakewood S.W.A.T. Assault on 19 September, 2000 and to cover-up warrantless arrest of three innocent Citizens.
13. 00CR3371: Malicious prosecution by unlawfully impaneled Statewide Grand Jury instigated to cover-up retaliatory S.W.A.T. assaults and preceding vindictive prosecutions #1, 8, 9 & 11.
14. 97-S-1523: Federal Civil Rights Action concerning draconian prison conditions from April 7 to September 22, 1997 – incarceration without charges
15. 01-ES-1145: Federal Civil Rights Action concerning draconian prison conditions from April 4, 2001 to present – incarceration on excessive bond
16. Original Actions in the Supreme Court related to #00CR3371 in the Nature of:
    a. Habeas Corpus
    b. Mandamus
    c. Quo Warranto
    d. Prohibition
    e. Notice of Intent Pursuant to 24-10-109

ARGUMENT I: Plaintiff is currently unlawfully incarcerated on excessive bond.

THE COURT ERRED [1] BY ASCRIBING A $100,000.00 BOND IN CASE #00CR3371.

Amendment Eight of the Federal Constitution [2] and Article II §20 of the Colorado Constitution [3] clearly forbid the imposition of excessive [4] bond. The purpose of bail is to ensure the defendant's future appearances in court and not to punish a defendant before conviction. [5] Excessive bond [6] serves only to punish an Accused prior to trial. In this case, no consent is required by the "district attorney" because no convictions are applicable.

Some unknown judicial officer imposed a $100,000.00 bond in this case, presumably upon application by the unauthorized prosecution, to-wit: Marleen M. Langfield, Esquire #10355 to keep Plaintiff unlawfully incarcerated on excessive bond, for the reason and purposes further discussed below.

The frivolous charges in this case are "victimless" infractions without any allegations of violence or capital offense and in each of the seventeen counts the statutes are deliberately misconstrued and tortured into misfit with the actions alleged. No credible witnesses have been offered and no real evidence has been presented to prove any of the allegations presented. The Grand Jury Transcripts establish no fact upon which an indictment could issue and is rife with conclusory allegations, inflammatory rhetoric, innuendoes, unsubstantiated theories and testimony from COLORADO STATE ATTORNEY GENERAL'S OFFICE Investigator Gary Clyman that is calculated to inflame the prejudice of the Grand Jury against "Patriot-type" activities based upon hearsay of hearsay of hearsay.

Discussion: Excessive Bond

After the unlawful warrantless arrest of Plaintiff on 19 September, 2000, in an effort to "get him off the streets until we could get this case filed and get him on significant bond" (**Clyman**: Grand Jury Transcript page 11) patently false and frivolous charges were filed against the Accused in connected case #00CR2419, in a meeting of the minds and by a conspiracy between Deputy District Attorney **Dennis Hall**, Judge **Roy Olson**, Donald **Estep** and Gary **Clyman**; in order to exacerbate, increase and aggravate an already excessive bond generated from another connected case, #97M811, which was void ab initio due to fatal defects in the charging instrument. [See **Attachment: Exhibit #8 – Defective Charging Document**]

Case #00CR2419 was dismissed on 4-30-2001 [See **Attachment: Exhibit #9 – Defective Charging Document - $5000 Bond – Dismissal of Case #00CR2419**], but the unlawful and unconstitutional design and purpose which Gary Clyman admitted to under oath before the Grand Jury, to-wit: "*to get him off the street for a while until we could get this case filed and get him on a significant bond*" had been consummated and Accused had again been financially damaged by excessive bond, imposed as an extortion for constitutionally guaranteed freedom.

Subsequently, when Mr. Clyman "got this case filed" (see Grand Jury Transcript page 11 – for

this admission) he petitioned the court for $100,000.00 bond and it was granted to him in case #00CR3371. This constitutes excessive bond in light of the fact that Mr. Clyman and Mr. Estep have operated clandestinely and fraudulently to completely destroy Accused's business consortium, family relationships and friendships to whence the Accused could turn for assistance with excessive bond as extortion for conditional freedom. The Honorable Leland P. Anderson reduced bond to $50,000.00 over the objection of Marleen M. Langfield, *Esquire*, but that is equally as out of reach of this Accused and is constitutionally excessive. The ultimate affect is to unlawfully imprison, fetter and handicap the Defense in the above captioned matter to the extreme prejudice and damage to the Accused.

This is the exact same pattern as in case #97M811, where Plaintiff was unlawfully incarcerated without charges for six months while that case was instituted and conducted in violation of speedy trial and without effective assistance of counsel, denial of due process, fraud, perjury and a litany of outrageous government acts that shocks the conscious of any reasonable person and are now on appeal, although the entire excessive sentence has already been served, in case #01CV1311.

Government agents have established a pattern of conduct whereby Plaintiff is unlawfully imprisoned on bogus and fraudulent charges while more frivolous charges are added to which Plaintiff must defend from draconian and overcrowded prison conditions without access to the accoutrements of modern communication or professional assistance.

It appears that the purpose of the aggregate conspiratorial actions of the various government agents is to gain an unfair advantage in criminal prosecutions in order to prevent, obstruct and impair the Plaintiff's prosecution in civil cases #97N1501, 97D1036, 97S1523, 95B1747 & 01ES1145 of affiliated and connected government tortfeasors who are represented by the COLORADO STATE ATTORNEY GENERAL'S OFFICE.

Jefferson County case #00CR3371 is the first fabricated case in which Clyman's stated goal of "getting him on a significant bond" has become a reality. Although Estep and the Multi-Jurisdictional Domestic Terrorism Task Force have been investigating, terrorizing business associates, friends, family and threatening prosecution of every one who associates with me, they have yet to find a real crime with which to charge me. To date, they have had to resort to the "restraining order" catch-all; but even that was predicated upon Rule 365 because NO VIOLENCE was alleged or proven – only a vague and nebulous "fear of legal faxes" that formed the basis for the issuance of Rule 365 restraining orders. Then, Antonio T. Ciccarelli, Esquire had to lay in wait until I had a business trip to Florida in order to schedule a hearing before a substitute judge in order to fabricate a failure to appear, which began the chain of events leading to void ab initio case #97M811, which Estep filed to cover-up the unlawful S.W.A.T. assault of 26 February, 1997. The fact that Clyman & Estep have grossly overstepped their authority and any credible foundation for the charges they have instigated is negated by the grossly exaggerated $100,000.00 bond, which even when reduced to $50,000.00 is still beyond the purposely government destroyed financial capability of the Plaintiff and serves the purpose of keeping Plaintiff unlawfully incarcerated in draconian, overcrowded prison conditions from which a deliberately ham-strung and shacked Defense must be mounted against those frivolous charges. It appears to be a very

clever method to extract a plea bargain. From the vantage point of jail, the Plaintiff observes the ultimate effectiveness of the program everyday – most people plea bargain so they can "get on with their lives." Unfortunately my "life" has been completely demolished by the "Federal Defendants" and there is nothing left for me to do except to pursue legal action against them for the wanton and deliberate anti-constitutional actions they have conspired to engage in against this Plaintiff.

ARGUMENT II: Plaintiff was unlawfully [7] arrested in Colorado

On September 19, 2000, Attorney General Investigator Gary Clyman was acting without express authority from the governor as required by statute, and had no valid arrest warrant [8] for plaintiff or either of two other innocent bystanders arrested by Lakewood S.W.A.T. Team under the direction of investigator Gary Clyman.

Any presumption of regularity of the "Felony Traffic Stop" by Lakewood S.W.A.T. Team in full battle array and by force of arms cannot be justified [9] by misdemeanor warrants even if they are valid and proper. In this instance the warrants in question were purportedly issued in 1998 and remained unsigned, and therefore invalid pursuant to Rule 4 (b)(V), to date. [See **Attachment: Exhibit #1 – UN signed Warrant – Case #97M811 – void ab initio**]

Discussion: Unlawful Arrest – a pattern of criminal conduct (18 U.S.C. § 241 & 242)

3 Unlawful Arrests: by quasi-military S.W.A.T. Agents:

In the above captioned case, 00CR3371, *nor in any other case in which an armed assault constituted an arrest, to-wit: 97M811, 96CO7388*, did the S.W.A.T. Agents or Law Enforcement agents possess a lawful warrant for either the arrest [10] or the search of the Plaintiff.

26 February 1997: No valid warrant existed

This matter, now before the Honorable Court began when Jefferson County Sheriff's Intelligence Agent **Donald L. Estep** and **S.W.A.T. Commander Terry Manwaring** deployed the heavily armed militarized Jefferson County Sheriff's Department Multi-Jurisdictional S.W.A.T. Team upon Accused's home in Golden to purportedly serve a misdemeanor warrant that did not exist. The military assault upon the home of the sovereign and the subsequent unlawful canine search of the domicile by **Greenwood Village Police** agent **Mark Stadterman** revealed no drugs, no guns and no evidence of any crime. Having **no warrant** for either the arrest of the Accused, nor the search of the premises, Donald L. Estep conspired with Terry Manwaring to construct a false document entitled AFFIDAVIT IN SUPPORT OF WARRANTLESS ARREST to fraudulently support their unlawful conduct in color of STATE authority.

The Accused was unlawfully incarcerated for **Four Days** in the Jefferson County Detention Facility while three groundless and **frivolous** actions, to-wit 97M811, 97M812 & 97M472, were commenced in order to maintain the Accused in prison by the imposition of **Excessive bond**, a standard ploy commonly used by police and prosecutors to punish a purported accused prior to judicial determination of probable cause or a jury conviction.

The Accused was imprisoned for 96 hours [11] without charges [12] in a cement cell without food or water, bed or blanket in an attempt to extort a "waiver" of Rights from the Accused in the form of a "signature" and fingerprints and photographs and a "consent to cavity searches."

The only justification that was ever offered for the unlawful breaking and entering, assault, battery, mayhem, property damage and unlawful arrest is a purported violation of some unknown and un-served restraining order somehow related to a telephone call to the Children of the Accused on 25 February, 1997, at their GrandMother's home, for which no restraining order existed – and no permanent restraining order, of any description, had ever been served upon the Accused.

[13]

The **unlawful search by Mark Stadterman was never documented** in an official report. The Accused made an **audio tape recording of the incident** and Mark Stadterman was identified by one of the S.W.A.T. Agents in a radio communication with Terry Manwaring at headquarters.

The common law drew a distinction between an arrest for **purported** misdemeanors, *such as that which the Defendants enumerated in Federal Cases 97-N-1501, 97-D-1036, 97-S-1523 & 01-ES-1145 (Hereinafter "***Federal Defendants***") arrested the Plaintiff upon*, and arrests for felonies. When a felony was committed an arrest could be made without a warrant, but no arrest could be made for a misdemeanor without a warrant unless it constituted a '`breach of the peace."

In this matter, the Accused had committed No Misdemeanor, No Breach of the Peace and No felony, thus Donald L. Estep and the conspiratorial **Federal Defendants** needed a valid Warrant to make an Arrest [14] and a valid search warrant to conduct a lawful search**.**

The misdemeanor statute involved in this case is such that it does not allow the Defendants to arrest the Plaintiff without the formality of a Warrant. [15] Therefore, the Defendant Police Agents are guilty of False Arrest & false imprisonment for arresting the Plaintiff without authority of law.

19 September 2000: No valid warrant existed

There was NO SIGNED WARRANT in existence on **19 September, 2000** – when the heavily armed quasi-military unit, *in disguise upon the highways*, as the **Lakewood S.W.A.T. Team** was unlawfully deployed *without authority of the Governor* **by Colorado State Attorney General Investigator Gary Clyman** and who unlawfully **menaced, threatened, assaulted** and **arrested three private Citizens** in a private conveyance traveling [16] privately, *in peace*, without the commercial complex of the United States, Colorado, and its political subdivisions.

No misdemeanor, or felony, was committed in the presence of arresting police agents.

> 🕮 It must be remembered that, '`Not every misdemeanor involves a breach of the peace." *Commonwealth v. Gorman*, 192 N.E. 618, 620. Under the common law, acts that were *malum per se*, that is wrong or unlawful by their nature, were often felonies or breaches of the peace, and subject to arrest without warrant. But that is not the law for an act that was only *malum prohibitum*, being made unlawful only by statute, and without such enactment were otherwise innocent acts. The law asserts that for such statutory misdemeanors, not amounting to a breach of the peace, there is no authority in an officer to arrest without a warrant.

No breach of the peace was alleged.

> 🕮 As a general principle, no person can be arrested or taken into custody without warrant. But if a felony, or a breach of the peace, has, in fact, been committed by the person arrested, the arrest may be justified. *Burns v. Erben*, 40 N.Y. 463, 466 (1869); see also *Cunningham v. Baker*, 104 Ala. 160, 16 So. 68, 70 (1894).

No search warrant existed for the search of the private conveyance in which Accused was traveling.

> 🕮 While the *"search and seizure" provision* of the constitution *regulates the manner in which warrants can be issued*, it is the "due process" clause which protects citizens from unlawful arrests without warrant: "No person shall be deprived of life, liberty, or property without due process of law." And, under like restrictions in the

> constitution, it has been held in some states that arrests shall not be made without warrant, except for felonies, and for breaches of the peace committed in the presence of the officer arresting. *North v.* People, 139 Ill. 81, 28 N.E.966, 972 (1891).

COLORADO STATE ATTORNEY GENERAL Investigator Gary Clyman, *without authorization from the Governor*, deployed the Lakewood S.W.A.T. Team to make a "**FELONY TRAFFIC STOP**" upon the Accused and two other innocent bystanders, **AT GUN-POINT**, purportedly to serve a misdemeanor warrant that Investigator Clyman has refused to present to this date.

13 March 2001: No valid warrant existed

Federal Magistrate Patricia Coan, *who had acted in the capacity of legal advisor in the related Spyderco ExEmployee suit for damages for unlawful conversion of the Employee's Stock Club and Insurance and various thefts by Louis Sal Glesser and Robert W. Simon, in a prima facie conflict of interest*, **issued a defective Federal Warrant** for Unlawful Flight to Avoid Prosecution based upon false information and perjury, pursuant to **an affidavit-less application** knowingly and intentionally constructed and engineered to defraud by **Donald L. Estep**, unlawfully acting in the capacity of a U.S. Marshal and presenting false and misleading information to a Federal Official for the purpose of again **threatening, menacing with deadly weapons and intimidation by S.W.A.T.** upon the Accused in this matter. Any such warrant issued upon fraudulent and false information, as proven prima facie by the warrant application itself, is patently void for fraud and therefore invalid. [See **Attachment: Exhibit #11 - NOTICE OF IRREGULARITIES** on file in case #00CR3371].

ARGUMENT III: Plaintiff was unlawfully arrested in California

The Federal Bureau of Investigation special agent Donald L. Estep was acting without authority, and had no valid arrest warrant for plaintiff when he fraudulently applied to federal magistrate Patricia Coan for a federal warrant for unlawful flight to avoid prosecution upon which petitioner was arrested by F.B.I. S.W.A.T. agents in Fairfax, California.

Donald L. Estep, clothed in disguise as a U.S. Marshall, conspired with Federal Magistrate Patricia Coan to issue a purported "warrant" for Unlawful Flight to Avoid Prosecution on March 8, 2001 knowing that those charges were false and unsupported. Mr. Estep did then contact the F.B.I. Office in San Rafael, California and falsely inform those agents that the accused was "wanted" for weapons violations and that the Accused was "armed and dangerous" in an effort to commit armed assault and menacing by S.W.A.T. Team. The F.B.I. S.W.A.T. Team was subsequently deployed in service of Donald L. Estep, acting in his official capacity as a F.B.I. Agent. In this matter at issue, the Accused was **unlawfully brought before the Honorable Court** after having been deprived of the unalienable right to Due Process of Law by the unlawful arrest, to-wit: *by defective warrant*, at the Accused's business location of West Marin Martial Arts Academy during the Children's Class where dozens of innocent Children, parents and bystanders were endangered by the heavily armed quasi-military **F.B.I. S.W.A.T. Team** who were fully trained to "shoot to kill" and could easily have caused the death of the Plaintiff and innocent bystanders by way of massive and overwhelming fire power with only the slightest mistake or provocation. Police shootings are commonplace events. [See **Attachment:**

Exhibit #12 - California Court Documents]

ARGUMENT IV: Plaintiff was unlawfully extradited from California

[17]

☐ No valid arrest warrant existed for Plaintiff's arrest in California
☐ No governor's warrant issued for the extradition of Plaintiff from California
☐ Federal charges for unlawful flight to avoid prosecution upon which petitioner was arrested by F.B.I. S.W.A.T. agents in Fairfax, California on 13 March, 2001 were dismissed on 20 March.
☐ Plaintiff never waived extradition proceedings.

On March 13th Plaintiff was transported to the Oakland City Jail, then transferred to the North County Jail and then transported to Santa Rita Jail and held without charges. The Unlawful Flight to Avoid Prosecution charges were dropped by the U.S. Attorney on 20 March 2001. During this period, this sovereign California Inhabitant was domiciled in the Family Home of Fairfax, California and protected by the Constitution for the California Republic.

That unlawful arrest and subsequent unlawful imprisonment, *without bail*, **violated sections 1, 5, 7, 12, 13, 14, 17, 19, 24 & 28 of the California Constitution's Declaration of Rights** as well as the **Colorado** and **Federal Constitution's** protections.

The Accused was **kidnapped**, *without lawful authority*, by F.B.I. Agents and held in **maximum security**, *incommunicado* in 24hour lock-down from **13 March**, 2001 until 4 April, 2001 in California [18] without charges and without the issuance of a Governor's Warrant from Colorado.

