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14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 STATE OF NEVADA,
17
Plaintiff,
18 vs.
19 ANDREW TODD MULLEN,
20
Defendant.
21

Case No.: C-26-399252-1
Dept. No. XV

**SHERIFF KEVIN MCMAHILL AND
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT'S RESPONSE TO
ORDER TO SHOW CAUSE**

HEARING REQUESTED

22 Non-parties Sheriff Kevin McMahon and Las Vegas Metropolitan Police Department
23 specially appear and respond to the Order to Show Cause issued by this Court on May 28, 2026.
24 Doc. 19.

1 **DECLARATION OF SERGEANT KARINA RAMIREZ-DE LARA IN SUPPORT OF**
2 **SHERIFF KEVIN MCMAHILL AND LAS VEGAS METROPOLITAN POLICE**
3 **DEPARTMENT’S RESPONSE TO ORDER TO SHOW CAUSE**

4 I, Sergeant Karina Ramirez-De Lara, of the Las Vegas Metropolitan Police Department,
5 declares as follows:

6 1. I am over 18 years of age, of sound mind, and otherwise competent to make this
7 Declaration. I base the statements below on my personal knowledge.

8 2. I am a Sergeant with the Las Vegas Metropolitan Police Department (“LVMPD”)
9 Detention Services Division (“DSD”), which carries out the administration of the Clark County
10 jails and electronic supervision on behalf of the Clark County Sheriff.

11 3. I make this Declaration in support of Sheriff Kevin McMahill and LVMPD’s
12 Response to the Court’s Order to Show Cause.

13 4. I am the acting Lieutenant over LVMPD’s Alternatives to Incarceration Section
14 (“ATI”), which oversees the administration of the Clark County Sheriff’s Electronic Monitoring
15 Program (“Program”).

16 5. The ATI Section is tasked with supervising approximately 450 defendants who
17 have been court-approved to participate in the Program as a condition of their release from the
18 physical custody of the Clark County Detention Center (“CCDC”).

19 6. In my role, I or my assignees review court approvals to place defendants in the
20 Program. As part of this review, ATI supervisors determine whether a defendant has a residential
21 living situation that is capable of meeting the standards set forth in the general rules and individual
22 conditions for electronic supervision.

23 7. As designated by Sheriff McMahill, ATI supervisors also evaluate whether a
24 defendant, if accepted into the Program, will pose an unreasonable risk to public safety pursuant
25 to NRS 211.250 and 211.300. If ATI supervisors, as the Sheriff’s designees, conclude that

1 electronic supervision of a defendant will pose an unreasonable risk to public safety while in the
2 Program, they will not be accepted into the Program.

3 8. To reasonably ensure that a defendant who is approved to participate in the Program
4 does not pose an unreasonable risk to public safety, ATI supervisors evaluate whether any court
5 or law enforcement agency currently wants that defendant for arrest. This evaluation includes
6 checking for any active warrant, detainer, fugitive hold, Red Notice, or other formal request for
7 the defendant's arrest or custody.

8 9. ATI supervisors evaluate a defendant's prior criminal history to determine whether
9 that defendant will pose an unreasonable risk to public safety.

10 10. ATI supervisors may determine that a defendant poses an unreasonable risk to
11 public safety if the defendant's criminal history demonstrates a pattern of flight from justice or a
12 likelihood that the defendant will flee from justice.

13 11. ATI supervisors may determine that a defendant poses an unreasonable risk to
14 public safety if that defendant's criminal history includes threats or violence against law
15 enforcement personnel.

16 12. Defendants who are ordered into the Program must agree to consent, comply, and
17 cooperate with all of the rules and conditions set forth in the Monitoring Contract.

18 13. LVMPD's ATI Section provides two levels of electronic monitoring, Medium
19 Level and High Level.

20 14. High Level Electronic Monitoring includes all of the rules and conditions that apply
21 to Medium Level Electronic Monitoring and also includes additional conditions. A defendant must
22 consent to, comply with, cooperate with these additional conditions to be accepted into the
23 Program.

24 15. On May 19, 2025, LVMPD's ATI Section received notification of this Court's

1 approval to maintain the Justice Court’s approval for Defendant Andrew Mullen’s placement on
2 High Level Electronic Monitoring. **Exhibit 1**, Administrative Custody Status Change Form.

3 16. Pursuant to Sheriff McMahill’s statutory duty to ensure that Defendant did not pose
4 an unreasonable risk to public safety if accepted into the Program, ATI supervisors conducted an
5 assessment of Defendant’s background, criminal history, and declaration of arrest report for the
6 underlying criminal case.

7 17. Based on the totality of the circumstances, including the sudden and unpredictable
8 nature of Defendant’s actions at Atomic Golf—which resulted in a gunshot victim and a six-hour
9 barricade situation where Defendant consistently refused to cooperate with LVMPD Crisis
10 Negotiators Team before eventually surrendering—ATI Supervisors determined that Defendant’s
11 placement on High Level Electronic Monitoring would pose an unreasonable risk to public safety
12 or to law enforcement personnel tasked with supervising Defendant.

13 18. Even if Defendant’s actions may be attributable to his alleged PTSD diagnosis,
14 given the facts available to the Sheriff, he cannot reasonably conclude that High Level Electronic
15 Monitoring would mitigate the foreseeable risk to public safety or to law enforcement personnel
16 tasked with supervising Defendant.

