

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON

SW No. 20-0-616926

COUNTY OF KING

SEATTLE POLICE DEPARTMENT'S
RESPONSE IN OPPOSITION TO NEWS
MEDIA OBJECTIONS AND
REQUEST TO QUASH

I. OVERVIEW AND RELIEF REQUESTED

The City of Seattle's Police Department ("SPD") seeks to identify the persons who helped set SPD cars on fire and stole SPD firearms on May 30, 2020. Some of these firearms are still missing and represent a danger to the community. SPD's subpoena to the News Media parties seeks raw footage and photographs for a 90-minute period from a four-block area of downtown to help identify the persons who committed those felonies. Courts have enforced similar subpoenas to allow identification of suspects via news organizations' footage of public events. *E.g., In Re Grand Jury Subpoena to National Broadcasting Co., Inc.*, 178 Misc.2d 1052, 683 N.Y.S.2d 708 (N.Y. Sup. Ct. 1998) (ordering production of raw video of assaults occurring during protest pursuant to New York's shield statute); *In re Grand Jury Subpoena*, 201 Fed. Appx. 430, 432 (9th Cir. 2006) (unpublished) (upholding subpoena for raw footage to identify suspects who burned police vehicles).

1 The outcome should be no different here. The court-ordered production of such raw
2 footage and photographs to aid in an ongoing criminal investigation is neither procedurally nor
3 substantively improper, as explained further below.

4 **II. STATEMENT OF FACTS**

5 The facts are described in greater detail in the Affidavit of Michael Magan (which was
6 attached to the subpoena issued by the court, and served on the News Media defendants), and are
7 summarized below.

8 **A. THE UNRECOVERED WEAPONS.**

9 Five loaded weapons were stolen from SPD vehicles in the late afternoon of May 30,
10 2020: two Colt AR 15 rifles, two Colt M4 carbine rifles, and a Glock Model 43 semi-automatic
11 pistol. Magan Aff., at 3-4. Three of those weapons were eventually recovered; two of those
12 weapons (a loaded Colt M4 carbine rifle with suppressor and a Glock Model 43 semi-automatic
13 pistol) have not been recovered.

14 **B. THE UNIDENTIFIED SUSPECTS.**

15 The Arson Suspect. While one suspect who participated in lighting SPD vehicles on fire
16 (Margaret Channon) has been apprehended, another adult male wearing a knit cap who assisted
17 Ms. Channon in burning police vehicles remains unidentified and at large. Magan Affidavit, at
18 pp. 9-10.

19 Shooter Wearing a Red Sweatshirt. At approximately 4:06 pm, an unidentified adult
20 male wearing a red hooded sweatshirt and blue jeans smashed out the side window of an SPD
21 vehicle and stole a loaded Colt AR-15 rifle from the vehicle. Magan Affidavit, at 4. He
22 proceeded to fire four rounds through the front windshield of that SPD vehicle. A contract
23 security guard (who works for Media Defendant and Fox-affiliate KCPQ) drew his personal
24 firearm, confronted the suspect and ordered him to drop the weapon. Magan Affidavit, at 4. The
25 suspect complied, and the gun was recovered. However, the suspect is still at large.
26

1 The Red Adidas Tracksuit Suspect. At approximately 4:10 pm, an unidentified adult
2 male wearing a blue surgical mask and wearing red Adidas-branded clothing stole a Colt AR 15
3 rifle from inside of an SPD vehicle on the 1600 block of 6th Avenue. He then runs away
4 southbound on 6th Avenue to Pine Street. However, as he turns westbound on Pine Street, he is
5 confronted by an unidentified adult male, who takes the bag containing the rifle. Magan
6 Affidavit, at 4. That rifle was eventually recovered.

7 The individual in the red tracksuit is seen on video later breaking into the Old Navy store
8 in downtown Seattle. Magan Affidavit, at 11-12. That suspect remains at large and unidentified.