[19]

On 4 April, 2001 the Accused was unlawfully kidnapped from California [20] by Jefferson County Sheriff's Deputies **Lonnie Lock** and **Pete Derrick** and was unwillingly brought to Colorado in interstate commerce and unlawfully imprisoned in the Jefferson County Detention Facility without presentation before a judge or magistrate until **12 April, 2001** – Eight days later.[13] Plaintiff was not informed of the nature and cause of the unlawful arrest, illegal incarceration and kidnapping until the 22nd of April, 2001 – forty days after the unlawful arrest at Plaintiff's business location – which is now defunct as a direct result of the terror instilled upon the peaceful community of Fairfax, California by the unprecedented force of arms displayed by the F.B.I. S.W.A.T. Team during the AfterSchool Children's Program. Plaintiff's Family is still suffering from the slander and libel and stain upon the Family Name caused by that lawless government act! [See **Attachment #12 – California Court Documents**] To exacerbate an already grievous wrong, the F.B.I. has placed erroneous and misleading "arrest" information on the world wide web and placed it number one in the search engines, particularly Yahoo, where typing in "steve gartin" will bring up the F.B.I. Arrest number one in the first list of ten "hits."

ARGUMENT V: Colorado State Attorney General has NO authority to prosecute

C.R.S. 24-31-101 defines the Powers and duties of attorney general:
(1) (a) The attorney general of the state shall be the legal counsel and advisor of each department, division, board, bureau and agency of the state government other than the legislative branch. He shall attend in person at the seat of government during the session of the general assembly and term of the

supreme court and shall appear for the state and prosecute and defend all actions and proceeding, civil and criminal, in which the state is a party or is interested when required to do so by the governor [21], and he shall prosecute and defend for the state all causes in the appellate courts in which the state is a party or interested.

The **General Assembly** [22] has provided **no authorization** to the COLORADO STATE ATTORNEY GENERAL [23] to prosecute case #00CR3371.

The **Governor Bill Owens** [24] has provided **no authorization** to the COLORADO STATE ATTORNEY GENERAL to convene a StateWide Grand Jury, nor to prosecute case #00CR3371.

- Powers of attorney general are **not enlarged** by grand jury act. The statutory powers granted to the attorney general under this section are not enlarged by the statewide grand jury act, §13-73-101 et seq. People ex rel. Tooley v. District Court 190 Colo. 486, 549 P.2d 774 (1976).

The **STATE is not a party** **[25]** to this matter, holds no title to any of the private property at issue, and is not "interested" in the adjudication of any aspect of this civil matter between private People.

Marleen M. Langfield, Esquire is a Senior Deputy State Attorney General, according to her official title, and a member of the "Special Prosecutions Unit." Marleen M. Langfield, Esquire is encaptioned as the "attorney of record" in case #00CR3371.

Ms. Langfield is not authorized to prosecute this matter. The governor has not required the Colorado State Attorney General, or any designee, to prosecute this matter.

Marleen M. Langfield, Esquire is acting expressly without, *and in excess of*, her official capacity by prosecuting this matter in District Court [26]. Any unlawful and unauthorized "agreement" or "arrangement" with the Jefferson County District Attorney, **David J. Thomas, Esquire** does not clear the taint of an unlawful and illicit usurpation of power. There is a specific reason and purpose behind the **separation of powers** embedded in the **Colorado Constitution**, and the unconstitutional **conspiracy** of the STATE ATTORNEY GENERAL and the JEFFERSON COUNTY DISTRICT ATTORNEY, by collusion and agreement, to circumvent, abrogate and evade the law of the land by "agreement" constitutes yet one more act in furtherance of this well-documented and continuing lawless conspiracy to usurp and twist the power of the law to vile and evil purposes. The cite below may shed some small light upon why this prosecution is being conducted, *outside of statutory authority*, in Jefferson County instead of Denver County.

☑ Assistant Attorney general could not also serve for one case as deputy district attorney by special appointment of district attorney whose district had population over **25,000**. People ex re. Brown v. **District Court In and For First Judicial District**, 1978, 585 P.2d 593, 196 Colo. 359.

Powers of the Attorney General

C.R.S. 24-31-101 defines the Powers and duties of attorney general:

(1) (a) The attorney general of the state shall be the legal counsel and advisor of each department, division, board, bureau and agency of the state government other than the legislative branch. He shall attend in person at the seat of government during the session of the general assembly and term of the supreme court and shall appear for the state and prosecute and

defend all actions and proceeding, civil and criminal, in which the state is a party or is interested when required to do so by the governor, and he shall prosecute and defend for the state all causes in the appellate courts in which the state is a party or interested.

- Attorney general does not have powers beyond those granted by general assembly. Gillies v. Schmidt, 38 Colo.App.233, 556 P.2d 82 (1976).

- **No authority to prosecute criminal actions absent governor's command**. In the absence of a command from the governor, the attorney general is not authorized to prosecute criminal actions. People ex rel. Tooley v. District Court 190 Colo. 486, 549 P.2d 774 (1976).

- Powers of attorney general are **not enlarged** by grand jury act. The statutory powers granted to the attorney general under this section are not enlarged by the statewide grand jury act, §13-73-101 et seq. People ex rel. Tooley v. District Court 190 Colo. 486, 549 P.2d 774 (1976).

- Therefore, **attorney general cannot prosecute all grand jury indictments**. **Neither by express provision nor by implication** did the general assembly grant the attorney general the right to prosecute all indictments returned by a state grand jury. People ex rel. Tooley v. District Court 190 Colo. 486, 549 P.2d 774 (1976).

Marleen M. Langfield, Esquire is a Senior Deputy State Attorney General, according to her official title, and a member of the "Special Prosecutions Unit." Marleen M. Langfield, Esquire is encaptioned as the "attorney of record" in this matter. Ms. Langfield is not authorized to prosecute this matter; if she were, she would be prosecuting in the NAME of the COLORADO STATE ATTORNEY GENERAL'S OFFICE.

- **Attorney general prosecuting case is exercising district attorney's powers**. When the governor requires the attorney general to prosecute a criminal case **in which the state is a party**, he becomes to all intents and purposes the district attorney, and may in his own name and official capacity exercise all the powers of that officer. People v. Gibson, 54 Colo. 231, 125 P.531 (1912); People ex rel. Witcher v. District Court, 190 Colo.483, 549 P.2d 778 (1976).

The governor has not required the Colorado State Attorney General to prosecute this matter.

- No authority of attorney general or designee to confer full grand jury subpoena power on police officers. Authority to appoint deputies pursuant to this section combined with the responsibility to present evidence to statewide grand jury pursuant to §13-73-106 does not give the attorney general or his designee authority to confer full grand jury subpoena power on police officers by naming them as **strike force investigators**. People v. Corr, 682 P.2d 20 (Colo.1984), cet. Denied, 469 U.S. 855, 105 S.Ct. 181, 83 L. ed.2d 115 (1984).

C.R.S. 24-31-101 Powers and duties of attorney general:

(1)(f) The attorney general shall have concurrent original jurisdiction with the relevant district attorney over **article 4 of title 12, C.R.S**., which is the sub-section of statutes relating to **Architects** under the Professions and Occupations section Title 12.

> *Note: This would confirm to any reasonable person that the attorney general's statutory powers and duties relate primarily to commerce, trades and industry. Original jurisdiction connotes a primary responsibility. Perhaps a Quo Warranto action is necessary in this matter to determine the exact parameters of the State Attorney General's statutory duties.*

(4) . . . except that the attorney general **shall not represent** any such employee in an action brought under section **24-50.5-105**., which is Civil Action relating to **24-50.5-103 Retaliation prohibited**, suggests that the state attorney general's powers are also limited in regard to actions concerning State Employees, since the action is against the STATE and the STATE ATTORNEY GENERAL is charged with representing the STATE in a defense capacity. This appears to confirm that the statutory duties of the attorney general are limited to those **relating to commerce**.

(5) "The general assembly hereby recognized and reaffirms that the attorney general has all powers conferred by statute, and by common law in accordance with section **2-4-211 C.R.S**., regarding all trusts established for charitable, educational, religious, or benevolent purposes."

There has been no "executive order" filed in this case to the knowledge of the Defense. If there has

indeed been such an order, the Defense has demanded the production of it and been ignored.

Affiant believes, and therefore alleges, that the Prosecution is prosecuting a criminal action that the **prosecutor KNOWS is not supported by probable cause**, to-wit: C.R.S. 18-5-114 Offering False Instrument for Recording – in violation of **Rule 3.8. Special Responsibilities of a Prosecutor**
☑ The prosecutor in a criminal case shall: refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

The COLORADO STATE ATTORNEY GENERAL has deliberately taken advantage of the vagueness [27] of these statutes and arbitrarily [28] and selectively [29] chosen to prosecute [30] this matter as a means to gain advantage [31] in Federal Cases in which STATE Actors are named as Defendants.

No other cases of prosecutions for the filing of mechanics liens can be produced by the COLORADO STATE ATTORNEY GENERAL. Cases #00CR2419 and 00CR3371 are blatantly selective, vindictive, malicious and retaliatory prosecutions and will be proven so by subpoenaing pertinent records from public offices. See Grand Jury Indictment: *Count #Sixteen Attempt to Influence a Public Servant.*

Kenneth Salazar, Esquire unlawfully convened a State-wide Grand Jury, to-wit: **without specific authorization from the Governor**, for the purpose of indicting the Accused on false and frivolous charges [32] unsupported by probable cause to believe that any crime had been committed or that the Accused had committed any such "crime."

Marleen M. Langfield, Esquire **conspired** with Kenneth Salazar and Investigator Gary Clyman to introduce false and misleading information to the Grand Jurors in order to prosecute charges not supported by probable, or any cause or justification what-so-ever.

Mr. Salazar, Ms. Langfield and Mr. Clyman, *all agents of the Colorado State Attorney's Office*, agreed, in conspiracy and by a meeting of the minds, to knowingly and intentionally, in deliberate and callous indifference to their Professional Responsibility [33] and the constitutionally secured rights of the Accused, to introduce intentionally false, fraudulent, inflammatory and misleading information to the Grand Jury.

The obvious intent of the perpetrators is to unlawfully obtain an advantage [34] in civil suits pending in the Federal District Court by unlawfully incarcerating the Plaintiff in those actions in draconian, overcrowded prison conditions and to severely and tortiously limit his access to the courts by customs, policies, rules and regulations imposed by the very Defendants represented by the COLORADO STATE ATTORNEY GENERAL'S OFFICE in those several Federal suits, to-wit: "Federal Defendants."

Arbitrary, capricious and malevolent exercise of governmental power has been blatantly demonstrated by the Prosecution and the agents and instruments of the prosecution in this matter. The power of the COLORADO STATE ATTORNEY GENERAL'S OFFICE and the Jefferson County Sheriff's Department have been a focus of the power abuse, but the First Judicial District has also participated in the persons of Charles T. Hoppin, Roy Olson, Tina Olsen, Marilyn Leonard and Henry

Nieto and the Jefferson County District Attorney's Office has also joined the conspiracy to abuse the color of their authority in the persons of David J. Thomas and Dennis Hall.

The Prosecution in this matter has exhibited a continuing callous and deliberate disregard for Due Process [35] guarantees [36] and Constitutionally secured Rights. Constitutionally guaranteed liberties have been flagrantly and callously abrogated, denied and deliberately disparaged by the Prosecution and the Governmental Defendants which the Prosecution is representing in Federal [37] Civil Rights Actions relating to the very matters at issue before this Honorable Court. The intent is obvious, the conflict of interest cannot be ignored or denied.

In this instance, the statutory right to a speedy trial is inconsistent with the Constitutionally secured right in that it requires the entry of a "not-guilty plea" to activate. In this matter, the entry of a not-guilty plea would waive the right to challenge the statewide grand jury process, which the Defense believes is **ipso facto void** and has presented a very strong case in proof to the Honorable Court in the Petition:

1st CHALLENGE OF GRAND JURY INDICTMENT for Improper Impaneling and Motion to Dismiss

Defense believes more flaws exist and awaits Court Ordered Discovery in order to present the 2nd Challenge to the Grand Jury Impaneling. In this matter, the speedy trial clock has been running since the filing of the indictment and the attachment of jeopardy on 18 December, 2000 at the latest, and realistically since 19 September, 2000 when the Accused was unlawfully arrested and caused to pay excessive bond as extortion for freedom on the same charges, which were later dismissed. Due to the outrageous conduct of the Prosecution and the *tools of the Prosecution*, to-wit: governmental agents and actors named as Defendants in several Federal Civil Rights Actions; the Due Process guarantee depends upon Constitutional and Common Law standards and not on statutory legislation.

> 🕮 **Due process takes precedence over legislation**. The requirements of due process of law under both the United States and Colorado constitutions take precedence over statutory enactments of the general assembly. White v. Davis, 163 Colo. 122, 428 P.2d 909 (1967).
>
> 🕮 The hand of the general assembly is restrained by the due process clause of the state constitution from overturning established principles of private rights and distributive justice. People ex rel. Juhan v. District Court, 165 Colo. 253, 439 P.2d 741 (1968).
>
> 🕮 And only rights existing under substantive law. This section operates only to prohibit the deprivation of rights where such **rights exist under substantive law**. Faber v. State, 143 Colo. 240, 353 P.2d 609 (1960).
>
> 🕮 Due process standards of justice are not authoritatively formulated as specifics. See Toland v. Strohl, 147 Colo. 577, 364 P.2d 588 (1961).
>
> 🕮 Test of due process. An act of the general assembly which arbitrarily destroys or impairs the right of the individual to the free use and enjoyment of his property lawfully acquired, and permits price fixing for the benefit of a special group, is lacking in due process, and unconstitutional. Olin Mathieson Chem. Corp. v. Francis, 134 Colo. 160, 301 P.2d 139 (1956).

The God-Given Rights of this sovereign California Inhabitant are "Property Rights" and are

secured and guaranteed by at least three constitutions and declarations of rights plus the Common Law and the Magna Charta. Constitutionally secured Due Process guarantees bolster and uphold those Rights.

> 🕮 **Due process of law must be tested by those principles of civil liberty and constitutional protection which have become established in our system of laws**. People ex rel. Juhan v. District Court, 165 Colo. 253, 439 P.2d 741 (1968).
>
> 🕮 **"Due process of law" and "law of the land" have same meaning**. The phrases "due process of law" and "law of the land", although verbally different, express the same thought, and the meaning is the same in every case. In re Lowrie, 8 Colo. 499, 9 P. 489, 54 Am. R. 558 (1885).

During the past Five Years, this sovereign California Inhabitant has suffered **Three Unlawful Arrests by S.W.A.T. Teams** and two other unlawful arrests and has repeatedly been unlawfully incarcerated BEFORE due process of law has been provided. **Excessive bond** has been required as extortion on at least four cases. Unlawful imprisonment of over One Year, *under draconian conditions*, has been imposed. All without adherence to the governmental DUTY imposed by Oath and Affirmation to support the constitutions of this state and the united States of America incumbent upon all the government actors involved and named as Defendants in several Federal Civil Rights Actions based upon the deprivation of constitutionally secured rights, *by conspiracy*, under color of STATE authority, in these very actions.

> 🕮 "**Law of the land**". By the "law of the land" is clearly intended the general law; a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. **The meaning is that every citizen shall hold his life, his liberty, property and immunities under the protection of the general rules which govern society**. In re Lowrie, 8 Colo. 499, 9 P. 489, 54 Am. R. 558 (1885).
>
> 🕮 **"Law" in the expression "due process of law"** does not mean that whatever process is provided by the general assembly shall be the measure of the protection provided by the due process clause. Such a construction would **render the guaranty mere nonsense** for it would then mean no state shall deprive a person of life, liberty, or property, *unless the state shall choose to do so*. People ex rel. Juhan v. District Court, 165 Colo. 253, 439 P.2d 741 (1968).

Deprivation of Equal Protection of the Law

When **House Speaker, Douglas Dean** and **Adams County District Attorney Robert Grant** flagrantly defy the very statutes they enact and enforce – *and the Police do nothing* – and others, like myself, are unlawfully incarcerated with excessive sentences, in draconian prison conditions; for harmless, constitutionally protected activities, like communicating with my Children; the equal protection of the law is but a sad joke and due process of law is meaningless.

> 🕮 Denial of "due process" includes denial of "equal protection of the law". The contention that a statute abridges the privileges and immunities of citizens and denies equal protection of the law is included within the objection that it denies "due process". They stand or fall together. People v. Max, 70 Colo. 100, 198 P. 150 (1921).

When the **constitutionally secured Right to Petition the Government for Redress of Grievance** is

converted into "*an act of terrorism*" and "*patriot activity*" the very foundations of liberty crumble in a way far more heinous and ominous than the World Trade Center disaster and much more destructive of the foundations of Liberty in this Great Nation. When **Patriotism can be converted into a "crime,**" and an Indictment can be returned based upon that theory, the People have lost their discernment and their sense of Justice and their heart for liberty – truth – justice and the American Way.

> 🕮 "Liberty", as used in this section and section 3 of this article, connotes far more than mere freedom from physical restraint; it is broad enough to protect one from governmental interference in the exercise of his intellect, in the formation of opinions, in the expression of them and in action or inaction dictated by his judgment, or choice in countless matters of purely personal concern. Zavilla v. Masse, 112 Colo. 183, 147 P.2d 823 (1944).

In the matter at issue, the Accused was unlawfully brought before the Honorable Court after having been deprived of the unalienable right to Due Process of Law by the unlawful arrest, *by defective warrant*, at the business location of West Marin Martial Arts Academy during the Children's Class where dozens of innocent Children and bystanders were endangered by the heavily armed quasi-military F.B.I. S.W.A.T. Team. At that time, this sovereign California Inhabitant was domiciled in the Family Home of Fairfax, California and protected by the Constitution for the California Republic. That unlawful arrest and subsequent unlawful imprisonment, *without bail*, violated sections 1, 5, 7, 12, 13, 14, 17, 19, 24 & 28 of the California Constitution's Declaration of Rights. The Accused was then kidnapped, without lawful authority, and held in maximum security, *incommunicado* from 13 March, 2001 until 4 April, 2001 in California without charges.

> 🕮 In the context of a criminal arrest, a detention of longer than 48 hours without a probable cause determination violates the Fourth Amendment as a matter of law in the absence of a demonstrated emergency or other extraordinary circumstance. See County of Riverside v. McLaughlin, 111 S. Ct. 1661, 1670 (1991).