17 19. Pursuant to their statutory duty under Nev. Rev. Stat. §§ 211.250(2) and 211.300,
18 ATI supervisors, as the Sheriff’s designee, determined that Defendant was disqualified from High
19 Level Electronic Monitoring because ATI supervisors concluded that Defendant’s placement on
20 High Level Electronic Monitoring would pose an unreasonable risk to public safety.

21 20. On May 22, 2026, I provided ATI’s determination, via administrative
22 correspondence to this Court. In that correspondence, I detailed the reasons for Defendant’s non-
23 qualification for High Level Electronic Monitoring; namely, Defendant’s sudden, violent episode
24 where he shot a co-worker and repeatedly refused to comply with LVMPD officers for

1 approximately 6 hours until he surrendered, and LVMPD officers' assessment, based on their
2 personal observations of his behavior, that Defendant was ready to use deadly force against officers
3 if they attempted to apprehend Defendant. **Exhibit 2**, May 22, 2026 Letter to Court.

4 21. ATI supervisors' determination was based on the totality of the circumstances,
5 including Defendant's underlying criminal conduct, which resulted in a gunshot victim, and
6 Defendant's charges of 1) battery with use of a deadly weapon; 2) discharge of a gun in an occupied
7 structure; and 3) resisting of a public officer with a firearm.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on this 1st day of June, 2026.

10 /s/ Sergeant Karina Ramirez-De Lara
11 Sergeant Karina Ramirez-De Lara

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 In Response to this Court's Order to Show Cause, Sheriff McMahill and LVMPD provide
15 the above Declaration of Sergeant Karina Ramirez De-Lara in anticipation of the Court's questions
16 "regarding LVMPD's decision to keep Defendant in custody." Order 2:11-12, Doc. 19.

17 At the same time, this Response demonstrates that, under NRS 211.250(2) and 211.300,
18 the Sheriff cannot lawfully accept a pretrial detainee for placement on the Electronic Monitoring
19 Program without concluding that such placement "poses no unreasonable risk to public safety."
20 Nev. Rev. Stat. § 211.250(2). This independent public-safety determination, mandated by statute,
21 resulted in Defendant's continued custody until the Court modified the condition of Defendant's
22 release; namely, replacing the condition of High Level Electronic Monitoring (under NRS 211.250
23 *et seq.*) with PCU Level 4 monitoring (under NRS 211A.090 *et seq.*). See May 28, 2026 Court

1 Mins. Accordingly, Sheriff McMahill and LVMPD's actions were the result of abiding by their
2 legal duty to protect public safety, not by defiance of any court order.

3 This Response explains why the Sheriff's decision was lawful and appropriate by outlining
4 the statutory framework that provides the Sheriff with authority to not accept a pretrial detainee
5 for electronic monitoring when the Sheriff or his designees conclude that such placement would
6 pose an unreasonable risk to public safety. The Response also explains how the Sheriff's exercise
7 of that authority does not intrude on this Court's authority to set the conditions of a defendant's
8 release. Finally, the Response highlights that the Nevada Supreme Court is currently considering
9 these same statutory and separation of powers issues in pending writ proceedings.

10 Given the statutory background and the consistent recognition by other courts of the
11 Sheriff's statutory role, this Response intends to anticipatorily address the Court's questions by
12 demonstrating that the Sheriff's conduct was lawful, reasonable, and consistent with his
13 constitutional and statutory obligations, warranting discharge of the Order to Show Cause.

14 Before addressing those points, however, this Response will first address LVMPD's
15 nonappearance at the May 28, 2026 Status Check.

16 **II. MAY 28, 2026 STATUS CHECK**

17 No court order directed Sheriff McMahill, LVMPD, or any LVMPD representative to
18 appear at the May 28, 2026 status check. On May 26, 2026, this Court issued an Order setting a
19 Status Check for May 28, 2026, regarding Defendant's custody status and served that Order on
20 Defendant's Counsel and the District Attorney. Doc. 13. Separately, the Court sent an email
21 providing notice to multiple LVMPD personnel advising that a Status Check had been set.
22 **Exhibit 3**, May 26, 2026 Court Email. Neither the Order nor the email, however, required
23 LVMPD's or its representatives' appearance; rather, they provided only notice to LVMPD of the
24 proceeding.

1 Based upon the language of the email and the multiple recipients, LVMPD reasonably did
2 not believe that its appearance was required. Sheriff McMahill, LVMPD, and their representatives
3 would not disregard a court order to appear had one been issued. Because no order required
4 LVMPD to attend the May 28 Status Check, LVMPD and Sheriff McMahill did not send a
5 representative to appear. LVMPD’s absence therefore followed directly from the terms of the
6 Court’s Order (Doc. 13), and not from any unwillingness to comply with a judicial command.

7 **III. ARGUMENT**

8 **A. NRS 211.250 and 211.300 Establish a Framework in Which the Court Approves** 9 **a Pretrial Detainee for Electronic Supervision as a Condition of Defendant’s** 10 **Release and the Sheriff Independently Evaluates Whether Electronic Supervision** 11 **Poses an Unreasonable Risk to Public Safety**

12 When interpreting a statute, Nevada Courts “look to its plain language.” *Smith v.*
13 *Zilverberg*, 137 Nev. 65, 72, 481 P.3d 1222, 1230 (2021) (citing *Arguello v. Sunset Station, Inc.*,
14 127 Nev. 365, 370, 252 P.3d 206, 209 (2011)). If the statute’s language is plain and unambiguous,
15 Nevada courts must enforce the statute as written and need not rely on the rules of construction.
16 *Local Gov’t Emp.-Mgmt. Relations Bd. v. Educ. Support Emps. Ass’n*, 134 Nev. 716, 721, 429
17 P.3d 658, 662–63 (2018).