9 The Suspect Who Stole the Glock. At approximately 4:16 pm, an unidentified male with
10 his face covered and dressed in a dark-colored top, shorts and a backpack reached through the
11 broken window of an SPD vehicle parked in the 1600 block of 6th Avenue and removed a tan-
12 colored fanny pack containing a loaded Glock Model 43 semi-automatic pistol. Magan
13 Affidavit, at 5. Unfortunately, no additional surveillance video captures this suspect as he walks
14 towards Pine Street. Both that suspect and the loaded pistol remain at large.

15 The Suspect Wearing a Rolling Stones sweatshirt. At approximately 4:23 pm, an adult
16 male in a hooded sweatshirt with a Rolling Stones logo on it broke open the window on an SPD
17 vehicle and removed a loaded Colt AR 15 rifle. Once again, the contract security working for
18 Media Defendant and Fox-affiliate KCPQ drew his personal firearm and confronted this suspect,
19 convincing him to drop the weapon. The weapon was returned; the suspect remains at large.

20 **C. THE NEWS MEDIA PARTIES LIKELY CAPTURED IMAGES OF THESE**
21 **SUSPECTS THAT WOULD HELP IDENTIFY AND APPREHEND THEM.**

22 Detective Magan watched the civil unrest of May 30, 2020 unfold via local television
23 stations while off-duty that day. Magan Aff., at 13. He noted that the majority of the coverage
24 by the Media Defendants occurred within a four-block area between 4th Avenue to 6th Avenue
25 and Olive Way to Pike Street. Magan Aff., at 13. “Based on when the incidents under
26 investigation occurred, there is probable cause to believe that those media sources captured

1 images of the suspects in the footage/photographs taken in that area between 3:30 PM to 5 PM,
2 which footage/photographs have not yet been published.” Magan Aff., at 13-14.

3 After that day, Detective Magan was assigned to the joint SPD, FBI and ATF Task Force
4 to investigate the felonies. Magan Aff., at 14. As part of that task force, Detective Magan
5 reviewed numerous hours of surveillance and other video footage, as well as published
6 photographs. Magan Aff., at 14. This included surveillance footage from Nordstrom, Pacific
7 Place, Westlake Mall, as well as video footage sent to the SPD by concerned citizens. Magan
8 Aff., at 15. However, the quality of that footage is poor, limited and often does not capture all of
9 the events. Magan Aff., at 15.

10 Detective Magan reviewed published footage and photographs from the News Media
11 parties of these events, which is generally of much better quality. Magan Aff., at 15. Further,
12 that footage and those photographs, along with other images showing news cameras filming
13 portions of the events in question, show that these News Media parties were filming in the area at
14 the time and likely have further unpublished footage or photographs that may help identify the
15 suspects who committed these felonies and recover the still-missing firearms. Magan Aff., at 12
16 – 16.

17 For that reason, SPD sought and obtained from the court a subpoena to have these News
18 Media parties produce the following evidence:

19 Unedited or raw video footage/photographs from KIRO TV, KING TV, KOMO
20 TV and KCPQ, and the Seattle Times for Saturday, 05-30-20, taken from 1530
21 hrs: to 1700 hrs: in the area from Olive Street to Pike Street and from 6th Avenue
22 to 4th Avenue.

23 Magan Aff., at 16. On June 18, 2020, Judge Oishi issued a subpoena to these News Media
24 parties; however, he required a hearing first before any production. Since the News Media
25 parties filed their objections, SPD has offered to enter into a protective order to ensure that the
26 requested materials are used only to identify felony suspects and recover firearms, but SPD has
received no response to that suggestion. Esler Decl., Ex. 1.

1 **III. ISSUES PRESENTED**

- 2 1. Whether the subpoena is procedurally proper?
3 2. Whether this Court should order production?

4 **IV. EVIDENCE RELIED UPON**

5 “Magan Affidavit,” completed by Detective Michal Magan of the Seattle Police
6 Department, dated June 18, 2020; the “Subpoena,” signed by Judge Oishi, dated June 18, 2020;
7 Declaration of Brian W. Esler; and any evidence or argument taken at the hearing.

8 **V. LEGAL AUTHORITY**

9 SPD recognizes the essential role that journalists play in American society; however, just
10 like other citizens who witness crimes, the media can be compelled to produce evidence
11 regarding those crimes in some circumstances.¹ The subpoena does not seek any confidential
12 information, but only footage and photographs of events occurring in public during a limited
13 time. Under both the common law, and RCW 5.68.010 (the “Shield Statute”), SPD’s request
14 should be granted.