[38]

ARGUMENT VI: Statewide Grand Jury was NOT properly impaneled

The Colorado State Attorney General must petition the District Court to Impanel the State Wide Grand Jury by showing that the State has an interest in a matter that exceeds the power of the District and is vital to the public interest. No such petition has been presented although it has been demanded since May, 2001. No authorization from the Governor to prosecute this case has been produced nor is on file in the court's record.

The Defense has been petitioning the Honorable Court, since May, to Order the Prosecution to produce its authority to prosecute outside of the COLORADO STATE ATTORNEY GENERAL'S OFFICE statutory authority and have been refused any such authorization.

To date, **no plea has been entered**. The Defense's continuing **demand for Speedy Trial** has been made; but the institution of this **irregular,** retaliatory and vindictive prosecution has been so fatally defective that the Defense would have to waive numerous substantial rights in order to prematurely "*go to trial*," and the Defense is adamantly opposed to waiving any Rights given by God and secured by Constitutions. The above captioned case reeks of defective process, discovery violations, misapplication of statutes, intentional mis-definition of terms, misapplication and abuse of the color of authority at virtually every juncture from the **unlawful** invocation of the State Attorney General's **investigatory**

powers to **unlawful arrest** to **unlawful custodial interrogation** to **unlawful** and **defective search warrants** to **unlawful incarceration** of witnesses and victims of Federal Crimes, to irregular impaneling of the Statewide Grand Jury, to **tampering with the Grand Jury**, to unlawful invocation of the State Attorney General's **prosecutorial powers** to the commission, *by collusion*, of a litany of Federal felonies against the Defense, *in conspiracy*, and *under color of STATE authority.*

Even if this matter were to go to trial today, the **indictment itself is so defective** that no verdict could be returned by a jury. The alleged "violations" charged are not supported by the language of the statutes in **any** of the seventeen "counts" in the **defective** Grand Jury Indictment purporting to be the "charging document" in this matter. All of the evidence seized by **defective warrant** will be suppressed upon hearing, witnesses will be impeached for perjury, prima facie self-interest and conflict of interest, and all unlawful custodial interrogation will be suppressed for police misconduct and profuse constitutional due process violations and blatant abuse of authority.

The Prosecution has no substantive case!

Due Process violations to date are copious, brazen, unconcealed and unending. **The Prosecution still withholds exculpatory documentation unlawfully seized** for the purpose of "fishing" for any charge that could be used to aggravate the already **excessive bond**; and to delay, impede and obstruct the Plaintiff in several Federal Civil Rights Actions to which STATE Actors are **clients** of the **COLORADO STATE ATTORNEY GENERAL'S OFFICE** and are named as **Defendants**. The conflict of interest is blatantly obvious, as is the well-documented **malicious, retaliatory and vindictive prosecution** of the Accused in this matter, who coincidentally is the Plaintiff who opposes the COLORADO STATE ATTORNEY GENERAL'S OFFICE in five Federal Civil Rights Actions.

The Defense has petitioned the Honorable District Court for Redress of Grievance in the nature of a "motion" to **quash the Grand Jury Indictment** for **fatal flaws** in the charging process and misapplication of statutes, the Prosecution's use of Investigator Clyman's inaccurate, inflammatory and prejudicial testimony as *a tool of the Prosecution*, the ipso facto **perjury of Jefferson County Clerk and Recorder, Faye Griffith –** as brought to the Honorable Court's attention in **MOTION TO DISMISS DUE TO PROSECUTORIAL MISCONDUCT** - and other irregularities brought to the attention of the Honorable Court in NOTICE OF IRREGULARITIES and several other filings yet to be ruled upon; **prior to receiving full discovery** of all the information, documentation and authorization to investigate and prosecute by the Governor, mandated by Rule 16 and Due Process of Law; and **prior to the predictable discovery of even more fatal flaws in the Grand Jury Process**.

ARGUMENT VII: Prosecutorial misconduct occurred during the Grand Jury process

The Defense has formally motioned the Denver District Court for the Prosecutor's colloquy and the attendance records of the Grand Jurors and has been ignored. The Prosecution knows that the Accused will not waive the right to challenge the Grand Jury Indictment, which must be done prior to arraignment, and is withholding Rule 16 Discovery as a tool to maintain the Plaintiff in

draconian, overcrowded prison conditions to gain an advantage in this Prosecution and in Defense of STATE Defendants in several related Federal Civil Rights Actions.

Misconduct by COLORADO STATE ATTORNEY GENERAL voids proceedings:

The Colorado State Attorney General must submit a petition for the impaneling of the Statewide Grand Jury wherein probable cause is established and good cause is shown why the county grand jury could not effectively handle the case.

In the above captioned matter, there has been **no evidence** provided to the Defense to establish that the ATTORNEY GENERAL has indeed made a showing of good cause OR that the issue at bar is **in the public interest**. Quite to the contrary, the establishment of probable cause appears to be grounded on an affidavit by private party notarized by the affiant's own attorney, *which is a nullity*; on an issue which is obviously founded on a **specific self-interest of the affiant**, to-wit: liens on her personal property.

Liens placed on private property cannot conceivably form the basis of a STATE prosecution. Defense will subpoena Count Clerk & Recorder Records to confirm that Accused was singled out for a retaliatory prosecution in this matter.

Established statutes provide a specific remedy for removal of alleged **spurious liens** and a remedy for the recouping of costs incurred is found in the **Colorado Revised Statutes at Title 38-35-201** through **38-35-204** as well as in **California** statutes, under which the liens at issue were filed.

None of that crucial information was provided to the Grand Jury. The Grand Jury was deliberately mislead to apply statutes concerning FINANCIAL INSTRUMENTS to an issue that is addressed in great detail in Title 38 of the Colorado Revised Statutes and specific remedies exist for the filing of "spurious liens" which have no relation to "false instruments."

Kenneth Salazar, Marleen Langfield and Dennis Hall either knew, or should have known - by slight due diligence and consulting the statute books, that the statutes were wrongly applied in this matter. Plaintiff believes, and therefore alleges, that they DID know and deliberately, callously and maliciously charged the Plaintiff with crimes they KNEW were not supported by probable cause.

ARGUMENT VIII: Plaintiff was unlawfully indicted by the Statewide Grand Jury

COLORADO STATE ATTORNEY GENERAL'S OFFICE Special Prosecutor Marleen M. Langfield, Esquire has no express authorization from the Governor to prosecute case #00CR3371; but if she did, she would still be held to the Ethical Standard of knowing and understanding the statutes under which she brings charges before the Grand Jury and is responsible to explain all the elements of those charges to the Jurors and to prove probable cause to believe that there has been a criminal violation of those statutes by the "person" charged.

☠ Intentional Mis-Application of Statutes

18-5-114. Offering a false instrument for recording

Marleen M. Langfield, Esquire is presumed to have a high knowledge of the law, pursuant to her

oath of office and oath to support the Ethical Rules. Ms. Langfield either knew, or should have known, that a "lien," by definition, is not an "instrument" and has intentionally and fraudulently applied the statutes of *negotiable instrument fraud* to the lawful act of filing a lien in a civil dispute.

Ms. Langfield unlawfully used her position of authority to vindictively construct and CREATE a felony out of a civil dispute wherein the **Office of the State Attorney General has no interest and has not been authorized by the Governor to represent the State**. The Colorado State Attorney General, Kenneth Salazar, Esquire, *in conspiracy with Ms. Langfield and others*, has perpetrated a FRAUD [39] upon the First Judicial District Court by **intentionally misconstruing the statutes** relating to negotiable instruments and applying them to a civil dispute concerning property, for which C.R.S. Title 38 provides specific statutory provisions; specifically to gain an advantage for their clients, the Government Defendants, in Federal Civil Rights Actions.

Mr. Salazar and Ms. Langfield have conspired together and with other STATE and FEDERAL Actors, to-wit: COLORADO STATE ATTORNEY GENERAL Investigator Gary Clyman and F.B.I. Special Agent/Jefferson County Sheriff's Deputy Donald L. Estep, and others yet un-named, to unlawfully prosecute Affiant, *without probable cause*, for lawful actions and constitutionally protected activities.

18-8-306 Attempt to influence [40] a public servant.

"*Any person who*" attempts to influence any public servant by means of deceit or by threat of violence or economic reprisal against any person or property, with the intent thereby to alter or affect the public servant's decision, vote, opinion, or action concerning any matter which is to be considered or performed by him or the agency or body of which he is a member, commits a class 4 felony.

How has presenting a First Amendment Petition for Redress of Grievance, *in a good faith effort to exhaust all administrative remedies, before proceeding to litigation,* been converted into **a crime?**

Mr. Clyman wrote a letter to the Plaintiff wherein he advised [41] against filing liens against Mr. Clyman [42] or other government actors. Filing liens was never the intent of the Plaintiff. As has been repeatedly and consistently proven, ***before and since that time***, the Plaintiff has intended to follow the letter of the law and to exhaust all administrative remedies before proceeding to litigation and the filing of criminal charges. (*See* ***Attachment: Exhibit #10 - Verified Criminal Complaint****: Sunday, August 26, 2001- on File****)* The Accused has filed official criminal complaints with several Federal and State Agencies and tendered notice of intent to sue pursuant to C.R.S. 24-10-109. The Accused is actively pursuing all proper and legal channels for redress of grievance.

There was certainly no "deceit" alleged in this case. There was no threat of violence alleged. Any "*threat* ***[43]*** *of economic reprisal*" would have to be adjudicated before it would become effective and the defendant would have to receive notice and opportunity to defend in person or by representative. Defense of public officers is the statutory duty of the Colorado State Attorney General. If Mr. Clyman was performing his duties, within constitutional parameters, he would be immune from judgment in any such action. Certainly no threat of economic reprisal would cause a reasonably

intelligent person concern if they were performing their duties according to law.

What if the "public servant" is acting lawlessly? What if he is acting in defiance and abrogation of his constitutionally mandated duty? If a **First Amendment Petition for Redress of Grievance** is unlawful, what is the People's remedy for corrupt, lawless government agents? When did such petitions become outlawed? and where is the statutory notice of proscribed conduct? How has a power to abrogate the Constitution been conferred upon the Colorado State Attorney General's employees?

As "evidence" of this purported crime, Ms. Langfield has presented an exhibit entitled "First Amendment Petition for Redress of Grievance." [See **Attachment: Exhibit #15 First Amendment Petition**] The charge is so ludicrous as to require no rebuttal since the ostensible "evidence" is in itself a constitutionally protected right against which there can be no abrogation.

18-5.5-102. Computer Crime

> **(1) "A person" commits computer crime if the 'person' knowingly: (b) Accesses any computer, computer network, or computer system, or any part thereof for the purpose of devising or executing any scheme or artifice to defraud; or**

Mr. Salazar and Ms. Langfield have conspired together and with other STATE and FEDERAL Actors, to-wit: COLORADO STATE ATTORNEY GENERAL Investigator Gary Clyman and F.B.I. Special Agent/Jefferson County Sheriff's Deputy Donald L. Estep, and others yet un-named, to unlawfully prosecute Affiant, without regard to any factual foundation in law and in complete disregard of the facts.

This charge is ostensibly for "hacking" into Plaintiff's OWN computer. The charge is not only preposterous, the statutes are in the Article 5 Fraud section and has absolutely no bearing on any actus reus that has been charged in this case.

However, **Agents Clyman and Estep <u>have</u> committed computer crime pursuant to the statutes** when they exceeded authority by using passwords unlawfully seized on defective warrants and by criminal extortion of Charles Harry Clements, a witness to Federal Crimes in the 10th Federal District civil rights actions enumerated above, and hacked into Plaintiff's websites and damaged and destroyed data. [See **Attachment: Exhibit #13 – Clyman & Estep Computer Crime**]

18-3-207: Criminal extortion

> (1) "A person" commits criminal extortion if:
>
> (a) The person, without legal authority and with the intent to induce another person against that other person's will to perform an act or to refrain from performing a lawful act, makes a substantial threat to confine or restrain, cause economic hardship or bodily injury to, or damage the property or reputation of, the threatened person or another person; and
>
> (b) The person threatens to cause the results described in paragraph (a) of this subsection (1) by:
>
> (I) Performing or causing an unlawful act to be performed; or
>
> (II) <u>Invoking action by a third party</u>, including but not limited to, the state or any of its political subdivisions, whose interests are not substantially related to the interests pursued by the person making the threat.
>
> (3) For the purposes of this section, "<u>substantial threat</u>" means a threat that is reasonably likely to induce a belief that the threat will be carried out and is one that threatens that <u>significant confinement</u>, <u>restraint</u>, injury, or damage will occur.

☑ Statute is facially overbroad because it also covers constitutionally protected threats of collective action in support of group demands. Whimbush v. People, 869 P.2d 1245 (Colo.1994)

Marleen M. Langfield, Esquire alleges that a good faith negotiation between parties to a contract in a public place and in the presence of two reliable witnesses constitutes "Criminal Extortion."

Not only is Ms. Langfield mistaken, but it is blatantly obvious that the statutes of criminal extortion, if applied to the acts and actions of **Ms. Langfield, Gary Clyman, Mark Holstlaw, Curtis Maleri and Donald L. Estep** would prove a prima facie case for a criminal extortion prosecution based upon the malicious, vindictive and retaliatory prosecution of Mr. Charles Harry Clements and Eric Gordon Mitchell. Both individuals received "substantial threats" that were directly acted upon. Plaintiff's prosecution will also prove to be an act of "criminal extortion" and other crimes committed by the same government agents. [See **Attachment: Exhibit #14 - Clyman and Estep Criminal Complaint**]

18-12-105: Unlawfully carrying a concealed weapon

(1) "A person" commits a class 2 misdemeanor if such person knowingly and unlawfully:
(a) Carries a knife concealed on or about his or her person; or
(2) **It shall not be an offense if the defendant was**:
(b) **A person in a private automobile or other private means of conveyance** who carries a weapon for lawful protection of such person's or another's person or property while traveling; or

Mr. Salazar and Ms. Langfield are openly and blatantly conspiring with Clyman and Estep to destroy Plaintiff's business. In each of the S.W.A.T. Assaults have occurred during or immediately after business meetings or scheduled classes. These government agents all know that Plaintiff is internationally known as an expert in the Cutlery Business and always has knives around and about him. These agents also know that Plaintiff has never been involved with any crimes relating to such tools. During the unlawful "Felony Traffic Stop" of 19 September, 2000, Clyman unlawfully seized a private, registered collection of rare and uniquely **irreplaceable** Number One and ProtoType Spyderco Clipit Police Model Folding pocket knives valued far in excess of $10,000.00, that Plaintiff was offering for security on real estate at a business meeting that Plaintiff was enroute home from at the time of the S.W.A.T. Assault. No knives were "concealed" and as noted in the statute itself, to-wit: (2)(b), there could be no "crime" by virtue of the fact that Plaintiff was traveling in a private conveyance, minding his own business.

Clyman and Estep are so vehemently seeking to build a "criminal record" for the Plaintiff that they will obviously stop at nothing unlawful to accomplish their goal. On its face, it seems unfortunate that COLORADO STATE ATTORNEY GENERAL Kenneth Salazar and Marleen M. Langfield have joined in the continuing lawless behaviour exhibited first by Mr. Estep's pattern of criminal activity as charged in numerous complaints to every regulatory board and criminal investigation body from Jefferson County Sheriff's Department's Professional Standards to the United States Attorney General John Ashcroft, and now he is joined in his criminal spree by Mr. Clyman, Ms. Langfield and others.

It is the studied opinion of the Plaintiff that COLORADO STATE ATTORNEY GENERAL

Kenneth Salazar, Esquire and Marleen M. Langfield, Esquire knew exactly what they were doing when they agreed to intentionally MISCONSTRUE and MIS-APPLY the statutes in this matter. It is too coincidental to be credible that ALL the statutes could be erroneously applied. Mr. Salazar and Ms. Langfield are seasoned experts in their field and any layman could open the statutes and see that the facts of the case cannot by any tortured construction fit the criteria of the elements of any of the crimes alleged. It is too bizarre to conceive that any business could long survive if all its affairs were conducted in such a random and undisciplined manner. Plaintiff believes, and therefore alleges, that what appears to be an accidental misapplication of statutes is in reality a concerted effort to criminally extort, unlawfully incarcerate, threaten, harass, intimidate and persecute Plaintiff under the rubric of the invidious discriminatory animus of "Christian Constitutional Patriot." That is "their" label, not mine.

ARGUMENT IX: Prosecutorial misconduct during the pre-arraignment process

Marleen M. Langfield, Esquire has intentionally and deliberately withheld, sequestered and concealed exculpatory evidence that Agents Clyman, Estep and Maleri unlawfully seized by a defective warrant on 20 September, 2000. This is calculated to maintain Plaintiff in draconian, unlawful incarceration on excessive bond in order to gain an unfair advantage in the case.

The Plaintiff petitions the Honorable Court for Redress of Grievance in the nature of a "Mandamus" to **quash the Grand Jury Indictment** for **fatal flaws** in the charging process and misapplication of statutes, the Prosecution's use of Investigator Clyman's inaccurate, inflammatory and prejudicial testimony as *a tool of the Prosecution*, the ipso facto **perjury of Jefferson County Clerk and Recorder, Faye Griffith –** as brought to the Honorable District Court's attention in **MOTION TO DISMISS DUE TO PROSECUTORIAL MISCONDUCT** - and other irregularities brought to the attention of the Honorable Court in NOTICE OF IRREGULARITIES and several other filings yet to be ruled upon; **prior to receiving full discovery** of all the information, documentation and authorization to investigate and prosecute by the Governor, mandated by Rule 16 and Due Process of Law; and **prior to the predictable discovery of even more fatal flaws in the Grand Jury Process**.