18 Nevada’s Electronic Supervision of Prisoners statutes are at the center of this Response.
19 *See Nev. Rev. Stat. § 211.250 et seq.* The plain language of NRS 211.250(2) imposes a mandatory
20 duty on the Sheriff that operates independently from the Court’s authority to order a defendant’s
21 release and the Court’s authority to approve electronic monitoring of the defendant as a condition
22 of that release. NRS 211.250 states:

23 **NRS 211.250 Prerequisites for electronic supervision.**

24 Unless the sentencing court otherwise orders in a particular case, the
sheriff or chief of police may supervise a convicted prisoner
electronically instead of confining the prisoner physically in the
county or city jail if:

- 1 1. The prisoner has a residential living situation which is capable of
- 2 meeting the standards set in the general rules and individual
- 3 conditions for electronic supervision; and
- 4 2. The sheriff or chief of police concludes that electronic supervision
- 5 poses no unreasonable risk to public safety.

6 Nev. Rev. Stat. § 211.250.

7 NRS 211.300, in turn, makes the foregoing provisions of NRS 211.250 applicable to
8 unconvicted persons detained before trial.

9 **NRS 211.300. Electronic supervision of unconvicted person**
10 **detained before trial.** With the approval of the court of jurisdiction
11 for the particular case, the sheriff or chief of police may supervise
12 an unconvicted person detained before the person’s trial in the
13 manner provided for convicted prisoners in NRS 211.250 to
14 211.290, inclusive. If such approval is given, the provisions of NRS
15 211.250 to 211.290, inclusive, apply to the unconvicted person in
16 the same manner as they apply to a convicted prisoner.

17 Nev. Rev. Stat. § 211.300. Read together, the plain language of NRS 211.250 and 211.300
18 requires the Sheriff, as a prerequisite to the pretrial detainee’s placement in the Electronic
19 Monitoring Program, to determine that electronic monitoring of the pretrial detainee would not
20 pose an unreasonable risk to public safety.

21 This statutory framework is consistent with the Court’s exercise of judicial discretion to
22 set the conditions of an unconvicted defendant’s release and the Sheriff’s independent duty to
23 protect public safety.

24 First, the Court exercises its judicial authority by ordering a pretrial detainee’s own
recognizance release and then approving electronic monitoring as a condition of that release. Then,
the Sheriff independently evaluates whether electronic monitoring of that defendant would pose
an unreasonable risk to public safety because NRS 211.250(2) requires that “[t]he sheriff . . .
concludes that electronic supervision poses no unreasonable risk to public safety” before accepting
the defendant into the Electronic Monitoring Program. If the Sheriff determines that electronic

1 monitoring of the pretrial detainee would pose an unreasonable risk to public safety, then he must
2 decline to accept the defendant into the Electronic Monitoring Program.

3 The Sheriff's conclusion, through his designees in ATI, that Defendant would pose an
4 unreasonable risk to public safety if placed on High Level Electronic Monitoring illustrates the
5 statutory framework operating as intended. The Sheriff's conclusion was based on the sudden and
6 unpredictable nature of Defendant's actions at Atomic Golf, which resulted in a gunshot victim
7 and a six-hour barricade situation where the armed Defendant consistently refused to cooperate
8 with LVMPD Crisis Negotiators Team before eventually surrendering.

9
10 **B. No Court Has Found That the Sheriff Exceeds His Authority Under**
11 **NRS 211.250(2) and 211.300 When He Denies a Pretrial Detainee's Placement on**
12 **Electronic Monitoring After Concluding That Placement Would Pose an**
13 **Unreasonable Risk to Public Safety**

14 As this Court may be aware, Sheriff McMahill and LVMPD are litigating two Nevada
15 Supreme Court writ petitions that present novel questions of first impression about how
16 NRS 211.250 and 211.300 apply to pretrial detainees like Defendant. In one writ petition, *LVMPD*
17 *and Sheriff McMahill v. Justice Court of Las Vegas Township* (Dkt. No. 92261), Sheriff McMahill
18 and LVMPD ask the Nevada Supreme Court to prohibit Nevada's lower courts from conducting
19 contempt proceedings against the Sheriff and LVMPD based on the Sheriff's public safety
20 determinations for pretrial detainees under NRS 211.250(2) and NRS 211.300. In another writ
21 petition, *Sanchez-Lopez, et al. v. LVMPD and Sheriff McMahill* (Dkt. No. 92128), the Petitioners
22 ask the Supreme Court to prohibit Sheriff McMahill from making independent safety
23 determinations under NRS 211.250(2) and 211.300 for pretrial detainees. The Nevada Supreme
24 Court has assumed jurisdiction over both petitions and has set briefing schedules on the
substantially important questions presented therein.

1 Those petitions present a core separation of powers dispute between coequal branches of
2 government under Article 3, Section 1 of the Nevada Constitution. The Sheriff contends that
3 compelling him to place a pretrial defendant on electronic monitoring despite his statutory
4 determination that such placement poses an unreasonable risk to public safety impermissible
5 intrudes on executive authority. The Petitioners, by contrast, contend that the Sheriff’s statutory
6 public safety determination usurps a judicial function. The Supreme Court’s acceptance of both
7 petitions underscores that this dispute involves serious, unresolved constitutional questions
8 concerning the respective roles of the judicial and executive branches.