15 **A. THE SUBPOENA IS PROCEDURALLY PROPER.**

16 This matter arises from a criminal investigation, not a civil lawsuit. The normal
17 procedure for seeking such evidence is for the court to issue a search warrant. However, when
18 the evidence is held by media organizations, both the Criminal Rules and certain statutes require
19 a slightly different procedure, which is the procedure SPD followed in this instance.

20 Criminal Rule 2.3(f) specifically deals with “Searches of Media.” That section states that
21 if the “application for a search warrant is governed by RCW 10.79.015(3)” and the court
22 determines that there is probable cause for issuing a search warrant, “the court shall issue a
23 subpoena duces tecum in accordance with CR 45(b).” CrR 2.3(f)(2). The referenced RCW

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¹ *Branzburg v. Hayes*, 408 U.S. 665, 691, 92 S.Ct. 2646, 33 L.Ed.2d 626 (1972) (“the Constitution does not, as it
26 never has, exempt the newsman from performing the citizen’s normal duty of appearing and furnishing information”
relevant to a criminal investigation).

1 authorizes issuance of a search warrant to “search for and seize any evidence material to the
2 investigation or prosecution of . . . any felony: PROVIDED, That if the evidence is sought to be
3 secured from [any news media], the evidence shall be secured only through a subpoena duces
4 tecum.” RCW 10.79.015(3).

5 Notably, CrR 2.3(f)(2) only requires that the subpoena issue “in accordance with CR
6 45(b).” In turn, CR 45(b) addresses only how the subpoena needs to be served. Contrary to the
7 New Media parties’ arguments, neither CrR 2.3 nor RCW 10.79.015 incorporate *all* of CR 45,
8 nor the full panoply of the Civil Rules.

9 Had the Legislature intended for such incorporation, it would have said so. Instead, the
10 Legislature only required that the news media be served with a subpoena pursuant to CR 45(b)
11 and (as explained below) have an opportunity for the court to consider whether the requirements
12 of the Shield Statute (RCW 5.68.010) have been met before they are required to produce the
13 evidence. There is nothing procedurally improper about the issuance of this subpoena.

14 **B. SPD’S REQUEST COMPLIES WITH THE SHIELD STATUTE, THE FIRST**
15 **AMENDMENT, AND THE COMMON LAW.**

16 While the criminal rules authorize issuance of a subpoena, Washington’s Shield Statute
17 adds an additional gloss. That statute prohibits any judge from “compel[ling] the news media to
18 testify, produce, or otherwise disclose” non-confidential information until certain criteria are
19 met. RCW 5.68.010(1). While the News Media parties complain that the subpoena does not
20 have a definite return date,² the Shield Statute prohibits “compelling” the News Media parties to
21 produce evidence until a hearing is held. Judge Oishi followed the correct procedure in setting a
22 hearing date for the News Media defendants to air their objections, and for the court to determine
23 whether SPD has met its burden under the Shield Statute. *See* RCW 5.68.010(6) (court may
24 “conduct all appropriate proceedings required”).

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26 ² The Legislature only requires compliance with CR 45(b), not the rest of CR 45. Service of the subpoena is how
the news media defendants get notice of what SPD is seeking, and when the hearing will be held.

1 It is undisputed that SPD is investigating numerous felonies, and that the information
2 sought is not confidential. The Washington Supreme Court (like federal courts) has only
3 recognized a qualified news media privilege even for confidential sources. *State v. Rinaldo*, 102
4 Wn.2d 749, 689 P.2d 392 (1984). As recognized by the Shield Statute,³ “where the protection of
5 confidential sources is not involved, the nature of the press interest protected by the privilege is
6 narrower.” *Gonzalez v. National Broadcasting Co., Inc.*, 194 F.3d 29, 36 (1999) (ordering
7 production of non-confidential raw video). The Shield Statute specifically allows the court to
8 compel production of “outtakes, photographs, video or sound tapes, [or] film . . .” RCW
9 5.68.010(1)(b).