In Case #00CR3371 to date, **no plea has been entered**. The Defense's continuing **demand for Speedy Trial** has been made; but the institution of this **irregular,** retaliatory and vindictive prosecution has been so fatally defective that the Defense would have to waive numerous substantial rights in order to prematurely "*go to trial*," and the Defense is adamantly opposed to waiving any Rights given by God and secured by Constitutions. The above captioned case reeks of defective process, discovery violations, misapplication of statutes, intentional mis-definition of terms, misapplication and abuse of the color of authority at virtually every juncture from the **unlawful** invocation of the State Attorney General's **investigatory powers** to **unlawful arrest** to **unlawful custodial interrogation** to **unlawful** and **defective search warrants** to **unlawful incarceration** of witnesses and victims of Federal Crimes, to irregular impaneling of the Statewide Grand Jury, to **tampering with the Grand Jury**, to unlawful invocation of the State Attorney General's **prosecutorial powers** to the commission, *by collusion*, of a

litany of Federal felonies against the Defense, *in conspiracy*, and *under color of STATE authority*.

Even if this matter were to go to trial today, the **indictment itself is so defective** that no verdict could be returned by a jury. The alleged "violations" charged are not supported by the language of the statutes in **any** of the seventeen "counts" in the **defective** Grand Jury Indictment purporting to be the "charging document" in this matter. All of the evidence seized by **defective warrant** will be suppressed upon hearing, witnesses will be impeached for perjury, prima facie self-interest and conflict of interest, and all unlawful custodial interrogation will be suppressed for police misconduct and profuse constitutional due process violations and blatant abuse of authority.

The Prosecution has no substantive case!

Due Process violations to date are copious, brazen, unconcealed and unending. **The Prosecution still withholds exculpatory documentation unlawfully seized** for the purpose of "fishing" for any charge that could be used to aggravate the already **excessive bond**; and to delay, impede and obstruct the Plaintiff in several Federal Civil Rights Actions to which STATE Actors are **clients** of the **COLORADO STATE ATTORNEY GENERAL'S OFFICE** and are named as **Defendants**. The conflict of interest is blatantly obvious, as is the well-documented **malicious, retaliatory and vindictive prosecution** of the Accused in this matter, who coincidentally is the Plaintiff who opposes the COLORADO STATE ATTORNEY GENERAL'S OFFICE in five Federal Civil Rights Actions.

ARGUMENT X: Court erred by ordering a Psychological Evaluation of Plaintiff.

The Honorable Leland P. Anderson was perceived by the Plaintiff as a man of integrity based upon his actions and dealings with numerous Defendants in the presence of the Plaintiff. Judge Anderson appeared to be studious, scholarly, quick-witted, merciful and fair in every interaction up to November 2, 2001 – then he suddenly changed. Clyman and Estep were at every court appearance until November 2. . . on that day they both were conspicuously absent.

The Defense immediately filed a **Notice of Foreign Law** [44] pursuant to the Uniform Notice of Foreign Law Act in the early phase of case #00CR3371. There has never been any doubt that the Accused is a sovereign Inhabitant of the California Republic and will protect and defend all God-Given and constitutionally secured rights and waive no right ever for any reason in order to maintain inviolate all Rights for future generations of Gartins.

This fact has never been a secret, nor in any way concealed from the Honorable Court or anyone else. Each of the filings contained within the Honorable Court's Record contains a notice of Plaintiff's Standing and capacity and the fact that any "appearance" before the court has been by special visit and expressly not by general appearance, which specifically denies any tacit "waiver" of jurisdiction.

Each Notice and Motion contains the elements of an Affidavit and must be construed as such.

Plaintiff never voluntarily joindered with the Honorable Court except by threat, duress and coercion and as the result of an unlawful arrest in California, an unlawful extradition, an unlawful imprisonment and a real and credible threat by armed quasi-military agents trained to kill, not to wound.

Plaintiff has consistently implored the Honorable Court to define terms and to make Declaratory

Judgments to relieve the Plaintiff from uncertainty regarding rights, liability and responsibility. The Honorable Court has declined to so rule. Plaintiff does not know why, but suspects, based upon Judge Anderson's statement to the effect that "In my five years on the bench here, and in my 15 years on the bench total, I've never seen a case such as this. . ." {Paraphrase}, that he simply does not have the experience with the Common Law and Constitutionally guaranteed limitations on government to rule on the issues raised by the Defense in that matter. Plaintiff perceives no ill will or malice from Judge Anderson; but based upon personal observation, and that of witnesses that can be called to testify, of Donald L. Estep's open and unconcealed propensity for Ex-Parte meetings with Judges in Jefferson County Courthouse, and noticeably abrupt changes in the judge's actions following those meetings, that Mr. Estep may have brought some sort of pressure to bear upon the Honorable Judge Anderson in order to contrive such a fantastic and inconceivable plan as to order a competency evaluation as a method of delaying proceedings even more. [See Supreme Court filing: **Writ of Prohibition** for greater detail]

ARGUMENT XI: Unlawful Search and Seizures

Pursuant to the unlawful "Felony Traffic Stop" and unlawful warrantless arrest of 19 September, 2000, Clyman seized a registered Number One Spyderco Police Model Collection. After midnight, Clyman, Estep and Maleri conducted a search and seizure of business property by virtue of a defective warrant issued by a Jefferson County Judge for a Denver County location.

Colorado State Attorney General Investigator Gary Clyman was acting outside of his official capacity on 19 September 2000 when he deployed the Lakewood S.W.A.T. Team in full battle array against three private citizens in a private conveyance in order to purportedly serve a void misdemeanor unsigned warrant. Mr. Clyman, *then continuing to exceed his statutory authority*, conducted custodial interrogation [45] of the unlawfully arrested People and then offered a false document, containing materially false information to a public official, to-wit: Affidavit in Support of Search Warrant on unlawfully obtained information to Judge Jack Berryhill [46], at 1:06 A.M. in order to unlawfully obtain a Search Warrant [47] founded on false and misleading information. Mr. Clyman was probably acting without authorization by Colorado State Attorney General Kenneth Salazar and certainly in excess of his scope of employment.

Mr. Clyman then further conspired with Donald L. Estep and others unknown to fabricate an affidavit in support of issuance of a search warrant that contained false and misleading statements, outright lies, innuendos and unsupported conclusory allegations. [See **Attached: Exhibit #16 – Clyman's Affidavit**]

Midnight search warrants.

Judge Berryhill received Gary Clyman's Warrant Application and unsworn affidavit at 1:08 AM – he returned it signed at 1:20 AM. Mr. Clyman's unsworn affidavit containing multiple falsehoods, unsupported assertions, conclusory allegations and innuendos takes the Accused 10 full minutes just to read Pages 1-4 of 9 pages that are identified, by the Facsimile transmission record, as having been sent

that night by ID/JEFFCO SHERIFF INV FAX at 1:08 AM.

Only one page has a FAX ID on it, to-wit Page 9 from JEFFCO SHERIFF INV which is identified as p.1 to Bo and Mac at 303-403-4385 on Sep 20 00 at 01:46a.

These documents are marked LW SPEACEB 471, 472, 473 & 474 and each marked with a "GC" next to the page numbers at the bottom of the pages marked Case Report No. FBI#00-98 at the top of the pages.

A reasonable person would wonder where the Affidavits of Testimony are that Mr. Clyman refers to in the untitled and irregular 4 page paper, *perhaps purporting to be an application for search warrant* – the ones required by law to be attached to an Affidavit of Facts sufficient to establish probable cause to issue a search warrant. If they were the missing Pages 1-5 indicated by the fact that Judge Berryhill signed page 9, which was the only page that appears to have FAX ID numbers on, then it would take approximately another 10 minutes or so just to read the submission – assuming, of course, that it was affidavits of testimony establishing the veracity and competence of the witnesses that constitute the missing pages.

[48]

So Judge Berryhill purportedly read 9 pages, assimilated all the facts contained therein, agreed with all the items listed to be seized, found probable cause based upon affidavits and testimony *that has never been provided to the Defense as required by Rule 16*, and signed and FAXed the Search Warrant back to Estep & Clyman in 12 minutes flat! A Bandimere speed record!

This application for search warrant process reeks of inappropriate prosecutorial and judicial action.

♠ *ColoCrim.P Chapter 12 Section 12.47:* Authority to Issue Warrant - "Neutral and Detached Magistrate" Requirement: **If the magistrate abandons his or her role as a neutral and detached judicial officer, the warrant is void.** People v. Trujillo 712 P.2d 1079 Colo.App. 1985.

[49]

Any reasonable person would have had grave doubts about Mr. Clyman's mental state and competence if they received a FAX at 1:08AM in the morning asking for a "No-Knock Warrant" based upon the information contained within the four corners of the affidavit that has been presented to the Honorable Court as an "affidavit in support of the issuance of a search warrant." Assuming, of course, that they bothered to read the alleged "affidavit."

🕮 Otherwise, warrant issued on such fatally defective affidavits are nullities, **any search conducted under them was unlawful, and the fruits of such a search are inadmissible in evidence**. Hernandez v. People, 153 Colo. 316, 385 P.2d 996 (1963); People v. Brethauer, 174 Colo. 29, 482 P.2d 369 (1971): People v. Baird, 173 Colo. 112, 470 P.2d 20 (1970)

🕮 Affidavit in support of warrant held fatally defective. See People v. Peschong, 181 Colo. 29, 506 P.2d 1232 (1973).

The Honorable Supreme Court has already decided that such hasty, slip-shod standards cannot be applied to such egregious intrusion into the People's lives and business. The fact that Clyman, Estep and Maleri seized copious quantities of records and documents as well as business

computers and have held those items for over a year without even providing a complete inventory of the items seized for the court's record exacerbates an already outrageous example of pernicious government malconduct.

> 🕮 **The supreme court cannot approve as meeting the standards of due process of law summary, hasty, middle-of-the-night justice**. Toland v. Strohl, 147 Colo. 577, 364 P.2d 588 (1961).

[50] Mr. Clyman offered absolutely no admissible evidence to support his application for a search warrant. There was not a scintilla of proof offered to Judge Jack Berryhill. Judge Berryhill had to make his determination in Ten Minutes based upon hearsay of hearsay of hearsay and fabricated hearsay from an illegal roadside interrogation and more hearsay and lies from an unlawful custodial interrogation. Nothing even approaching probable cause was offered to Judge Jack Berryhill; perhaps that was why he could make a decision to issue a "No-Knock Warrant" – implying critical, life-threatening exigent circumstances – in Ten Minutes flat in the middle of the night – without the applicant appearing before him to swear an oath and affirmation – totally relying on the information received via FAX. Something is amiss in this picture!

[51] The standards required for an intrusion [52] the magnitude of those involved in this matter were not met by any reasonable construction of the affidavit presented. The fact that this unlawful search and seizure has resulted in the failed prosecution of two other parties, *after they both spent time in Jefferson County Detention Facility*, and the expenditure of hundreds of thousands of dollars of taxpayer money and over a year of prosecution time, energy and money as well as almost nine months imprisonment of the Plaintiff in the draconian, overcrowded Jefferson County Detention Facility elevates the acts and actions of Gary Clyman, Donald L. Estep and conspiratorial accomplices to the level of criminal extortion, terrorism and other high crimes and misdemeanors. It is time to put an end to this bizarre government prosecution of this Plaintiff under the invidious discriminatory animus that he is a "Patriot."

[53] The four corners of the attached "affidavit" contains NO credible facts [54] – only conclusory allegations, lies, half-truths and hearsay about hearsay about hearsay [55] from people who have never been established as "experts" of any sort.

> 🕮 The Fourth Amendment to the United States Constitution and article II, section 7 of the Colorado Constitution protect persons from unreasonable searches and seizures and prohibit the issuance of a search warrant except upon probable cause supported by oath or affirmation particularly describing the place to be searched and objects to be seized. *See* U.S. Const. amend. IV; Colo. Const. art. 2, § 7. **To establish probable cause, an affidavit in support of a warrant must allege facts sufficient to cause "a person of reasonable caution to believe that contraband or evidence of criminal activity is located at the place to be searched**." *People v. Quintana*, 785 P.2d 934, 937 (Colo. 1990). The analysis of probable cause under both the state and federal constitutions looks at the totality of the circumstances. *See People v. Turcotte-Schaeffer*, 843 P.2d 658, 660 (Colo. 1993)(noting that we have adopted the standard set by the United States Supreme Court in *Illinois v. Gates*, 462 U.S. 213 (1983), for probable cause analysis under the Colorado Constitution). The probable cause standard does not lend itself to mathematical certainties and should not be laden with hypertechnical interpretations or

rigid legal rules. *See People v. Leftwich*, 869 P.2d 1260, 1266 (Colo. 1994); *People v. Atley*, 727 P.2d 376, 378 (Colo. 1986). Rather, judges, considering all of the circumstances, must make a practical, common-sense decision whether a fair probability exists that a search of a particular place will reveal contraband or evidence of a crime. *See Atley*, 727 P.2d at 377-78.

ARGUMENT XII: Plaintiff has been denied the right to speedy trial

⇨The Defense has NEVER WAIVED the Right to Speedy Trial. [56]

⇨The Defense has CONSISTENTLY DEMANDED a Constitutional [57] Speedy Trial.

⇨The Defense has been PREJUDICED by the Prosecution's Delays.

The above captioned case, **for the purposes of the Constitutional [58] Right to Speedy Trial**, began with another, *in a long train of abuses and usurpations*, lawless governmental act in furtherance of the initial cover-up outlined above; to-wit: the unlawful arrest of the sovereign California Inhabitant and two other innocent bystanders on **19 September, 2000** by the second S.W.A.T. Team Assault by Lakewood S.W.A.T. at the command of Donald L. Estep and Sergeant Ed Loar. *See NOTICE OF IRREGULARITIES on file with the Honorable Court.*

☑ An accused person's **right to a speedy trial is ultimately grounded on the federal and state constitutions**, and statutes relating to speedy trial are intended to render these constitutional guarantees more effective. Simakis v. District Court, 194 Colo. 436, 577 P.2d 3 (1978).

- Charges were not filed until December 18, 2000 [59], when an Indictment [60] was returned by the Colorado State Grand Jury, purportedly impaneled by the COLORADO STATE ATTORNEY GENERAL, but the actual document establishing probable cause has been **denied to the Defense**, even though it has been requested both by oral and formal motions on several occasions.

The stated purpose of the Multi-Jurisdictional Domestic Terrorism Task Force as testified by Gary Clyman on the Grand Jury Transcript page 11 & 12 is to **get Plaintiff "off the street" until they could come up with something that would require "significant bond."** The ultimate purpose is obviously to keep Plaintiff in jail [61] prior to trial. [See **Attachment: Exhibit #17 – Grand Jury Testimony: Gary Clyman**]

The official court's record reflects the fact that the Prosecution has openly and flagrantly applied every trick in the book to keep this matter from going to trial [62]; beginning with Rule 16 Discovery Violations to keep the Defense from discovering the pervasive Grand Jury Tampering and Malconduct to the latest Competency Evaluation to toll the speedy trial statutes while they try to figure out more tricks to circumvent due process requirements and fabricate some justification for the COLORADO STATE ATTORNEY GENERAL'S OFFICE exceeding its statutory bounds by prosecuting this case.

The Defense in this matter has consistently, *as a matter of record*, asserted **called for and relied**

upon the right to a speedy trial and has repeatedly petitioned the Honorable Court to set a "date certain" absent any plea that would entail or require the **waiving of any constitutionally secured or guaranteed right**, such as the right to challenge an improperly impaneled or fraudulently manipulated Grand Jury, which is manifestly obvious in this matter.

The above captioned case, **for the purposes of the Constitutional Right to Speedy Trial**, began with the unlawful arrest of the sovereign California Inhabitant and two other innocent witnesses on **19 September, 2000** by the Lakewood S.W.A.T. Team at the command of Gary Clyman, Donald L. Estep and Lakewood Police Sergeant Ed Loar.

Grand Jury testimony by COLORADO STATE ATTORNEY GENERAL'S OFFICE Investigator Gary Clyman on 15 December 2000 characterizes the "arrest" as a "**Felony Traffic Stop**." The stated justification for the "arrest," according to Mr. Clyman, was misdemeanor failure to appear warrants. [*See Attachment 1: Certified copy of the court's record of UnSigned and **void** Warrant – Case #97M811]*

Mr. Clyman states that he and Mr. Donald L. Estep and perhaps others yet unknown to this Petitioner decided to **"***get him off the streets for a while until we could get this case filed and get him on significant bond***." Mr. Clyman was referring to 00CR3371 and a $100,000.00 initial bond.**

Petitioner bonded out on the misdemeanor warrants only to find that District Attorney David J. Thomas, *Esquire* and D.D.A. Dennis Hall, *Esquire* had filed case #00CR2419 on or about 23 September, 2000 [63] and an additional $5000.00 bond was required as extortion from Petitioner for constitutionally secured freedom.

Case #00CR2419, filed by Deputy District Attorney Dennis Hall, Esquire purportedly related to the filing of false instruments, was **dismissed on 30 April, 2001** stating as grounds that a prosecution of the same charge had been returned by a Grand Jury Indictment and was being prosecuted by the COLORADO STATE ATTORNEY GENERAL'S OFFICE.

☑ The constitutional right to a speedy trial derived from the federal and Colorado constitutions, is distinct from the statutory speedy trial right and the determination as to one does not necessarily dispose of the other. People v. Harris 914 P.2d 425 (Colo.App.1995).

☑ The right of an accused to a speedy trial is an important civil right, and when the constitutional mandate is invoked the matter should receive careful consideration by the courts. Ex parte Russo, 104 Colo. 91, 88 P.2d 953 (1939).

Charges in case #**00CR3371** were not filed until December 18, 2000, when an Indictment [64] was returned by the Colorado State Grand Jury, purportedly impaneled by the COLORADO STATE ATTORNEY GENERAL, but the actual document establishing probable cause and the express authorization by the Governor to impanel the Statewide Grand Jury has been **denied to the Defense**, even though it has been requested both by oral and formal motions on several occasions, in open court before the Honorable Leland P. Anderson [65]. Plaintiff suspects that there is NO such authorization, or it would have been on file with the defective charging instrument in the Case File.

- Right to a speedy trial has been formulated to force the prosecution to try a defendant promptly in

compliance with the statutes, rules, and **constitutional requirements** [66] of each case. People ex rel. Coca v. District Court, 187 Colo. 280, 530 P.2d 958 (1975).