9 Even so, no court has held that Sheriff McMahill exceeded his authority under NRS
10 211.250(2) or 211.300 by declining to place a pretrial detainee on electronic monitoring after
11 concluding that such placement would pose an unreasonable risk to public safety. Multiple courts
12 have addressed this issue and either ruled in the Sheriff’s favor or stayed motions for orders to
13 show cause against the Sheriff and LVMPD. Department XXVII of the Eighth Judicial District
14 Court concluded that “NRS 211.300 and NRS 211.250 provide LVMPD the authority to determine
15 whether it can appropriately release a defendant on electronic monitoring.” **Exhibit 4**, C-25-
16 396423-1, March 13, 2026 Order at 14:8–14. Department I stayed proceedings seeking to hold the
17 Sheriff in contempt. **Exhibit 5**, C-26-398258-1, May 12, 2026 Court Mins. And Department 11 of
18 the Las Vegas Justice Court likewise declined to find Sheriff McMahill or LVMPD in contempt.
19 **Exhibit 6**, March 19, 2026, 25-CR-086442 Register of Actions. To date, no court has concluded
20 that the Sheriff’s exercise of his statutory discretion under NRS 211.250(2) and 211.300 is
21 unlawful.

22 Independent of the questions now pending before the Nevada Supreme Court, established
23 Nevada law recognizes that a court may impose release conditions that a defendant cannot satisfy,
24 so long as the procedural requirements for continued detention are met. As the Nevada Supreme

1 Court made clear in *Valdez-Jimenez v. Eighth Judicial District Court*, the imposition of such
2 conditions does not violate due process.

3 **C. Under *Valdez-Jimenez*, a Court May Impose Release Conditions a Defendant**
4 **Cannot Satisfy, and the Sheriff’s Independent Determination Does Not**
5 **Encroach on That Authority**

6 Independent of the Sheriff’s statutory authority discussed above, established Nevada law
7 makes clear that a court may impose release conditions that a defendant cannot satisfy, so long as
8 the additional procedural safeguards discussed in *Valdez-Jimenez v. Eighth Judicial Dist. Court of*
9 *Nev.* are met when the Court sets the conditions of a defendant’s release or bail order. 136 Nev.
10 155, 165–66, 460 P.3d 976, 987 (2020). Under that framework, the Sheriff’s independent public-
11 safety determination, which is undertaken after the Court approves electronic monitoring as a
12 condition of release, did not encroach on this Court’s authority to set the conditions of release.

13 First, neither Sheriff McMahill nor LVMPD are a party to Defendant’s criminal case and
14 they did not participate in the April 19, 2026 custody status hearing in Las Vegas Justice Court.
15 At that hearing, the Justice Court ordered Defendant’s release subject to the condition that he be
16 placed on High Level Electronic Monitoring (“HLEM”), along with a no-contact order protecting
17 Atomic Gold and the victim. This Court later altered the conditions of release by reducing bail to
18 \$0, but maintained that Defendant be placed on HLEM as a condition of his release from CCDC.

19 Next, upon receiving notice that Defendant was approved for HLEM as a condition of his
20 release as a pretrial detainee, the Sheriff’s independent statutory obligation to evaluate whether
21 LVMPD could safely accommodate the conditions of Defendant’s release was triggered. Under
22 NRS 211.250(2) and 211.300 the Sheriff, or his designees, must independently evaluate whether
23 Defendant can be placed on electronic monitoring without posing an unreasonable risk to public
24 safety. As detailed in Sgt. Ramirez-De Lara’s Declaration and ATI’s May 22, 2026 administrative
correspondence to this Court, ATI Supervisors concluded that Defendant’s placement on High

1 Level Electronic Monitoring would pose an unreasonable risk to public safety or to law
2 enforcement personnel tasked with supervising Defendant.

3 The Nevada Supreme Court’s decision in *Valdez-Jimenez v. Eighth Judicial Dist. Court of*
4 *Nev.*, 136 Nev. 155, 460 P.3d 976 (2020), establishes that this result is not only permissible but
5 constitutionally sound. In *Valdez-Jimenez*, the Court recognized that when a release condition
6 results in continued detention, it functions as a detention order and must satisfy due process
7 requirements. *See Valdez-Jimenez*, 136 Nev. at 165, 460 P.3d at 987 (holding that “when bail is
8 set in an amount that results in continued detention, it functions as a detention order, and
9 accordingly is subject to the same due process requirements applicable to a deprivation of
10 liberty.”). Critically, the Court acknowledged that a judge may impose release or bail conditions
11 that a defendant cannot satisfy, so long as those procedural safeguards are met. *Id.* (“We conclude
12 that to ensure the accuracy of the court’s bail assessment and to comport with procedural due
13 process, additional procedural safeguards are necessary before bail may be set in an amount that
14 results in continued detention.”) (citing *United States v. Mantecon-Zayas*, 949 F.2d 548, 550 (1st
15 Cir. 1991). Accordingly, a Court may set non-financial release conditions, such as placement on
16 High Level Electronic Monitoring, that a defendant may be unable to satisfy (just as it may set bail
17 at “an amount that results in continued detention”), provided that the procedural due process
18 safeguards are met. *Id.* at 165, 460 P.3d at 987.¹

