

<p>DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO</p> <p>Court Address: 7325 S. Potomac St. Centennial, CO 80112</p> <hr/> <p>Plaintiff: PEOPLE OF THE STATE OF COLORADO</p> <p>vs.</p> <p>Defendant: JAMES E. HOLMES</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Michael C. Thies, #17079 Christopher O. Murray, #39340 HOGAN LOVELLS US LLP One Tabor Center, Suite 1500 1200 Seventeenth St. Denver, CO 80202 Phone No.: (303) 899-7300 FAX No.: (303) 899-7333 michael.theis@hoganlovells.com chris.murray@hoganlovells.com</p>	<p>Case No. 12-CR-1522</p> <p>Division: 22</p>
<p align="center">AFFIDAVIT OF BRUCE D. BROWN</p>	

BRUCE D. BROWN, being duly sworn, deposes and says:

1. I am the Executive Director of the Reporters Committee for Freedom of the Press (“Reporters Committee”), a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment and freedom of information rights of the news media. I submit this Affidavit in support of Jana Winter’s Motion for Protective Order and to Quash the Subpoena Duces Tecum and Ad Testificandum served upon her by the Defendant.

2. The Reporters Committee has provided representation, guidance, and research in First Amendment and Freedom of Information Act litigation since 1970.

3. As advocates for the rights of the news media and others who seek to publish information on matters of public concern, the Reporters Committee closely monitors developments in media law nationwide that affect the ability to gather and disseminate news, including the issuance of subpoenas to journalists who are not parties to litigation.

4. The Reporters Committee publishes numerous resources for journalists, including a 50-State Privilege Compendium with background information on the Colorado Press Shield Law, C.R.S. § 13-90-119, and has on many occasions provided input to Colorado courts because of our experience analyzing legal issues that touch on First Amendment, common law, and statutory rights and because of our commitment to protecting the freedom of the press and the free flow of news and information to the public.

5. The Reporters Committee is concerned that this Court's application of the Colorado Press Shield Law could have negative implications for other newsgatherers, whether they are based in Colorado or work elsewhere as they cover this case of national interest.

6. Journalists in Colorado and throughout the country routinely utilize confidential sources to prepare news reports on a wide range of issues, including, in particular, on the conduct of government institutions. In many instances, such reports could not be produced and broadcast if reporters could not assure confidential sources that their identities will be protected from public disclosure.

7. Any weakening of the protections afforded to Colorado-based journalists under the Colorado Press Shield Law would have a far-reaching impact on the ability of reporters, editors, and news producers to obtain information from knowledgeable sources and to transmit that information to the public.

8. As other courts have noted, burdening the press with the heavy costs of subpoena compliance will inevitably impair its ability to perform its newsgathering duties.

9. This Court should be mindful of the “chilling effect” subpoenas have on reporters and the sources of their information. Journalists often have difficulty convincing reluctant sources to come forward and speak freely and openly, particularly about controversial issues. The task is even more challenging, if not impossible, if the sources sense that reporters may be compelled to serve as witnesses against those whom they interview.

10. Careful application of all the elements of the Colorado Press Shield Law will ensure that journalists maintain the independence they need from the judicial process to report the news.

11. A court order compelling Ms. Winter to divulge her confidential sources would frustrate the ability of reporters across the state to gather the information necessary to keep the public informed about the criminal justice system.

FURTHER, Affiant saith not.

DATED: April 8, 2013



BRUCE D. BROWN

STATE OF VIRGINIA)
)ss.
COUNTY OF ARLINGTON)

Sworn to before me this 8th day of April, 2013, by Bruce D. Brown.

Kristina R Kindler Kristina R Kindler
Notary Public

My commission expires: Sept. 30th, 2017