- Defendant must assert right. [67] A criminal defendant has no duty to bring himself to trial; but he does have a responsibility to assert his right to a speedy trial. People v. Small, 631 P.2d 148 (Colo.) cert. denied, 454 U.S. 1101, 102 S.Ct. 678, 70 L.Ed.2d 644 (1981).

The Defense in this matter has consistently, *as a matter of record*, asserted **called for and relied upon the right to a speedy trial and has repeatedly petitioned the Honorable Court to set a "date certain"** absent any plea that would entail or require the **waiving of any constitutionally secured or guaranteed right**, such as the right to challenge an improperly impaneled or fraudulently manipulated Grand Jury, which the Defense believes is manifestly obvious in this matter. No authorization has been provided for even the impaneling of the Grand Jury and motions for the **Prosecutor's colloquy** have been ignored. The Grand Jury was given no instructions defining the purported crimes, and no substantial proof was evident from the Official Transcripts supporting an indictment on any of the 51 individual counts divided evenly among Three "Defendants" who had no involvement in most of the alleged "crimes." The fact that the Grand Jurors "returned a verdict" on Three Accused and 51 Counts in less than 35 minutes of deliberation would arouse the suspicion of any reasonable person. To waive the right to challenge what the Defense believes to be such fundamental fraud would be tantamount to mental incompetence.

Petitioner was again unlawfully arrested on a defective warrant by the heavily armed **F.B.I. S.W.A.T. Team** at his place of business in Fairfax, California on **13 March 2001** and has been unlawfully incarcerated since that time; first in California, *without charges*, until 4 April 2001 and then in Jefferson County Detention Facility, *without charges*, until 10 April, 2001.

Since April 10th 2001, this sovereign California Inhabitant has been unlawfully incarcerated on a case void ab initio, under appeal and subject to Appellate Bond since 27 April 2001. The excessive sentence imposed by abuse of judicial discretion, and served in overcrowded conditions constituting cruel and unusual punishment, expired on 24 September, 2001.

UnSigned misdemeanor warrants constituting the purported justification for three S.W.A.T. offensives against the Petitioner no longer exist. Plaintiff has fully served an excessive sentence, to-wit: 365 days in draconian, overcrowded conditions in Jefferson County Detention Facility. Case #97M811 is currently under Appeal and docketed as 01CV1311 in Jefferson County District Court.

The Prosecution in case #00CR3371 continues to withhold exculpatory evidence, refuses to disclose the identity, charter and jurisdiction of the clandestine Multi-jurisdictional Joint Domestic Terrorism TaskForce, nor to establish the authority of such an "enterprise" to investigate this matter.

After months of specific requests, there has been **no Showing of Probable Cause for the**

impaneling of the Grand Jury and the ATTORNEY GENERAL's specific authorization by the Governor or the Legislature to prosecute this case as is required by law and statute. Marleen M. Langfield, *Esquire* simply continues to assert that she has the authority vested in her by David J. Thomas, *Esquire* but has continuously refused to offer any proof of any authority what-so-ever. The fact that he accompanied her to her parent's 50th wedding anniversary as some sort of "significant other" does not stand as authority to prosecute a case in which she has no other authority.

The Prosecution has had over a year to prepare and complete the necessary elements of a special prosecution outside the statutory authority of the COLORADO STATE ATTORNEY GENERAL'S OFFICE. Yet the **Prosecution continues to violate Rule 16 mandates** and a standing court order to provide all Discovery to the Defense. **Ms. Langfield has sworn**, *in open court*, **that all Discovery has been provided** at least three times and then later provided MORE discovery that had been in her possession all along. Such acts are tantamount to perjury.

The Prosecution has not yet tendered mandated Discovery to the Defense, to-wit:

1. G. Roscoe Anstine, II, Esquire's communications to the Accused that were in the Bonilla File, unlawfully seized on 20 September, 2000 on defective warrant.
2. A complete listing of all documents seized by the Prosecution's Investigators.
3. Complete Police surveillance reports
4. Reports of evidence, or lack thereof, in Accused's unlawfully seized computers.
5. Expert witness affidavits forming the basis for Gary Clyman's application to Jefferson County Judge Jack Berryhill for a no-knock search warrant for a business location in Denver County.
6. Donald L. Estep's Affidavit in support of U.F.A.P. warrant by Federal Magistrate Patricia Coan. And the authorization from the U.S. Marshal's Office to investigate the "Gartin" matter.
7. And the 16 remaining discovery items from the Defense's Discovery Petition.

The Defense has consistently informed the Honorable Court and the Prosecution that the Accused is a sovereign Inhabitant of the California Republic, and as such has tendered notice of Foreign Law from the beginning of notices to the Honorable Court and the Prosecution. The Defense reminds the Prosecution that Federal Law (EndNote # [2]) and Constitutions apply in this matter and makes note of the Federal Speedy Trial statutes as reference to the Constitutional mandates upon which the Defense stands.

The Defense consistently requested the Honorable Court to set a date certain for speedy trial and to take judicial notice that the Accused has been unlawfully incarcerated since 13 March 2001 and that the Accused was first arrested in this matter on 19 September, 2000.

The above captioned case, **for the purposes of the Constitutional Right to Speedy Trial**, began with a **lawless governmental act in furtherance of the initial cover-up** outlined in **endnote # [3]** ; to-wit: the **unlawful arrest** of the sovereign California Inhabitant and two other innocent bystanders on **19 September, 2000** by the second S.W.A.T. Team Assault by Lakewood S.W.A.T. at the command

of Donald L. Estep and Sergeant Ed Loar.

- **The constitutional right to a speedy trial derived from the federal and Colorado constitutions, is distinct from the statutory speedy trial right** and the determination as to one does not necessarily dispose of the other. People v. Harris 914 P.2d 425 (Colo.App.1995).

The Defense has consistently asserted and relied upon the Constitutional [68] speedy trial mandates required by due process of law.

The Defense has been uncertain and uneducated in statutory language, customs and usages and has therefore provided the Honorable Court and the Prosecution with prior **Notice of Foreign Law** pursuant to the colorable code's requirements for a party intending to invoke law from a foreign venue, from the beginning of the Defense's assertions of the right to speedy trial. Plaintiff has always assumed that the Honorable District Court is operating in a jurisdiction foreign to the Common Law and without the Constitutionally imposed limitations on government actors, and has relied upon Constitutionally secured Rights such as those embodied in the first Ten Articles in Amendment to the united States Constitution.

- The right of an accused to a speedy trial is an important civil right, and when the constitutional mandate is invoked the matter should receive careful consideration by the courts. Ex parte Russo, 104 Colo. 91, 88 P.2d 953 (1939).

The Defense has asserted the right to speedy trial from the first appearance, **by special visit** – not general appearance, **in shackles and chains** and obviously **not by consent** nor by any waiver of jurisdiction pursuant to any tacit procuration or by any intentional default of jurisdictional challenge. If any waiver of jurisdiction has been perceived it is by mistake or lack of legal training and is specifically denied.

- **Right to speedy trial attaches with filing of a formal charge**. People v. Chavez, 779 P.2d 375 (Colo. 1989)

The length of delay in this matter is all attributable to the clandestine manner in which the Prosecution has conducted every phase of this prosecution, from the highly questionable secret investigation prior to the unlawful S.W.A.T. Team assault by overwhelming force in Lakewood and the subsequent unlawful arrest of three innocent Citizens, to the unlawful police interrogation that formed the basis for perjurous affidavit in support of the issuance of the **unlawful search warrants** which were issued void of probable cause and without lawfully sworn affidavits, *in the middle of the night*; to the unlawful execution of those irregular warrants and the seizure of lawfully registered business property which is still being unlawfully held by the COLORADO STATE ATTORNEY GENERAL in order to prevent the Defense from conducting lawful business in order to pay extortion for Constitutionally guaranteed freedom, in the form of EXCESSIVE BOND.

- Right to a speedy trial has been formulated to force the prosecution to try a defendant promptly in compliance with the statutes, rules, and **constitutional requirements** of each case. People ex rel. Coca v. District Court, 187 Colo. 280, 530 P.2d 958 (1975).

The Prosecution has failed to comply with the Honorable Court's order to provide Discovery in compliance with the Special Duties of the Prosecutor, to-wit: *within 20 days of first appearance*. The Prosecution is STILL withholding exculpatory evidence, **unlawfully seized**, that is identified by the testimony of COLORADO STATE ATTORNEY GENERAL INVESTIGATOR Gary Clyman on 15 December, 2000 before the Grand Jury, to-wit: statutes and legal study material relating to liens – affidavits by witnesses named in Clyman's Affidavit for Search Warrant, and other Discovery demanded in formal motions within the Court File.

- **It is duty of both prosecutor and trial judge to secure and protect defendant's right to speedy trial.** People v. Chavez, 779 P.2d 375 (Colo.1989); Fisher v. County Court, 796 P.2d 65 (Colo.App.1990).

The Defense has consistently petitioned the Honorable Court to set a date certain for trial by jury. The Defense has consistently demanded full discovery from the Prosecution in order to properly prepare for a just and speedy trial by jury. The Prosecution continues to fail to comply, even after Order by the Court.

- Court's practice of postponing arraignment until all pretrial matters are concluded thwarts purpose of this section and Crim.P.48 (b). People v. Chavez, 779 P.2d 375 (Colo.1989)

The Grand Jury proceedings in this matter are SO irregular and bizarre as to demand inspection by the Defense and by the Honorable Court, so as to prevent or correct any potential **FRAUD upon the Court**. The reluctant piecemeal compliance by the Prosecution to provide properly discoverable Grand Jury information, such as the Showing of Probable Cause to Impanel a StateWide Grand Jury in the above captioned matter creates an impasse for both the Defense and the Honorable Court. **The Defense cannot proceed by waiving any constitutionally secured Rights and the Honorable Court cannot rule on issues that are not properly before it**. Again, the Prosecution has deliberately failed to rise to minimal standards of professional performance and has knowingly and intentionally impeded and obstructed justice in order to gain an unfair advantage in the several Federal Civil Rights Actions against STATE ACTORS for which the COLORADO STATE ATTORNEY GENERAL is acting as Defense Attorney.

- Defendant must assert right. A criminal defendant has no duty to bring himself to trial; but he does have a responsibility to assert his right to a speedy trial. People v. Small, 631 P.2d 148 (Colo.) cert. denied, 454 U.S. 1101, 102 S.Ct. 678, 70 L.Ed.2d 644 (1981).

The Defense in this matter has consistently, *as a matter of record*, asserted **called for and relied upon the right to a speedy trial and has repeatedly petitioned the Honorable Court to set a "date certain"** absent any plea that would entail or require the **waiving of any constitutionally secured or guaranteed right**, such as the right to challenge an improperly impaneled or fraudulently manipulated Grand Jury, which is manifestly obvious in this matter.

Pursuant to the **Ethical Rules**, the threatening of criminal prosecution must not be used to gain

an advantage in a civil case.

In this matter, the Honorable Court must note that the numerous governmental Defendants in Federal Civil Rights Cases #**97-N-1501, 97-D-1036, 97-S1523 & 01-ES-1145** are all represented by the COLORADO STATE ATTORNEY GENERAL.

The Honorable Court must also take judicial notice of the ultimate and uncontestable fact that the COLORADO STATE ATTORNEY GENERAL is acting in the capacity of Prosecution in the above captioned case, to-wit: 00-CR-3371. It cannot escape the attention of any reasonable person that such a concentration of power represents a prima facie **conflict of interest**.

When the ultimate fact that the Accused has been intentionally and **selectively** singled out for prosecution on matters that the STATE has shown NO COMPELLING INTEREST in and **no probable cause** for impaneling a State-wide Grand Jury has been presented for; it becomes crystal clear that the COLORADO STATE ATTORNEY GENERAL'S Office is presently engaged in an on-going and continuing **malicious, vindictive** and **retaliatory prosecution** of the Accused in order to unlawfully gain an advantage in several civil rights cases and to protect their governmental clients by unlawfully incarcerating the Plaintiff in those several suits in **draconian** prison conditions, limiting his access to the courts, limiting his access to the tools of basic communication, decimating his financial base, **threatening, intimidating** and alienating **witnesses** and in all nefarious ways endeavoring to gain an unfair advantage in those above enumerated cases.

The Prosecution in the above captioned matter has callously and deliberately utilized their position of power to **abuse and violate the Ethical Rules** by which attorneys are regulated to the **severe prejudice** and **grave damage** of the Defense in the above captioned matter.

- **Calculation of delay for corporate defendant**. Where defendant is a corporation, *and hence not subject on incarceration*, the period of delay relevant to the assertion of defendant's right to a speedy trial began on the date when probable cause was determined and the defendant was bound over to the district court at the preliminary hearing in the county court because it was on this date that the defendant was placed in the same relative position, as far as its status as an "accused" is concerned, as if there had been an indictment or information filed in the district court. People v. Slender Wrap, Inc., 36 Colo.App.11, 536 P.2d 850 (1975).

This California Inhabitant was unlawfully assaulted and unlawfully arrested on a **defective warrant** by the heavily armed **F.B.I. S.W.A.T. Team** at his place of business in Fairfax, California on **13 March 2001** and has been unlawfully incarcerated since that time; first in California, *without charges*, until **4 April 2001** and then in Jefferson County Detention Facility, *without charges*, until 10 April, 2001. Since April 10th 2001, this sovereign California Inhabitant has been unlawfully incarcerated on a case **void ab initio**, and under appeal since 27 April 2001. The excessive sentence imposed by abuse of judicial discretion, and fully served in overcrowded, draconian prison conditions, *constituting ipso facto cruel and unusual punishment*, ended **24 September, 2001** and this sovereign California Inhabitant is free except for excessive bond required in case #00CR3371.

The Prosecution in the above captioned case continues to withhold exculpatory evidence, refuse to disclose the identity, charter and jurisdiction and authority of the clandestine Multi-jurisdictional Joint Domestic Terrorism TaskForce, the **Showing of Probable Cause for the impaneling of the Grand Jury** and the ATTORNEY GENERAL's specific authorization by the Governor or the Legislature to prosecute this case as is required by law and statute. The Prosecution has had over a year to prepare and complete the necessary elements of a special prosecution outside their statutorily defined powers and outside of any Colorado Constitutional authorization.

More specifically, the Prosecution has failed to fulfill the professional and ethical responsibility of the prosecution in balancing the factors defined by Baker v. Wingo 407 U.S. 514, 533 92 S.Ct., to wit:

1. Length of Delay: This is the triggering mechanism where as no single factor is determinative. The length of delay is presumptively prejudicial, no further balancing is necessary. People v. Small 631 P.2d 148 Colo. If the delay is inordinate, Baker v. Wingo, purposeful or oppressive it is deemed prejudicial. Polland v. U.S. 352 U.S. 354, 361 77 S.Ct. 481 1 L.Ed.2d 393, 399 (1957).
2. Reason for Delay: Prosecution has not brought forth a valid reason for a delay.

3. Defense's assertion of the Right to speedy trial: The Defense has consistently, on the record, asked for Speedy Trial and to set a DATE CERTAIN without waiver of any constitutionally secured rights.

4. Prejudice of the delay to Defendant: Moody v. Corsentino 843 P.2d 1355 (Colo.1993). The Prosecution has demonstrated undue prejudice toward the Defense in this matter by all the foregoing deprivations and others that the on-going deprivations directly and intentionally caused by draconian imprisonment prevent bringing before the Honorable Court, but the Honorable Court is aware of other grounds for dismissal and is hereby enjoined to add those to the factors enumerated herein in the interest of substantial justice and fundamental fairness.

   The Prosecution has chosen to blatantly ignore the Constitutional speedy trial guarantees and their fiduciary responsibility to the Honorable Court and to all parties involved not to create a prejudicial situation to a Defendant. Here the Right to a Speedy Trial operates as a control on the time limits by which charges must be tried and guarantees a criminal defendant the Right to deliberate speed in prosecution of the case. S.E. Ed. S. 2.14 and 9.46 (Supra) (C.J.S. Crim.Law 578 & Seq.).

This enumerated right protects three basic defense interests:

1. To prevent undue incarceration before trial. The Accused has been incarcerated in draconian overcrowded prison conditions, with all attendant deprivations of constitutionally secured rights to be free from cruel and unusual punishment, for over six-months unable to pay the excessive bond set in this case, there is technically NO difference between $100,000 and $50,000 when the Accused cannot pay either.

2. Minimize anxiety and concern accompanying public accusation. There has been no minimizing the anxiety in this matter; to the contrary agents for the Prosecution have intimidated witnesses, threatened prosecution of witnesses, intimidated business associates, hacked into and destroyed Accused's WebSites utilizing PassWords obtained by the unlawful seizure of Accused's business computers, published slanderous and libelous information on the World Wide Web and in local newspapers in Marin County California and endeavored in all ways possible to destroy the Accused's business relationships, friendships, family relationships and consortium.

3. Long delays will impair the Defendant's ability to defend against the charges. Although the Honorable Court has endorsed the acquisition of a Private Investigator for the Defense, the Prison Phone System will not permit the calling of any one except those willing to pay exorbitant fees, to-wit: $2.20 for a local call. Defense has been unable to find such a Private Investigator and all other avenues have failed. Letters to business associates relied upon as witnesses have been returned undeliverable and Defense has no means to determine why. Other Defense witnesses have disappeared or cannot be located. (Smith v. Hovery 393 U.S. 374, 377-79, 89 S.Ct.)

The Defense has been severely prejudiced by the extensive length of delay between the filing of charges on 18 December, 2000 and the present, when the Prosecution is still withholding information relevant to the initial process of Grand Jury Challenge and other pre-arraignment constitutional and statutory issues.

The Defense establishes a violation of the Right to Speedy Trial simply by asserting that the matter was not brought to trial within require time limits specified by constitution or statute, regardless of prejudice. The Petitioner has substantially complied with that requirement and established the ultimate fact that the Prosecution has deliberately created this prejudicial situation in order to gain an unlawful advantage by maintaining the Accused in draconian imprisonment and under control of the very Actors named as Defendants in the several Civil Rights Actions enumerated and incorporated herein by reference.