19
20
21 ¹ In *State v. Cordero-Davila*, Judge Erika Mendoza issued a written Order concluding that “NRS
22 211.300 and NRS 211.250 provide LVMPD with the authority to make an independent
23 determination as to whether LVMPD can accept responsibility for supervising a defendant on
24 electronic monitoring.” Ex. 4 at 12:8–10, Case No. C-25-396423-1, Mar. 12, 2026 Order. Part of
the Court’s analysis explained how *Valdez-Jimenez* is distinguished from the separate issue as to
“whether the Court can command LVMPD to supervise a defendant via a specific method without
affording LVMPD the opportunity ensure sufficient safeguards are in place to avoid an
unreasonable risk to public safety.” Ex. 4 at 11:28–10:2.

1 Here, this Court ordered Defendant’s release subject to a condition—placement on
2 HLEM—that ATI, as the Sheriff’s designees, determined would pose an unreasonable risk to
3 public safety. To effectuate Defendant’s release, the Court then altered the conditions of
4 Defendant’s release and placed him on PCU Level 4. *See* May 28, 2026 Court Minutes. At every
5 stage, the Court retained full authority to determine whether, and under what conditions, Defendant
6 would be released. Sheriff McMahill did not override the Court’s decision; he evaluated the risk
7 to public safety as required by statute, and the Court exercised its discretion to modify the
8 conditions of release. Nothing in that process encroached on the Court’s authority to set the
9 conditions of release.

10 **D. The Sheriff’s Administration of His Statutorily-Authorized Electronic**
11 **Monitoring Program Does Not Encroach on Judicial Authority**

12 The separation of powers principles implicated here demonstrate that while the Court
13 possesses unquestioned authority to determine whether a defendant will be released and under
14 what conditions, that authority does not extend to directing how an executive official must
15 administer a statutorily-authorized program or allocate executive resources.

16 The Ninth Circuit’s recent decision in *Simon v. City & Cty. of S.F.* provides persuasive
17 authority supporting the Sheriff’s discretion to condition a defendant’s participation in the
18 Electronic Monitoring Program. In *Simon*, the Court addressed “whether the Sheriff’s design of
19 [Pretrial Electronic Monitoring] encroaches on the Superior Court’s responsibility to set the
20 ‘reasonable conditions’ for a defendant’s release.” *Simon v. City & Cty. of S.F.*, 135 F.4th 784, 799
21 (9th Cir. 2025).² To address this question, the *Simon* Court explained that “the [court’s] power to
22

23 ² The Pretrial Electronic Monitoring Program offered by the San Francisco Sheriff’s Office
24 (“SFSO”) is different from LVMPD’s Electronic Monitoring Program insofar as LVMPD’s
Program is explicitly authorized by statute while the San Francisco Program is offered “as an
option for” San Francisco’s courts. *Simon*, 135 F.4th at 802.

1 set the reasonable conditions of release is not the same as determining every aspect of their
2 administration” and that “a constitutional grant of *general* authority to the courts does not impair
3 the ability of the other branches to place reasonable limits upon a court’s exercise of discretion in
4 certain instances.” *Id.* at 800 (emphasis in original).

5 *Simon* provides persuasive authority of the Court’s authority to set the conditions of a
6 defendant’s release and its effect on the Sheriff’s role in implementing those release conditions:

7 “The court remains free to order whatever conditions it thinks
8 appropriate. Once the court issues OR release with conditions, the
9 court’s work is complete. It is then up to the Sheriff to enforce the
10 conditions of release, consistent with his other responsibilities. The
11 Sheriff, however, is not a party to the order; that is, the Superior
12 Court has no power to compel SFSO to enforce the terms of the
13 order. We will be careful here: SFSO cannot get overzealous—it has
14 no power to add to the terms imposed by the court. Any such *over-*
15 *enforcement* of the conditions pronounced by the Superior Court
16 would be usurpation by the executive branch; the executive can only
17 enforce what the judiciary orders. But what happens if SFSO
18 decides that it cannot enforce the terms as ordered and thus
19 *underenforces* the terms? Nothing in California law suggests that the
20 court can compel the actions of the Sheriff.”

21 *Simon* 135 F.4th at 801. Likewise, nothing in Nevada law suggests that the Court can
22 compel the actions of Sheriff McMahon. ATI’s determination that Defendant was not qualified for
23 HLEM was not an encroachment on the Court’s authority to set the reasonable conditions for
24 Defendant’s release. Rather, it was an exercise of the Sheriff’s statutory discretion to decline to
accept a Defendant into his own statutorily-authorized program. *See Nev. Rev. Stat. §§ 211.250,*
211.300. Although the decision to release a defendant or to impose electronic monitoring as a
condition of that release remains with the Court, “the Court does not get to tell the Sheriff how to
use his resources, that would be judicial aggrandizement.” *See Simon*, 135 F.4th at 802.

Applying *Simon* here, this Court ordered Defendant’s release, and conditioned his release
on placement on HLEM, with the additional no-contact order for Atomic Golf and the victim. In

1 exercising his mandatory statutory duty and administrative discretion to implement the Court's
2 release conditions, the Sheriff evaluated whether Defendant's placement on HLEM could
3 reasonably mitigate the risk to public safety. ATI, as the Sheriff's designee, determined that
4 Defendant would pose an unreasonable risk to public safety if placed on Electronic Monitoring
5 based on the totality of the circumstances discussed in Sergeant Ramirez-De Lara's declaration
6 above. *See Simon*, 135 F.4th at 800 ("It is the court's duty to determine the nature of the
7 requirements imposed on the releasee, but the Sheriff can properly specify the details necessary to
8 effectuate the court's release conditions.") (citation modified).

9 **IV. CONCLUSION**

10 Sheriff McMahill and LVMPD pray that the foregoing addresses any questions the Court
11 may have in advance of the June 2, 2026 hearing. In addition, Sheriff McMahill and LVMPD
12 respectfully request that the Court discharge the Order to Show Cause issued on May 28, 2026.

13 DATED this 1st day of June, 2026.

14 LAS VEGAS METROPOLITAN POLICE DEPARTMENT
15 OFFICE OF THE GENERAL COUNSEL

16 By: /s/ Michael R. Dickerson

17 MICHAEL R. DICKERSON (Nevada Bar No. 13476)
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22 *Attorneys for Specially-Appearing Non-parties*
23 *Sheriff Kevin McMahill and Las Vegas Metropolitan*
24 *Police Department*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that service of the **SHERIFF KEVIN**
3 **MCPMAHILL AND LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S**
4 **RESPONSE TO ORDER TO SHOW CAUSE** was made on this date to the following counsel
5 of record and/or parties by electronic transmission through the Eighth Judicial District Court's
6 electronic filing system, to all parties appearing on the electronic service list in Odyssey E-File
7 and/or by First Class Mail (where indicated) addressed to the following:

8 Alan J. Buttell
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22 DATED this 1st day of June, 2026.

23 */s/ Travis Studdard*
24 _____
an employee of Kaempfer Crowell

EXHIBIT 1

May 19, 2026
Administrative Custody Status
Change Form

EXHIBIT 1

EMP HIGH

A21245P

AMENDED

THE DEFENDANT LISTED BELOW HAS A CHANGE IN CUSTODY STATUS

R/C 26-02-039152

NAME: Andrew Mullen ID #: 7167758 CASE #: C-26-399252-1

RETURN DATE: 06/16/2026 TIME: 8:30 AM DEPT: #: 15

- O.R. RELEASE
- O.R. RELEASE TO CCDC HOUSE ARREST ONLY
- O.R. RELEASE TO CCDC INTENSIVE SUPERVISION PROGRAM ONLY
- CREDIT TIME SERVED (CTS)
- CASE CLOSED CASE DISMISSED

EMP

RELEASE TO REPRESENTATIVE OF _____
FOR TRANSPORT TO _____

RELEASE TO (Name of Individual) _____
Address: _____ Phone #: _____

RELEASE TO PAROLE & PROBATION (P&P ONLY)

SUSPENDED SENTENCE (PROBATION)

DEFT RELEASED TO STREET (-TO REPORT TO P&P IMMEDIATE FOR P&P HOUSE ARREST,
P&P INTENSIVE SUPERVISION, ETC.)

PROBATION REINSTATED

HONORABLE DISCHARGE

DISHONORABLE DISCHARGE

SPECIAL CONDITIONS

Defendant RELEASED on High-Level EMP; Stay Away from Atomic Golf; No use or possession of firearms; Stay out of trouble; Complete treatment with Veterans Affairs and Take Proper Medication

PRIOR TO SENTENCING – Upon release, report to Parole and Probation, 215 E. Bonanza Road between 8:00 A.M. & 5:00 P.M. (Mon – Fri) for Pre-Sentence Interview (PSI)

AFTER SENTENCING – Upon release, report to Parole and Probation, 215 E. Bonanza Road between 8:00 A.M. & 5:00 P.M. (Mon – Fri)

BAIL SET AT \$ _____

SERVE _____ DAYS, REGULAR TIME FLAT TIME
WITH _____ DAYS CTS AS A CONDITION OF PROBATION

Joe Hardy
JUDGE

Department 15
DEPT NO.

Francisco Reyes
COURT CLERK

5/19/2026
DATE

0519261616 DSD RECORDS

v202691

EXHIBIT 2

May 22, 2026
ATI Correspondence

EXHIBIT 2

Redacted portion is only for demonstrative and simplification purposes.
Redacted portion is Exhibit 3.

From: Karina Ramirez De Lara <K13973R@LVMPD.COM>

Sent: Friday, May 22, 2026 5:00 PM

To: Rivera, Amanda <RiveraA@clarkcountycourts.us>; Brower, Sondra
<Dept15LC@clarkcountycourts.us>

Cc: Michael Gutierrez <M9886G@LVMPD.COM>; Jason Nededog <J8839N@LVMPD.COM>; Ricardo
Coleman <R13843C@LVMPD.COM>; Dawn Decelles <D15982D@LVMPD.COM>; Samantha Kyle
<S19235K@LVMPD.COM>; Erin Wittig <E12575W@LVMPD.COM>; Michael Dickerson
<M21399D@LVMPD.COM>; Allison Reese <A21610R@LVMPD.COM>; Jonathan Clark
<J8838C@LVMPD.COM>

Subject: MULLEN, ANDREW #7167758 / CS# C-26-399252-1

Your honor,

Please see attached correspondence regarding Mullen's placement onto Electronic Monitoring with the LVMPD Electronic Monitoring Program. If you have any questions or concerns, please feel free to reach out. Mr. Mullen will be served with a copy of this letter.