The Defense has been grievously and tortiously prejudiced by the fact that **three** of this California Inhabitant's businesses have been totally obliterated and completely destroyed by intentional, direct, knowing and deliberate actions of the Prosecution and instruments of the Prosecution, to-wit: Gary Clyman, Donald Estep, Curtis Maleri, Maurice Knaizer and the California F.B.I. S.W.A.T. Team. This wanton, deliberate and callous disregard for the constitutionally secured right to be secure in person and papers and to conduct lawful business without government interference has **aggrieved** and **prejudiced** the **Defense** in this matter and has artificially and deliberately **caused hardships and obstacles to the mounting of a vigorous defense** and has IN FACT **grievously damaged** the mounting of any kind of a defense by an intentional, reckless and callous disregard for this sovereign California Inhabitant's constitutionally secured and guaranteed rights in order to gain an unfair advantage in the above captioned matter and in several pending Civil Rights Actions before the Tenth Federal District Court.

The unlawful (*on defective warrant*) seizure of this California Inhabitant's computers and refusal by Gary Clyman to return them, even when the Defense stipulated that he could retain the mirrored images for his "fishing expedition," constitutes a blatant and reckless deprivation of this California Inhabitant's constitutionally secured rights to conduct lawful business without governmental interference and has ultimately resulted in the Accused being unable to pay the Constitutionally forbidden **excessive bond** required by the Prosecution in this matter, to-wit: $50,000.00 – a higher bond than many murderers and armed robbers charged in the same District!

As **Fruit from the Poisonous Tree**, a State sanctioned action cannot morally or lawfully be

maintained which is based upon the **lawless acts** and **criminal actions** of the **governmental agents** conspiring to institute that action. In this matter, the **outrageous, egregious** and **lawless conduct** of the many governmental actors participating in the several unlawful arrests; the unlawful searches and seizures; the unlawful incarcerations; the deprivations of Constitutionally secured Rights; the malicious, vindictive, selective and retaliatory prosecutions, to-wit: 00CR3371, 97M811, 97M812, 97M472, & 00CR2419; the criminal extortion by imposition of excessive bonds; the on-going defamation of character and destruction of consortium all combine to define a Prosecution gone berserk and run amuck – totally out of control and destructive of all the honorable ends of justice and law and order.

The COLORADO STATE ATTORNEY GENERAL'S OFFICE represents the DEFENDANT government agents in Federal Cases in the 10th Federal District Court. It is glaringly obvious that there is a conflict of interest with the SAME OFFICE acting both as Defense Counsel and Prosecuting Attorney.

To allow such a lawless, vindictive, malicious, and retaliatory prosecution to continue would constitute yet another travesty of justice, therefore the Plaintiff Petitions the Honorable Court for a **Redress of Grievance** in the nature of **Mandamus**, an **Order to Dismiss** the above captioned matter on the grounds of failure to provide a **Speedy Trial, Outrageous Government Conduct, Un-Authorized Prosecution, Grand Jury Malfeasance and Tampering, Failure of the Prosecution to properly apply the Statutes** and any other grounds which the Honorable Court deems just and proper in light of the outrageous conduct of the STATE government in bringing and pursuing this prosecution. In the alternative the Plaintiff petitions the Honorable Supreme Court for a Mandamus Ordering Plaintiff's Immediate Release on Personal Recognizance Bond.

CONCLUSION

The lower court lacks jurisdiction to rule on a diversity of citizenship controversy. The Honorable Leland P. Anderson is inexperienced in Common Law, Constitutional Law, Administrative Law and Foreign Law issues and controversies and cannot in good faith rule on issues he has no cognizance of. Therefore, it is proper for the Colorado Supreme Court to assume jurisdiction of the issues and controversies hereby presented in the nature of Original Actions based upon:

1.) **Quo Warranto** – to determine the question of whether the COLORADO STATE ATTORNEY GENERAL'S OFFICE has prosecutional power absent a specific authorization from the Governor to prosecute a case in which the State has no interest.
2.) **Mandamus** – to determine the question of whether the Plaintiff's constitutional right to Speedy Trial has been violated by gross prosecutorial misconduct and intentional delay.
3.) **Prohibition** – to determine the question of whether the lower court can further exacerbate the Speedy Trial deprivation by ordering a Competency Evaluation.
4.) **Habeas Corpus** – to determine the question of whether unsigned warrants can constitute the foundation for an unconstitutional incarceration prior to trial on excessive bond.

On grounds so stated, the court may have erred, *or may simply have been uneducated in the various*

aspects of Foreign Law invoked by the Defense, in denying relief to Gartin.

WHEREFORE, the Plaintiff requests the Honorable Supreme Court to award relief of Habeas Corpus, Mandamus, Quo Warranto and Prohibition against the proceedings in the District Court.

Humbly submitted this Third day of the Twelvth Month in the Year of our Messiah, YahShewa, Two Thousand and One, Common Era.

_____
by, Steve Douglas Gartin – In Propria Persona - Sui Juris

CERTIFICATE OF SERVICE

I, the undersigned, certify that I deposited a duplicate copy of the foregoing OPENING BRIEF in the United States mail VIA Jefferson County Detention Facility Mail, postage prepaid and addressed to the following:

Mac V. Danford, Clerk
Colorado State Supreme Court
2 East 14th Street – 4th Floor
Denver, Colorado 80202

Attorney General Kenneth Salazar
1525 Sherman Street
Denver, Colorado 80203

Honorable Leland P. Anderson
Colorado First Judicial District
100 Jefferson County Parkway
Golden, Colorado 80401

_____

Attached Exhibits

Attachment Exhibit # 1 – UnSigned Warrant of Commitment

Attachment: Exhibit # 2 - Affidavit by Charles Harry Clements

Attachment: Exhibit # 3 - Grand Jury Points 9-1-2001 and Grand Jury Challenge Impaneling 9-16-2001

Attachment: Exhibit # 4 – Motions for Grand Jury Discovery

Attachment: Exhibit # 5 – Notice of Mistake 11-5-2001

Attachment: Exhibit # 6 - Charles Harry Clements Affidavit of Computer Crime

Attachment: Exhibit # 7 - Clyman & Estep Criminal Complaint]

Attachment: Exhibit # 8 – Defective Charging Document

Attachment: Exhibit # 9 –Defective Charging Document-$5000 Bond–Dismissal of Case #00CR2419

Attachment: Exhibit #10 - Verified Criminal Complaint

Attachment: Exhibit #11 - NOTICE OF IRREGULARITIES

Attachment: Exhibit #12 – California Court Documents

Attachment: Exhibit #13 – Clyman & Estep Computer Crime

Attachment: Exhibit #14 - Clyman and Estep Criminal Complaint

Attachment: Exhibit #15 - First Amendment Petition

Attached: Exhibit #16 – Clyman's Affidavit

Attachment: Exhibit #17 – Grand Jury Testimony: Gary Clyman

ADDENDUM - BACKGROUND

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[1] C.R.S. 16-4-105 Selection by judge of the amount of bail and type of bond – criteria
Provides, in pertinent part,

(a) The amount of bail shall not be oppressive;

(m) **Unless the district attorney consents**, no person shall be released on personal recognizance if he has a record of conviction of a class 1 misdemeanor within two years, or of a felony within five years, prior to the release hearing.

[2] U.S. Constitution Amendment VIII [1791] Excessive bail shall not be required, nor excessive fines posed, nor cruel and unusual punishments inflicted.

[3] Colorado Constitution Article II Section 20: ***Excessive bail***, *fines or punishment*. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[4] "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury." Marbury v. Madison, 1 Cranch 137, 163 (1803)

[5]

[6] L.O.W. v. District Court, 623 P.2d 1253, 1256 (Colo.1981).

California Constitution Article I § 12. A person shall be released on bail by sufficient sureties, except for:

(a) Capital crimes when the facts are evident or the presumption great;

(b) *Felony offenses involving acts of violence on another person*, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or

(c) *Felony offenses when the facts are evident* or the presumption great and the court finds based on clear and convincing evidence that the *person has threatened another* with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Excessive bail may not be required**. In fixing the amount of bail, the court shall take into consideration the** seriousness **of the** offense charged, the previous criminal record **of the defendant**, **and the** probability of his or her appearing at the trial **or hearing of the case.**

A person may be released on his or her own recognizance in the court's discretion.

[7] What is a lawful warrant? Colorado Court Rules Rule 4. Warrant or Summons Upon Felony Complaint

(a) Issuance.

(1) Upon the filing of a felony complaint in the county court, the prosecuting attorney shall request the court to order that a warrant shall issue for the arrest of the defendant, or that summons shall issue and be served upon the defendant.

(2) If a warrant is requested, the felony complaint must contain or be accompanied by a sworn statement of facts establishing probable cause to believe that a criminal offense has been committed, and that the offense was committed by the *PERSON* for whom the warrant is sought. In lieu of such a sworn statement, the felony complaint may be supplemented by sworn testimony of such facts. Such testimony must be transcribed and then signed under oath by the witness giving the testimony.

(3) Except in class 1, class 2, and class 3 felonies, and in unclassified felonies punishable by a maximum penalty of more than ten years, whenever a felony complaint has been filed prior to the arrest of the *PERSON* named as defendant therein, the **court, with the consent of the prosecuting attorney, shall have power to issue a summons commanding the appearance of the defendant in lieu of a warrant for his arrest**. The court shall issue a summons instead of an arrest warrant when the prosecuting attorney so requests.

(4) Except in class 1, class 2, and class 3 felonies, the **general policy shall favor issuance of a summons instead of a warrant** for the arrest of the defendant except where there is reasonable ground to believe that, unless taken into custody, the defendant will flee to avoid prosecution or will fail to respond to a summons.
When an application is made to a court for issuance of an arrest warrant or summons, the court may require the applicant to provide such information as reasonably is available concerning the following:

(I) The defendant's residence;
(II) The defendant's employment;
(III) The defendant's family relationships;
(IV) The defendant's past history of response to legal process; and
(V) The defendant's past criminal record.

(5) If any *PERSON* properly summoned pursuant to this Rule fails to appear as commanded by the summons, the court shall forthwith issue a warrant for his arrest.

(6) When a corporation is charged with the commission of an offense, the court shall issue a **summons** setting forth the nature of the offense and commanding the corporation to appear before the court at a certain time and place.

(b) Form.

(1) Warrant. The arrest warrant shall be a written order issued by a judge of a court of record directed to any peace officer and shall:

(I) State the defendant's name or if that is unknown, any name or description by which he can be identified with

reasonable certainty;

(II) Command that the defendant be arrested and brought without unnecessary delay before the nearest available judge of a county or district court;

(III) Identify the nature of the offense;

(IV) Have endorsed upon it the amount of bail if the offense is bailable; and

(V) Be **signed** by the issuing county judge.

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[8]

It has been held that constitutional provisions of rights are to be interpreted according to "the common and statute law of England prior to the emigration of our ancestors," and by the law established here before the Constitution was adopted. "**Under the common law the powers of state agents were limited and the requirements for an arrest warrant was strictly enforced**" *United States v. Tarlowski,* 305 F. Supp. 112, 116 (1969). This procedure for arrest is part of the 'due process of law' provision of the constitution which protects citizens from the arbitrary infringement of their right to personal liberty. Thus, any specific authority for arrests must be based upon the common law procedures that allowed a deprivation of one's liberty. This was so held by the Supreme Court of Michigan as follows: "It has already been decided that no arrest can be lawfully made without warrant, except in the cases existing at common law before our constitution was adopted." *People v. Swift,* 59 Mich. 529, 26 N.W. 694, 698 (1886).

[9]

conduct ; which justifies exercise of court's supervisory powers in dismissing criminal case, is generally defined as Outrageous Governmental Conduct. Colo.App. 1993. Due process claim of outrageous governmental that which violates fundamental fairness and is shocking to the universal sense of justice. U.S.C.A. Const.Amend 14 – People v. Aponte, 867 P.2d 183 – Const.Law 257.5; Crim.Law 36.6.

[10]

except in accordance with established principles." *Ekern v. McGovern,* 154 Wis. 157, 142 N.W. 595, 620 (1913). In interpreting what 'due process of law is, it has been held that 'none of our liberties are to be taken away

[11]

Montoya de Hernandez, 473 U.S. 531, 542-44 (1985) (analyzing constitutionality of length of traveler's border detention under Fourth Amendment reasonableness standard); Caban, 728 F.2d at 75 (considering whether duration of border detention without a hearing was reasonable). In the context of a criminal arrest, a detention of longer than 48 hours without a probable cause determination violates the Fourth Amendment as a matter of law in the absence of a demonstrated emergency or other extraordinary circumstance. See County of Riverside v. McLaughlin, 111 S. Ct. 1661, 1670 (1991). To pass muster under the Fourth Amendment, detention must be reasonable. See United States v.

[12]

steps typically incident to arrest. See id. Unreasonable searches and seizures. Non-consensual extraction of blood However, the Supreme Court arrived at this rule by considering the time it takes to complete administrative implicates Fourth Amendment privacy rights. Skinner v. Railway Labor Executives' Ass'n, 489 U.S. 602, 616 (1989); Schmerber v. California, 384 U.S. 757, 767 (1966)."[f]or the Fourth Amendment does not proscribe all searches and seizures, but only those that are unreasonable." Skinner, 489 U.S. at 619; accord Vernonia School District 47J v. Acton, No. 95- 590, 1995 WL 373274, at *3 (June 26, 1995) ("the ultimate measure of the constitutionality of a governmental search is 'reasonableness'")

[13]

made pursuant to a warrant issued upon probable cause. United States v. Place, 462 U.S. 696, 701 (1983). A search's reasonableness under the Fourth Amendment generally depends on whether the search was Even in the law enforcement context, the State may interfere with an individual's Fourth Amendment interests with less than probable cause and without a warrant if the intrusion is only minimal and is justified by law enforcement purposes. E.g., Michigan State Police Department v. Sitz, 496 U.S. 444, 450 (1990); Terry v. Ohio, 392 U.S. 1, 20 (1968).

[14]

Byrd, 72 S.C. 104, 51 S.E. 542, 544 (1905), affirmed a prior decision of the Court holding that: "At common law, as In determining the law surrounding arrests, the Supreme Court of South Carolina, in the case of State v. a general rule, an arrest could not be made without warrant for an offense less than felony, except for a breach of the peace. 3 Cyc. 880; State v. Sims, 16 S.C. 486.

[15] The fact that the Defendants believed that the Plaintiff had committed a misdemeanor and had been charged with a violation of a court order did not authorize them to arrest the Plaintiff. In a New York case, the State Supreme Court held that a city alderman or justice of the peace could not, at common law, arrest or cause an arrest for a misdemeanor not amounting to a breach of the peace, without warrant, though happening in his presence. The Supreme Court, in the case of Butolph v. Blust, 5 Lansing's Rep. 84, 86 (1871) stated: "At common law an arrest could not be made of a person charged with a misdemeanor except on warrant of a magistrate, unless it involved a breach of the peace, in which case the offender might be arrested by any person present at its commission." (1 Chitty, Criminal Law, 15; Carpenter v. Mills, 29 How. Pr. R. 473).

[16]

right of personal liberty consists in the power of locomotion – to go where one pleases, and when, and to do that "Life and liberty". In interpreting constitutional provisions providing for the right to enjoy life and liberty, the which may lead to one's business or pleasure, only so far restrained as the rights of others may make it necessary for the welfare of all other citizens. Dominquez v. City & County of Denver, 147 Colo. 233, 363 P.2d 661 (1961).

[17]

the state cannot deny a right or impose a liability which is contrary to the federal concept of due process of law; it **State may enhance, but not abridge, federal concept of due process.** Under the United States constitution

does not say that a state has no right, under the state due process clause, to create protections for its citizens which might not be required under the federal concept. People ex rel. Juhan v. District Court, 165 Colo. 253, 439 P.2d 741 (1968).

[18]
violates the Fourth Amendment as a matter of law in the absence of a demonstrated emergency or other In the context of a criminal arrest, a detention of longer than 48 hours without a probable cause determination extraordinary circumstance. See County of Riverside v. McLaughlin, 111 S. Ct. 1661, 1670 (1991).

[19]
country to another 4 Bl. Comm. 219. Collier v. Vaccaro, C.C.A. Md., 51 2d 17, 19; State v. Berry, 200 Wash. **Kidnapping**. At common law, the forcible abduction or stealing and carrying away of a person from own 495, 93 P.2d 782, 787, 792. The unlawful seizure and removal of a person from own country or state against his will. In American law, the intent to send the victim out of the country does not constitute a necessary part of the offense; the unlawful taking and carrying away of a human being by force or fraud or threats or intimidation and against his will being the essential elements. State v. Roberts, 210 S.E.2d 396, 404, 286 N.C. 265. At common law kidnapping was a misdemeanor, but under modern statutes such crime is a felony. **18 U.S.C.A. § 1201**. **C.R.S. 18-3-301.**

[20]
substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business; or a period in a place of isolation, with any of the following purposes: (a) to hold for ransom or reward, or as a shield or hostage; or (b) to facilitate commission of any felony or flight thereafter; or (c) to inflict bodily injury on or to terrorize the victim or another; or (d) to interfere with the performance of any governmental or political function Model Penal Code, § 212.1

[21]
age pension claim against estate, due to **failure to obtain and file** in County Court an executive order authorizing If State was not properly represented in County Court proceeding on county public welfare department's old and requiring Attorney General to appear, State was without representation to sue out writ of error to Supreme Court. Dunbar v. County Court, Clear Creek County, 1955, 283 P.2d 182, 131 Colo. 483.

[22]
Colo.App.233, 556 P.2d 82 (1976). Attorney general does not have powers beyond those granted by general assembly. Gillies v. Schmidt, 38

[23]
nor by implication did the general assembly grant the attorney general the right to prosecute all indictments Therefore, **attorney general cannot prosecute all grand jury indictments. Neither by express provision** returned by a state grand jury. People ex rel. Tooley v. District Court 190 Colo. 486, 549 P.2d 774 (1976).