Respectfully,

Sgt. Karina Ramirez-De Lara

LVMPD – CCB House Arrest

LEP

Mobile | ✉ K13973R@lvmpd.com



“Evil is powerless if the good are unafraid.” - President Ronald Reagan

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March 21, 2026

Via Electronic Mail

Honorable Joe Hardy

District Court Department 15

DEFENDANT: MULLEN, ANDREW TODD ID# 7167758

CASE: C-26-399252-1

CHARGE(S): BATTERY WITH USE OF A DEADLY WEAPON (F); Eleven (11) Counts of DISCHARGING FIREARM WITHIN A STRUCTURE (F); RESISTING PUBLIC OFFICER WITH A FIREARM (F)

The above-listed defendant was court approved for electronic supervision through the Las Vegas Metropolitan Police Department's Electronic Monitoring Program (EMP), specifically High-Level EMP. After reviewing the defendant's application for release to EMP, the Sheriff of Clark County has concluded that electronic supervision of the defendant poses an unreasonable risk to public safety. Therefore, pursuant to NRS 211.250, Defendant will not be released to EMP.

The defendant, ANDREW TODD MULLEN, showed complete disregard to public safety by shooting at co-workers at his workplace, Atomic Golf. While inside an office, MULLEN yelled for someone to open the door, then when a female co-worker opened the door, he shot her in the chest. MULLEN told detectives that once he saw the movement, he isolated his target and shot. MULLEN's co-workers fled and sheltered in place, in fear of being killed. MULLEN fired 11 rounds, reloading during that time, and then barricaded himself inside an office at the business, using furniture to block the door. The LVMPD SWAT Team and Crisis Negotiation Team responded to Atomic Golf. With police officers on scene trying to engage with MULLEN, MULLEN took a tactical position holding his gun in his hand behind cover as he aimed at the single point of entry to the office he was barricaded within. The LVMPD investigation assessed MULLEN was ready to use deadly force against officers who would enter that door to conduct a lawful arrest. MULLEN barricaded for approximately 6 hours and refused to participate in negotiations with the LVMPD Crisis Negotiators. MULLEN has tactical training and experience, which he spoke about and demonstrated, to competently



cause violence to supervising and responding officers. While MULLEN has previous arrests out of state, MULLEN more recently has obtained an active failure-to-appear warrant out of Nye County, showing his noncompliance with that court prior to the Atomic Golf event. Due to the foregoing, the Sheriff of Clark County has concluded that electronic supervision of MULLEN poses an unreasonable risk to public safety; MULLEN is therefore not qualified to participate in LVMPD's Electronic Monitoring Program.

Should you have any questions please feel free to contact the House Arrest Office.

Respectfully,

Kevin McMahon, Sheriff

By:

Handwritten signature of K. Ramirez-De Lara, followed by the number 13973.

Sgt. K. Ramirez-De Lara, Acting Lieutenant

EXHIBIT 3

May 26, 2026
Court Email

EXHIBIT 3

From: Brower, Sondra <Dept15LC@clarkcountycourts.us>

Sent: Tuesday, May 26, 2026 2:53 PM

To: Ramirez De Lara, Karina <K13973R@LVMPD.COM>; Rivera, Amanda <RiveraA@clarkcountycourts.us>

Cc: Michael Gutierrez <M9886G@LVMPD.COM>; Jason Nededog <J8839N@LVMPD.COM>; Ricardo Coleman <R13843C@LVMPD.COM>; Dawn Decelles <D15982D@LVMPD.COM>; Samantha Kyle <S19235K@LVMPD.COM>; Erin Wittig <E12575W@LVMPD.COM>; Michael Dickerson <M21399D@LVMPD.COM>; Allison Reese <A21610R@LVMPD.COM>; Jonathan Clark <J8838C@LVMPD.COM>; 'Alan Buttell' <alanbuttell@me.com>; Jory Scarborough <Jory.Scarborough@clarkcountydav.gov>

Subject: RE: MULLEN, ANDREW #7167758 / CS# C-26-399252-1

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Good afternoon,

Please be advised that the Court has set a status check on Defendant Mullen's custody status for May 28, 2026, at 8:30 a.m.

Best,

Sondra Brower

Law Clerk to the Honorable Joe Hardy, Jr.

Eighth Judicial District Court, Department XV

Regional Justice Center

200 Lewis Avenue

Courtroom 11D

Las Vegas, NV 89101

Telephone: (702) 671-4409

Email: dept15lc@clarkcountycourts.us

Redacted portion is only for demonstrative and simplification purposes.

Redacted portion here is Exhibit 2.

LEP

Law Enforcement Privilege

The record(s) you seek are law enforcement records that contain sensitive information.

A law enforcement agency may withhold records under the Nevada Public Records Act when its interest in nondisclosure clearly outweighs the public's presumed right to access. *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 628 (2011). There is a presumption that records are not confidential, that exceptions must be narrowly construed, that redactions are preferred over withholding, and that the purpose of the Nevada Public Records Act is to facilitate government transparency. However, Nevada law and public policy recognize the importance of maintaining the integrity of law enforcement records. See, for example:

- NRS 179A.070 – 179A.100 (strictly regulating the dissemination of records of criminal history; in particular, there is no requirement to disseminate records of criminal history to the general public; moreover, records of criminal history are not public records pursuant to NRS 239.010(1) (listing statutes that are exempted from the Nevada Public Records Act, including NRS 179A.070).
- *Donrey v. Bradshaw*, 106 Nev. 630, 636, 798 P.2d 144, 148 (1990) (in a public records case, recognizing that law enforcement files could be confidential when pertaining to a “pending or anticipated criminal proceeding” or if there is a danger of “denying someone a fair trial” and concluding that records could be made public because there was “no pending or anticipated criminal proceeding; there [were] no confidential sources or investigative techniques to protect; there was no possibility of denying someone a fair trial; and there was no potential jeopardy to law enforcement personnel.” *Id.* at 636, 798 P.2d at 148.
- *Reno Newspapers v. Gibbons*, 127 Nev. 873, 878, 266 P.3d 623, 627 (2011). (recognizing that the balancing test first announced in *Donrey* had been modified by legislative changes to the Nevada Public Records Act, but nonetheless noting that the result in *Donrey* was “based on the facts that no criminal proceeding was pending or anticipated, no confidential sources or investigative techniques were contained in the

report, there was no possibility of denying anyone a fair trial, and disclosure did not jeopardize law enforcement personnel”).

- NRS 49.335 – 49.355 (making the identity of informants who provide information to law enforcement confidential until they testify).
- *Las Vegas Metro. Police Dep't v. Anderson (In re 12067 Oakland Hills, Las Vegas)*, 134 Nev. 799, 806, 435 P.3d 672, 678 (Nev. Ct. App. 2018) (noting that, generally, the police do not need to return evidence seized from its owner if the “property [is] related to an ongoing criminal investigation”).
- Att. Gen. Op. 83-3 (recognizing the “legitimate public policy interests in maintaining confidentiality of criminal investigation records and criminal reports, including records concerning subjects who have never been arrested”).
- Nev. Const., art. I, § 8A (Marsy’s Law, constitutionalizing victims’ rights to privacy, safety, and a diligent pursuit of justice).
- NRS 174.235 (making the disclosure of police files and evidence collected subject to strict discovery rules in open criminal prosecutions); see also *Tennessean v. Metro. Gov't of Nashville & Davidson Cty.*, 485 S.W.3d 857 (Tenn. 2016) (interpreting criminal rule of procedure similar to NRS 174.235 and holding that discovery of materials gathered by state for use in criminal prosecution may be obtained by defendant pursuant to rules of discovery, not by newspaper through a public records request); *Wilson v. Layne*, 526 U.S. 603, 119 S. Ct. 1692 (1999) (holding that when balancing a person’s Fourth Amendment right to be secure in their persons, houses, papers, and effects, probable cause may justify a *police* entry and seizure but it does not justify the *media’s* entry and/or seizure).
- NRS 179.045(4) (making search warrant applications, which regularly contain detailed facts gathered in open criminal investigations, confidential upon a showing of good cause).
- *In re Search Warrants Regarding Seizure of Documents*, 2023 WL 2861201 (Nev. Ct. App. 2023) (unpublished) (holding that good cause existed to keep search warrant application under seal because dissemination would threaten the integrity of an active and ongoing criminal investigation).
- NRS 172.245. Evidence and information obtained by grand juries during their investigations are confidential. The purposes of confidentiality include: (1) To prevent the escape of those whose indictment may be contemplated. (2) To insure the utmost freedom to the grand jury in its deliberations and to prevent persons subject to indictment, or their friends, from importuning the grand jurors. (3) To prevent subornation of perjury or tampering with the witnesses who may testify before the grand jury and later appear at the trial of those indicted by it. (4) To encourage free

and untrammelled disclosures by persons who have information with respect to the commission of crimes. (5) To protect an innocent accused, who is exonerated, from disclosure of the fact that he has been under investigation. *Shelby v. Sixth Judicial Dist. Court*, 82 Nev. 204, 210, 414 P.2d 942, 945 (1966).

- *Houston v. County of Maricopa*, — F.4th —, 2024 U.S. App. LEXIS 22564, 2024 WL 4048897 (9th Cir. Sep. 5, 2024) (holding that dissemination of a pretrial detainees' booking photo to the public is generally unconstitutional under the substantive due process clause of the 14th Amendment because it constitutes punishment without due process).

Given the totality of the law governing the disclosure of information concerning law enforcement records, the following non-exclusive factors are considered in evaluating whether law enforcement interests in confidentiality clearly outweigh the public's presumed interest in access:

- Whether protecting the integrity of the investigation better enables detectives and prosecutors to evaluate the credibility of any information that may come in the future. If a future witness were to know what other witnesses have said, or what other evidence has revealed, the future witness' statements will not be as reliable.
- Whether witnesses and informants have provided information that, if disclosed, could create danger or at least embarrassment to them.
- Whether any privacy interests and/or constitutional rights of any victims, witnesses, or subjects (including subjects never arrested) would be impacted by disclosure.
- Whether premature disclosure would have a chilling effect on future witnesses coming forward to provide information in this or other cases.
- Whether law enforcement officers have acted in an undercover capacity, or whether any witnesses have provided information as confidential informants.
- Whether disclosure would reveal confidential techniques or tactics that would risk enabling subjects to circumvent the law in the future.

In this case, after a careful examination of all factors, law enforcement's interest in nondisclosure clearly outweighs the public's presumed interest in access. Therefore, the information you seek is confidential.