[24]
from the governor, the attorney general is not authorized to prosecute criminal actions. People ex rel. Tooley v **No authority to prosecute criminal actions absent governor's command**. In the absence of a command District Court 190 Colo. 486, 549 P.2d 774 (1976).

[25]
attorney general to prosecute a criminal case in which the state is a party, he becomes to all intents and purposes Attorney general prosecuting case is exercising district attorney's powers. When the governor requires the the district attorney, and may in his own name and official capacity exercise all the powers of that officer. People v. Gibson, 54 Colo. 231, 125 P.531 (1912); People ex rel. Witcher v. District Court, 190 Colo.483, 549 P.2d 778 (1976).

[26]
encouraged, it is **beyond authority of court to empower assistant attorney general to perform duties** While cooperation of Attorney General and district attorneys in joint law enforcement efforts is to be **assigned by statute to district attorney**. People ex rel. Brown v. District Court In and For Second Judicial Dist., 1976, 549 P.2d 774, 190 Colo. 486.

[27]
of what conduct is proscribed by a criminal statute. People v. District Court, 185 Colo. 78, 521 P.2d 1254 (1974). Doctrine of vagueness has its **roots in the due process** clause requirement that there be adequate notice

[28]
effect of personal judgment and discrimination upon enforcement processes. People v. Heckard, 164 Colo. 10, Criminal laws must be drafted to provide police and prosecution with clearly defined standards to lessen the 431 P.2d 1014 (1967).

[29]
the determination of standards in a case-by-case process invalidates legislation as being violative of due process. Indefinite standards of enforcement violate due process. Indefiniteness which leaves to officer, court, or jury Dominquez v. City & County of Denver, 147 Colo. 233, 363 P.2d 661 (1961).

[30]
rights to due process and fundamental fairness. People v. Aragon, 643 P.2d 43 (Colo. 1982). The actions of a prosecutor, although procedurally within the law, may result in a violation of the defendant's

[31]
disciplinary charges to obtain an advantage in a civil action nor shall a lawyer present or participate in presenting Ethical Rules 4.5. **Threatening Prosecution**. A lawyer shall not threaten to present criminal, administrative or criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

[32]
[32] Colorado Constitution - Article II - Due Process. **Section deemed guaranty against exercise of arbitrary power**. The exercise of arbitrary power by any department of government or agency thereof is inconsistent with democracy. The guaranties against the exercise of such arbitrary power are found in this section and section 10 of this article. People v. Harris, 104 Colo. 386, 91 P.2d 989, 122 A.L.R. 1034 (1939)

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[34]
Ethical Rule 4.5. **Threatening Prosecution**. A lawyer shall not threaten to present criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

[35]
Due process of law is summarized as the constitutional guarantee of respect for those personal immunities which are so rooted in the traditions and conscience of the people as to be ranked as fundamental, or are implicit in the concept of ordered liberty. Toland v. Strohl, 147 Colo. 577, 364 P.2d 588 (1961).

[36]
Minimum guarantees. The due process clause of this section requires at a minimum the same guarantees as those protected by the due process clause of the federal constitution. Air Pollution Variance Bd. v. Western Alfalfa Corp., 191 Colo. 455, 553 P.2d 811 (1976).

[37]
State may enlarge, but not abridge, federal concept of due process. Under the United States constitution the state cannot deny a right or impose a liability which is contrary to the federal concept of due process of law; it does not say that a state has no right, under the state due process clause, to create protections for its citizens which might not be required under the federal concept. People ex rel. Juhan v. District Court, 165 Colo. 253, 439 P.2d 741 (1968). And federal power will not nullify state's concept of due process. So long as state action does not deny a right protected under the federal concept of due process, or impose a liability prohibited thereby, the federal power will not nullify the rights and protections which, within the state, are recognized as part and parcel of due process under the state constitution. People ex rel. Juhan v. District Court, 165 Colo. 253, 439 P.2d 741 (1968).

[38]
Impaneling of statewide grand jury was proper where district court chief judge found that attorney general had made a showing of good cause, matter could not be effectively handled by county grand jury, and it was in the public interest to convene statewide grand jury. People v. Cerrone, 867 P.2d 143 (Colo.App.1993) aff'd on other grounds, 900 P.2d 45 (Colo.1995)

[39]
Fraud: An intentional perversion of truth, for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that she shall act upon it to his legal injury. Brainder Dispatch newspaper co v. Crow wing county 196 Minn 194, 264, n.w. 779,780.

FRAUD: A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. Johnson v. Mcdonald, 170 okl. 117, 39, p.2d 150.

[40]
If a statute gives fair descriptions of the conduct forbidden and men of common intelligence can readily apprehend the statute's meaning and application, it will not be declared unconstitutional for vagueness. Howe v. People, 178 Colo. 248, 496 P.2d 1040 (1972); People v. District Court, 185 Colo. 78, 521 P.2d 1254 (1974).

[41]
Legislation which provides an adequate warning as to what conduct falls under its ban, and marks boundaries sufficiently distinct for judges and juries fairly to administer the law satisfies the constitutional requirements. Statutory language which gives sufficient notice to the person and furnishes guides for the adjudicative process meets the test of definiteness. Dominquez v. City & County of Denver, 147 Colo. 233, 363 P.2d 661 (1961).

[42]
If advantage sought by statute is personal as distinguished from general, the police powers may not be invoked. Olin Mathieson Chem. Corp. v. Francis, 134 Colo. 160, 301 P.2d 139 (1956). Vested rights do not accrue to thwart reasonable exercise of police power for public good. Lakewood Pawnbrokers, Inc. v. City of Lakewood, 183 Colo. 370, 517 P.2d 834 (1973).

[43]
Test of unconstitutional vagueness. A statute which either requires or forbids an act in terms so vague that men of common intelligence must guess at its meaning and differ as to its application violates the first essential of due process of law. Memorial Trusts, Inc. v. Beery, 144 Colo. 448, 356 P.2d 884 (1960); People v. Heckard, 164 Colo. 19, 431 P.2d 1014 (1967).

[44]
Foreign Law. It is required pursuant to the codifiable **Colorado Revised Statutes at §13-25-106** that notice be given when a party intends to rely upon the law, to wit: (1) Every court of this state shall take judicial notice of the common law and statutes of every state, territory, and other jurisdiction of the United States. People v. Swain, 43 Colo.App. 343, 607 P.2d 396 (1979).

[45]
No authority of attorney general or designee to confer full grand jury subpoena power on police officers. Authority to appoint deputies pursuant to this section, combined with the responsibility to present evidence to statewide grand jury pursuant to §13-73-106 does not give the attorney general or his designee authority to confer full grand jury subpoena power on police officers by naming them as strike force investigators. People v. Corr, 682 P.2d 20 (Colo.1984), cet. Denied, 469 U.S. 855, 105 S.Ct. 181, 83 L. ed.2d 115 (1984).

[46]
Section 7. Security of person and property - searches - seizures - warrants. **The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures**; and no warrant to search any place or seize any person or things shall issue without describing the place to be searched, or the person or thing to be seized, as near as may be, nor without probable cause, supported by oath or affirmation reduced to writing.

[47]
The Fourth Amendment to the United States Constitution and Article II, section 7 of the Colorado Constitution prohibit the issuance of a search warrant except upon probable cause supported by oath or affirmation particularly describing the place to be searched and the objects to be seized. *See* U.S. Const. amend. IV; Colo. Const. art. II, § 7; *Henderson v. People*, 879 P.2d 383, 391 (Colo. 1994)

[48]
Such abandonment would occur if the magistrate failed to read the affidavit prior to issuance of the warrant, which would constitute an abandonment of the neutrality requirement, since the magistrate would then serve merely as a rubber stamp for the police. (Rooder v. Commonwealth, 508 S.W.2d 570 Ky.1974)

[49]
But, constitutionally, probable cause must appear on face of affidavit. The express Colorado constitutional requirement of a written oath or affirmation makes it clear beyond a doubt that sufficient facts to support a magistrate's determination of probable cause must appear on the face of a written affidavit. People v. Baird, 172 Colo. 112, 470 P.2d 20 (1970)

[50]
The Fourth Amendment to the United States Constitution and article II, section 7 of the Colorado Constitution protect persons from unreasonable searches and seizures and prohibit the issuance of a search warrant except upon probable cause supported by oath or affirmation particularly describing the place to be searched and objects to be seized. *See* U.S. Const. amend. IV; Colo. Const. art. 2, § 7. **To establish probable cause, an affidavit in support of a warrant must allege facts sufficient to cause "a person of reasonable caution to believe that contraband or evidence of criminal activity is located at the place to be searched**." *People v. Quintana*, 785 P.2d 934, 937 (Colo. 1990). The analysis of probable cause under both the state and federal constitutions looks at the totality of the circumstances. *See People v. Turcotte-Schaeffer*, 843 P.2d 658, 660 (Colo. 1993)(noting that we have adopted the standard set by the United States Supreme Court in *Illinois v. Gates*, 462 U.S. 213 (1983), for probable cause analysis under the Colorado Constitution). The probable cause standard does not lend itself to mathematical certainties and should not be laden with hypertechnical interpretations or rigid legal rules. *See People v. Leftwich*, 869 P.2d 1260, 1266 (Colo. 1994); *People v. Atley*, 727 P.2d 376, 378 (Colo. 1986). Rather, judges, considering all of the circumstances, must make a practical, common-sense decision whether a fair probability exists that a search of a particular place will reveal contraband or evidence of a crime. *See Atley*, 727 P.2d at 377-78.

[51]
The Fourth Amendment to the United States Constitution and article II, section 7 of the Colorado Constitution protect persons from unreasonable searches and seizures and prohibit the issuance of a search warrant except upon probable cause supported by oath or affirmation particularly describing the place to be searched and objects to be seized. *See* U.S. Const. amend. IV; Colo. Const. art. 2, § 7. **To establish probable cause, an affidavit in support of a warrant must allege facts sufficient to cause "a person of reasonable caution to believe that contraband or evidence of criminal activity is located at the place to be searched**." *People v. Quintana*, 785 P.2d 934, 937 (Colo. 1990). The analysis of probable cause under both the state and federal constitutions looks at the totality of the circumstances. *See People v. Turcotte-Schaeffer*, 843 P.2d 658, 660 (Colo. 1993)(noting that we have adopted the standard set by the United States Supreme Court in *Illinois v. Gates*, 462 U.S. 213 (1983), for probable cause analysis under the Colorado Constitution). The probable cause standard does not lend itself to mathematical certainties and should not be laden with hypertechnical interpretations or rigid legal rules. *See People v. Leftwich*, 869 P.2d 1260, 1266 (Colo. 1994); *People v. Atley*, 727 P.2d 376, 378 (Colo. 1986). Rather, judges, considering all of the circumstances, must make a practical, common-sense decision whether a fair probability exists that a search of a particular place will reveal contraband or evidence of a crime. *See Atley*, 727 P.2d at 377-78.

[52]
Because there is no precise formula for determining probable cause, "[r]easonable minds frequently may differ on the question whether a particular affidavit establishes probable cause." *United States v. Leon*, 468 U.S. 897, 914 (1984); *see also Turcotte-Schaeffer*, 843 P.2d at 662 (acknowledging that the "facts here present a very close case of probable cause and a different issuing judge may have required more information before issuing a warrant"); *United States v. Cancelmo*, 64 F.3d 804, 807 (2d Cir. 1995)(recognizing that "the question of whether probable cause existed in the instant case is a close one"). Here, the facts present a vivid illustration of the principle that reasonable minds may differ on the issue of whether an affidavit sets forth sufficient information to comprise probable cause. **A magistrate issued the warrant; that same judicial officer then concluded upon further review that the affidavit was insufficient**. *People v. Altman*, 940 P.2d 1009 (Colo. App. 1996),

[53]
Probable cause for a search warrant exists when the **affidavit submitted in support of the warrant** alleges **sufficient facts to warrant a person of reasonable caution** to believe that contraband or other evidence of criminal activity is located at the place to be searched. *See Henderson*, 879 P.2d at 391

[54]
Probable cause for a search warrant exists when the **affidavit submitted in support of the warrant** alleges **sufficient facts to warrant a person of reasonable caution** to believe that contraband or other evidence of criminal activity is located at the place to be searched. *See Henderson*, 879 P.2d at 391

[55]
In *Aguilar v. Texas*, 378 U.S. 108, 114 (1964), and *Spinelli v. United States*, 393 U.S. 410, 416 (1969), the United States Supreme Court established a two-part test to determine the adequacy of an affidavit that relies on information obtained from a confidential or anonymous informant. The first step of this test required the affiant to reveal the informant's "basis of knowledge," which is the means by which the informant obtained the information. The second step required the affiant to establish either the informant's veracity or the informant's reliability. *See Aguilar*, 378 U.S. at 114; *Spinelli*, 393 U.S. at 416.

Later, in *Illinois v. Gates*, 462 U.S. 213, 238 (1983), the United States Supreme Court abandoned the

Aguilar-Spinelli rule in favor of a test that examines the totality of the circumstances and asks the "commonsense, practical question whether there is probable cause to believe that contraband or evidence is located in a particular place." *Id.* at 230. The Gates court stated that the informant's basis of knowledge, veracity, and reliability are highly relevant, but not conclusive factors. *See id.* In determining the overall reliability of a tip, a strong showing in one of these areas--or the existence of some other indicia of reliability--may compensate for the absence of one of the factors. *See id.* at 233. The *Gates* court stated: *"If, for example, a particular informant is known for the unusual reliability of his predictions of certain types of criminal activities in a locality, his failure, in a particular case, to thoroughly set forth the basis of his knowledge surely should not serve as an absolute bar to a finding of probable cause based on his tip. Likewise, if an unquestionably honest citizen comes forward with a report of criminal activity--which if fabricated would subject him to criminal liability--we have found rigorous scrutiny of the basis of his knowledge unnecessary. Conversely, even if we entertain some doubt as to an informant's motives, his explicit and detailed description of alleged wrongdoing, along with a statement that the event was observed first-hand, entitles his tip to greater weight than might otherwise be the case." Id.* at 233-34 (citations omitted).

We adopted the *Gates* totality of the circumstances test in *People v. Pannebaker*, 714 P.2d 904, 907 (Colo. 1986). Since that decision, we have reaffirmed the principle that an informant's basis of knowledge is a factor for consideration and is not a prerequisite to a finding of probable cause. *See People v. Pate*, 878 P.2d 685, 689-90 (Colo. 1994); *People v. Leftwich*, 869 P.2d 1260, 1266-68 (Colo. 1994); *People v. Paquin*, 811 P.2d 394, 397 (Colo. 1991).

Under the totality of the circumstances test, the court must examine all of the relevant factors. A highly detailed statement from an informant may allow a judge to conclude that the informant had access to reliable information about the activities. *See People v. Abeyta*, 795 P.2d 1324, 1327-28 (Colo. 1990). Police corroboration of some of the information provided by the informant may support a finding of probable cause, even when all of the corroborated details relate to innocent, non-criminal activities. *See Titus*, 880 P.2d at 150; *People v. Diaz*, 793 P.2d 1181, 1185 (Colo. 1990). The statements of other witnesses may also corroborate an informant's account and elevate the degree of suspicion to probable cause. *See* Wayne R. LaFave, *Search and Seizure* § 3.3, at 170 (3d ed. 1996). Another relevant factor is whether the information is current and not stale. *See People v. Hearty*, 644 P.2d 302, 311 (Colo. 1992).

The issuing magistrate's probable cause determination receives deference and is not reviewed de novo. *See Henderson*, 879 P.2d at 391. The duty of a court reviewing the sufficiency of an affidavit for probable cause is to ensure that the issuing judge had a "substantial basis" for concluding that probable cause existed. *Pate*, 878 P.2d at 690.

[56]
dealt with that right on infrequent occasions. See Beavers v. Haubert, 198 U.S. 77 (1905); Pollard v. United
Although a speedy trial is guaranteed the accused by the Sixth Amendment to the Constitution, this Court has
States, 352 U.S. 354 (1957); United States v. Ewe, 383 U.S. 116 (1966); United States v. Marion, 404 U.S. 307
(1971). See also United States v. Provo, 17 F.R.D. 183 (D. Md.), aff'd, 30 U.S. 857 (1955). The Court's opinion in
Klopfer v. North Carolina, 386 U.S. 213 (1967), established that the right to a speedy trial is "fundamental," and is
imposed by the Due Process Clause of the Fourteenth Amendment on the States. See Smith v. Hooey, 393 U.S.
374 (1969); Dickey v. Florida, 398 U.S. 30 (1070)

[57]
invoked the matter should receive careful consideration by the courts. Ex parte Russo, 104 Colo. 91, 88 P.2d 953
The right of an accused to a speedy trial is an important civil right, and when the constitutional mandate is
(1939).

[58]
the statutory speedy trial right and the determination as to one does not necessarily dispose of the other. People
The constitutional right to a speedy trial derived from the federal and Colorado constitutions, is distinct from
v. Harris 914 P.2d 425 (Colo.App.1995)

[59]
1989).
Right to speedy trial attaches with filing of a formal charge. People v. Chavez, 779 P.2d 375 (Colo.

[60]
defendant is formally accused by a charging document, such as a criminal complaint, information, or indictment. People v. Velasquez, 641 P.2d 943 (Colo.)
When right to speedy trial attaches. The constitutional right to a speedy trial attaches when a

[61]
time periods established by statute or rule. People v. Small, 631 P.2d 148 (Colo.), cert. denied, 454 U.S.
Computation of length of delay is not subject to specific limitations or exclusions, such as the fixed
1101, 102 S.Ct. 678, 70 L.Ed.2d 644 (1981).

[62]
with the statutes, rules, and **constitutional requirements** of each case. People ex rel. Coca v. District Court,
Right to a speedy trial has been formulated to force the prosecution to try a defendant promptly in compliance
187 Colo. 280, 530 P.2d 958 (1975).

[63]
1989).
Right to speedy trial attaches with filing of a formal charge. People v. Chavez, 779 P.2d 375 (Colo.

[64]
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When right to speedy trial attaches. The constitutional right to a speedy trial attaches when a defendant is
Velasquez, 641 P.2d 943 (Colo.)

[65]

People v. Chavez, 779 P.2d 375 (Colo.1989); Fisher v. County Court, 796 P.2d 65 (Colo.App.1990).

Court's practice of postponing arraignment until all pretrial matters are concluded thwarts purpose of this section and Crim.P.48 (b). People v. Chavez, 779 P.2d 375 (Colo.1989)

[66]

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[67]

Chavez, 779 P.2d 375 (Colo.1989); Fisher v. County Court, 796 P.2d 65 (Colo.App.1990). It is duty of both prosecutor and trial judge to secure and protect defendant's right to speedy trial. People v. Court's practice of postponing arraignment until all pretrial matters are concluded thwarts purpose of this section and Crim.P.48 (b). People v. Chavez, 779 P.2d 375 (Colo.1989)

[68]

constitutions, and statutes relating to speedy trial are intended to render these constitutional guarantees more An accused person's **right to a speedy trial is ultimately grounded on the federal and state** effective. Simakis v. District Court, 194 Colo. 436, 577 P.2d 3 (1978).

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[1]

Notices Filed in Case #00CR3371

1. Demand for SpeedyTrial: Objection to PsychEvaluation and demand for Speedy Trial
2. SpeedyTrial: Notice of demand for Speedy Trial
3. CSAG Misconduct Final: Continuing Prosecutorial Misconduct documented
4. Certificate of Compliance: Another Request for Complete Discovery
5. Notice of Mistake: Re-Statement of Court's lack of jurisdiction
6. Conspiracy to Commit State & Federal Crimes: Criminal Acts Documented and conspiratorial nexus drawn between various government actors
7. PsychWitnesses: Petition for Private Investigator, Advisory Counsel & tape recording of Psycholocial examination ordered by Court.
8. Witness Protection: Injunction to prevent Clyman & Estep from terrorizing Defense Witnesses
9. Habeas Corpus: Release on Personal Recognizance
10. C&E Criminal Complaint: Clyman & Estep terrorizing Defense Witnesses
11. Spurious Liens: Statutes regarding Liens and notice of improper application by Prosecution
12. Prosecutorial Misconduct: Rule 16 Violations, Perjury and subornation to perjury
13. Due Process Violation 8-31: Rule 16 Violations
14. Due Process Violation 8-22: Rule 16 Violations
15. Due Process Violation 8-15: Rule 16 Violations
16. Response to People on Grand Jury: Rebuttal to Prosecution's Reply
17. CSAG Misconduct - Discovery: Rule 16 Violations
18. CSAG Misconduct - DiscoveryIV: Rule 16 Violations
19. Outrageous: Notice of bizarre government criminal actions
20. Affidavit-Computer Crime Clyman-Estep: Destroying Plaintiff's Websites & Email
21. CSAG Clements Prosecution: Malicious Prosecution
22. Affidavit-Intimidating Witnesses: Clyman & Estep State & Federal Crimes
23. Standing and Capacity: Notice to the Court
24. DECLARATORY - CLS: Request for Declaratory Judgment
25. PR Bond: Additional support for Personal Recognizance Bond
26. Prosecutorial Misconduct - Discovery1: Rule 16 Violations
27. Affidavit-Attorney Misconduct Langfield 8-4C:
28. Affidavit-Prosecution of Unfounded Charge 00CR2419:
29. Affidavit-Prosecution of Unfounded Charge 00CR3371:
30. Salazar-Attorney Misconduct 8-4A: Filing frivolous charges
31. Inmate Assistance: Case Law supporting inmates assisting each other

32. Law Library Time: Documentation of Law Library Access
33. Affidavit-Perjury of Oath of Office: Perjury by Marleen M. Langfield
34. Tuthill: Demurrer
35. Subpoena Denver Clerk: Duces Tecum – Mechanic's Liens
36. Alan J. Gilbert – Solicitor General: Request for A.G. prosecution records for similar "crimes"
37. Hector Criminal Complaint: Prosecution witness crimes against Accused
38. Jorrissen Criminal Complaint1: Prosecution witness crimes against Accused
39. Due Process Violations: Enumeration of Due Process violations by Prosecution
40. Grand Jury Challenge Empaneling: Initial Challenge of Grand Jury for Misconduct
41. Anderson Jurisdiction: Judicial responsibility for protecting Constitutional Rights
42. Bond Review: Additional facts supporting Personal Recognizance Bond
43. Stipulation2: Stipulation of Admitted or Non-contested facts
44. Police Misconduct: Notice of Criminal Actions in Color of Authority
45. NOTICE OF FOREIGN LAW - Common Law: Terms & Definitions
46. PLEA: Preparatory Notice to entering a Common Law Plea after Grand Jury Challenge
47. Grand Jury Points-Cover: Index of Grand Jury & Prosecutorial Misconduct
48. Stipulation: Admissions of criminal acts by Clyman & Estep
49. Witness of Administrative Process and Verification of Judgment: Clyman & Estep Administrative Process – Notice, Grace, Verified Judgment, Cautionary Warning
50. Contempt Exhibits: Exhibits for Contempt Proceedings
51. 00CR3371 Contempt1: Contempt Complaint for Law Library Deprivations

Typewritten Filings

52. Uniform Notice of Foreign Law – 6-26-2001
53. Petition for Judicial Notice of Proscutorial Misconduct 6-27-2001
54. Notice of Grand Jury Issues 6-27-2001
55. Judicial Notice of Non-Compliance of Judicial Order 6-24-2001
56. Petition for Relief from Cruel & Unusual Punishment – 6-4-2001
57. Motion for Investigatory Services – 5-25-2001
58. Motion for Investigatory Services – 5-11-2001
59. Motion for Hearing-Discovery-Bill of Particulars-Conflict Free Attorney – Return of seized property – Document from Court to establish ProSe status for Law Library - 4-23-2001
60. Demand for PreTrial Hearing - 4-11-2001

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[2]

18 U.S.C.A. § 167: 3170. Speedy trial data

(a) To facilitate the planning process, the implementation of the time limits, and continuous and permanent compliance with the objectives of this chapter, the clerk of each district court shall assemble the information and compile the statistics described in sections 3166 (b) and 3166 (c) of this title. The clerk of each district court shall assemble such information and compile such statistics on such forms and under such regulations as the Administrative Office of the United States Courts shall prescribe with the approval of the Judicial Conference and after consultation with the Attorney General.
(b) The clerk of each district court is authorized to obtain the information required by sections 3166(b) and 3166(c) from all relevant sources including the United States Attorney, Federal Public Defender, private defense counsel appearing in criminal cases in the district, United States district court judges, and the chief Federal Probation Officer for the district. This subsection shall not be construed to require the release of any confidential or privileged information.
(c) The information and statistics compiled by the clerk pursuant to this section shall be made available to the district court, the planning group, the circuit council, and the Administrative Office of the United States Courts.

18 USC Sec. 3161 TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART II - CRIMINAL PROCEDURE CHAPTER 208 - SPEEDY TRIAL Sec. 3161.
Time limits and exclusions
(a) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the Government, **set the case for trial on a**

day certain, or list it for trial on a weekly or other short-term trial calendar at a place within the judicial district, so as to assure a speedy trial.
(b) Any information or indictment charging an individual with the commission of an offense shall be filed **within thirty days from the date on which such individual was arrested** or served with a summons in connection with such charges. If an individual has been charged with a felony in a district in which no grand jury has been in session during such thirty-day period, the period of time for filing of the indictment shall be extended an additional thirty days.
(c) (1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence **within seventy days** from the filing date (and making public) of the information or indictment, **or from the date the defendant has appeared before a judicial officer of the court** in which such charge is pending whichever date last occurs. If a defendant consents in writing to be tried before a magistrate on a complaint, the trial shall commence within seventy days from the date of such consent.
(2) Unless the defendant consents in writing to the contrary, the **trial shall not commence less than thirty days from the date on which the defendant first appears** through counsel or expressly waives counsel and elects to proceed pro se.
(d) (1) If any indictment or information is dismissed upon motion of the defendant, or any charge contained in a complaint filed against an individual is dismissed or otherwise dropped, and thereafter a complaint is filed against such defendant or individual charging him with the same offense or an offense based on the same conduct or arising from the same criminal episode, or an information or indictment is filed charging such defendant with the same offense or an offense based on the same conduct or arising from the same criminal episode, the provisions of subsections (b) and © of this section shall be applicable with respect to such subsequent complaint, indictment, or information, as the case may be.

[3]

History

The underpinnings of this case had a genesis in the unlawful breaking and entering of the Accused's home by the Jefferson County S.W.A.T. Team and the subsequent Warrantless Arrest and unlawful imprisonment of the Accused in the above captioned matter. The chain of events culminating with the **selective prosecution** in the above captioned action is a matter of a very carefully documented record that establish beyond any doubt that the Accused in this matter has been the object of a continuing "witch-hunt" under the rubric of "patriot activity" purportedly exhibited by the open exercise of the constitutionally secured **Right to Petition the Government for Redress of Grievance**. The concerted unlawful efforts by Donald L. Estep, Gary Clyman, Maurice Knaizer, Marleen M. Langfield and other government conspirators to attempt to murder and/or unlawfully imprison the Accused by the imposition of constitutionally prohibited charges and EXCESSIVE BOND while concurrently prosecuting the Accused on frivolous, groundless and vexatious charges, *void of probable cause*, by the employment of all conceivable tricks, traps, frauds and deceptions has also been meticulously documented and submitted to the Honorable Court in several Notices of Irregularities, Damages and Contempts which have also been forwarded to other government regulatory agencies and media. Through all the years of outrageous governmental abuse and oppression at the hands of a few criminal actors, the Accused has consistently taken the honorable path and has lawfully and properly petitioned the government for redress of grievance by a diligent and studious application of all possible means of attaining remedy for the abuses perpetrated upon him by lawless government actors.

Background:

On or about **February 26, 1997**, by command of **Sheriff's Deputy Donald L. Estep**, the Jefferson County Special Weapons and Tactics Military Unit, did **unlawfully** attack the Domicile of the sovereign California Inhabitant, Steve Douglas, Gartin at the mailing location of 1400 Golden Circle #108 in Golden, Colorado in full force of arms to include: Fully Automatic Weapons with Laser sights, semi-automatic side-arms, full Riot Gear, S.W.A.T. "Shields" and Body Armor. These Military Troops, in disguise as Jefferson County Sheriff Deputies, clothed in Black Ninja Uniforms, Black NAZI Ski Masks and bearing NO IDENTIFYING MARKINGS DID UNLAWFULLY go in disguise upon the highways AND on the premises of another (**18 U.S.C. §§241 & 242**), in conspiracy, in full knowledge of their criminal actions, with the specific INTENT, the means, and with the motive first to MURDER, or in the alternative, to UNLAWFULLY ARREST Plaintiff, who had committed no crime, either within or without the sight or knowledge of those Cops.

Said "Cops" resorted to the use of a BATTERING RAM to break down the locked Door at the above noted home residence; without probable cause, without a lawful warrant, and without any knowledge of; who was inside the private residence, or whom they intended to unlawfully arrest after smashing in the door. Jefferson County Deputy Sheriffs and other Law Enforcement Officers called out the name of a person who was not known or present in the premises, claimed to have an Arrest Warrant that they did not possess, aimed at least six Laser-sighted Automatic weapons on this California Inhabitant and threatened him . . . **"If you do ANYTHING -you WILL BE SHOT"** . . . that, a direct quote from the audio tape recording of the Assault and Criminal Trespass, Attempted Murder and Unlawful Arrest, and all under Color of Law and Color of Authority. Said **Audio Tape** Recording is included in case #97M811 as sure evidence of the criminal actions of "Cops" also known as Jefferson County Special Weapons and Tactics team at 1400 Golden Circle #108 in Golden, Colorado on the 26th day of February in the year of our Lord, YahShewa, Nineteen Hundred and Ninety Seven in the Colorado Republic.

After unlawfully arresting, assaulting, battering, and committing mayhem upon the person and property of the California Inhabitant and the resident of the property, Defendant Sheriff Deputies then HANDCUFFED this totally compliant

and unresisting California Inhabitant with torturous bone-tight "Riot Cuffs, although regular steel handcuffs were available and are preferred, and transferred Plaintiff to another Defendant Sheriff Deputy who unlawfully Forcibly Kidnapped California Inhabitant, and illegally transported California Inhabitant to the Jefferson County Sheriff Department Detention Center without knowledge of the Identity or the alleged crime committed by the California Inhabitant as there was no Arrest Warrant or other proper order of any court.

Plaintiff was tortured by bone-tight riot handcuffs for over SIX HOURS while "terrorists" disguised as the Defendant Sheriffs Deputies attempted to extort information from California Inhabitant. California Inhabitant knew that his Liberty and Freedom had been trespassed and Fully Informed each and every Deputy and Law Enforcement Officer within hearing of their Violations of California Inhabitant's Civil Rights and their numerous CRIMES against the California Inhabitant, and the Deprivation of Rights against the California Inhabitant. Each and every Defendant "Cop" refused to Cease and Desist their Criminal Actions even after being fully informed of the Law and failed and neglected to prevent or correct wrongs and to do their Sworn Duty to Uphold the Constitution of the United States of America and the Colorado Constitution.

Rather than relenting, the Defendant "Cops" further engaged in torture and torment of Plaintiff for the directly expressed purpose of Extorting a Waiver of California Inhabitant's Rights in Color of Authority and under Color of Law, in Conspiracy and in full knowledge; each Actor having the ability to prevent or correct, witnessing the Deprivations being committed against the California Inhabitant and REFUSING and NEGLECTING and FAILING to Correct or Prevent the WRONGS being COMMITTED in each actor's direct presence, when each Actor "COP" had a Duty to protect and defend California Inhabitant's Rights.

When Greenwood Village Police Department Agent **Mark Stadterman**, *a friend of Donald L. Estep* had completed an exhaustive unlawful search of the premises with his Police Dog and discovered no weapons or drugs, **Donald L. Estep**, who instigated the unlawful break-in, unlawful arrest, unlawful search and unlawful incarceration, **realized that he had committed several Federal Crimes** and set about enlisting the aid and assistance of many Jefferson County and Colorado State Officials in order to **cover-up** and conceal the **outrageous, grossly unlawful and egregious governmental conduct** which he had personally initiated and taken part in. The outline of the ensuing chain of events leading to this very action before the Honorable Court is outlined in the several Federal Civil Rights actions contained within the current court file and is a matter of record in the court's record in the Tenth Federal District Court, to-wit: **97-S-1523; 97-D-1036, 97-N-1501** and **01-ES-1145** and is the subject of formal complaints to Internal Affairs, Professional Standards, the Supreme Court Grievance Committee, the Governor of Colorado, the Colorado State Attorney General, Federal Bureau of Investigation, the Colorado U.S. Attorney and the U.S. Attorney General.

The Defense hereby incorporates the above enumerated Federal Civil Rights Incorporated Actions as though fully reproduced herein by reference and further states:

Jefferson County Cases 97M811 & 97M812 were immediately filed by Mr. Estep in order to create an **excessive bond** that Mr. Estep thought would prevent this California Inhabitant from gaining freedom. When Bond was made for those two cases, Mr. Estep immediately contacted Agent Mark Stadterman at Greenwood Village Police Department and enlisted his assistance by petitioning Arapahoe County District Attorney James Peters' agent Ted Macklinberg, *who lived in Golden*, to file bogus charges in Arapahoe County and set EXCESSIVE BOND, *by conspiring with Judge Ethan Feldman*, in the amount of $5000 for some purported "felony FAXing" that was ultimately charged as a purported "violation-of-a-restraining-order" and became known in legal fiction as #97M472 before the most **Honorable Judge Richard M. Jauch**. The combined BOND amount, somehow, came to $12,200.00 through the cunning and fraudulent manipulation of the law by Donald L. Estep and conspiratorial governmental agents and actors. This California Inhabitant **paid that extortion** and immediately registered as the First Candidate for Jefferson County Sheriff in the next election.

Thirty Three days later, On April 7, 1997, this California Inhabitant was invited into court by a document that actually was captioned with this Sovereign's Christian Appellation and after some undisclosed matter was apparently prosecuted from the bench, was then unlawfully incarcerated in the Jefferson County Detention Facility for some undisclosed "contempt" and sentenced by Magistrate Marilyn Leonard to SIX MONTHS, NO GOOD TIME. This sovereign California Inhabitant served one month in general population and FIVE MONTHS in solitary confinement, without cause.

During that unlawful incarceration, and without access to the courts, phones, friends, tools of communication or means of making income, the prosecution of cases 97M811, 97M12 & 97M472 were commenced – all of which are **void ab initio** for complete failure of service of any purported restraining order and for numerous other fatal flaws in each case, including the **deprivation of the constitutionally secured right to speedy trial**.

Even though the constitutional and statutory right to speedy trial was never waived and case 97M812 was dismissed for the same fatal flaws contained in 97M811, trial for 97M811 was held in November of 1997 and by tricks, fraud and deception and by intimidation of Defense's Public Defender by Donald L. Estep and other government actors, this California Inhabitant was found guilty of the purported crime of violation of a restraining order which the court's records established had **never been served**.

During the unlawful incarceration for that purported "offense," the prosecution in the above entitled action has been actively and intensely pursued by numerous government agencies and agents. The Prosecution has taken full advantage of the helpless position of the Defense in every conceivable manner; but the Prosecution has exceeded its proper authority by **threatening witnesses**, threatening additional prosecution if the Defense does not waive ProSe Status and accept a Public

Defender, concealing, withholding and destroying evidence and conspiring and colluding with Jefferson County Detention Facility Staff to impede, obstruct and impair this sovereign California Inhabitant from mounting an effective defense by openly, contemptously and blatantly defying the Honorable Court's Order for meaningful access to the law library.

It is clearly obvious that the Prosecution will resort to any nefarious, debased and reprehensible means to handicap the Defense and to prevent the lawful mounting of a proper defense in the on-going selective, vindictive, malicious and retaliatory prosecutions to which this California Inhabitant is lawlessly and tortiously and continuously subjected.