10 Before ordering production, the Court must determine whether SPD has established “by
11 clear and convincing evidence” that the information sought is (i) “highly material and relevant,”
12 (ii) “critical or necessary” to the issue sought to be proven, (iii) that SPD “has exhausted all
13 reasonable and available means to obtain” that information from alternative sources, and (iv) that
14 there “is a compelling public interest in the disclosure.” RCW 5.68.010(2)(b)(i) – (iv). This is
15 similar to the test in federal courts. *E.g., Gonzales*, 194 F.3d at 36 (also noting that “when
16 protection of confidentiality is not at stake, the privilege should be more easily overcome).

17 Clear, cogent, and convincing evidence exists when the fact at issue has been shown by
18 the evidence to be “highly probable.” *State v. Dobbs*, 180 Wn.2d 1, 11, 320 P.3d 705, 710
19 (2014). As explained below, SPD’s evidence meets the requirements of the Shield Statute.

20 1. **SPD Has Shown The Requested Information is Highly Material And**
21 **Relevant.**

22 SPD’s Subpoena requests videotape and photographs in and around the time and location
23 where these serious felonies occurred on May 30, 2020. The Respondents’ already-public
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25 ³ There is only one reported decision under the Shield Statute. *Republic of Kazakhstan v. Does 1-100*, 192 Wn. App.
26 773, 368 P.3d 524 (2016). That case arose out a civil action, and involved an attempt to identify a confidential
source. *Kazakhstan*, 192 Wn. App. at 781. The subpoena was quashed, as the Shield Statute categorically prohibits
compelling such disclosure (i.e., the “absolute privilege”). *Kazakhstan*, 192 Wn. App. at 786.

1 broadcast material shows that they were filming or broadcasting at that time and in that area, and
2 likely captured images of the suspects. *See* Magan Affidavit at 15.

3 “It is the rare case in which a litigant, in advance of looking at items sought by subpoena,
4 can actually establish that such items contain the very evidence the litigant needs.” *In re Grand*
5 *Jury Subpoenas (NBC)*, 178 Misc.2d at 1058, 683 N.Y.2d at 713. However, if the evidence
6 sought from the media is “sufficiently connected with the crime to satisfy the probable cause
7 requirement, it will very likely be sufficiently relevant to justify a subpoena and to withstand a
8 motion to quash.” *Zurcher v. Stanford Daily*, 436 U.S. 547, 567, 98 S.Ct. 1970, 56 L.Ed.2d 525
9 (1978).

10 It is difficult to understand Respondents’ position that the requested footage is not highly
11 material and relevant. *In re Grand Jury Subpoena*, 201 Fed. Appx. at 432 (holding that a
12 journalist’s video footage of a protest where a police car was burned was “directly relevant to the
13 grand jury’s investigation.”). The aim of the Subpoena is to gather higher quality images of the
14 felony suspects. *See* Magan Affidavit at 15; *see also, Gonzalez*, 194 F.3d at 36 (unaired footage
15 was relevant if it would assist in establishing fact at issue); *United States v. King*, 194 F.R.D.
16 569, 573 (2000) (relevance standard requires only a showing that the tapes are likely to contain
17 relevant information and does not require describing precisely what is on the videotapes, as that
18 can only be determined once the tapes are actually produced).⁴ It is highly probable that the
19 requested footage will contain material and relevant information because of the selected time and
20 location. *See* Magan Affidavit at 15; *see also* Gawlowski Decl., ¶ 5 (suggesting Seattle Times
21 had four photojournalists and two videographers covering the May 30 protests).

22 Respondents point to *United States v. Thompson*, where the court held requests were too
23 speculative because the defendant speculated that certain events may have or have not occurred.
24 14-20522-CR, 2015 WL 1608462 at 2 (S.D. Fla. Apr. 10, 2015). Here, published materials

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26 ⁴ For that reason, federal courts sometimes conduct *in camera* review of the requested materials. *E.g., King*, 194
F.R.D. at 573.

1 demonstrate the News Media parties had persons filming at the time and locations where the
2 felonies occurred. *See* Magan at 15. As noted by a New York court applying its similar shield
3 statute, evidence that the media was filming where and when the crimes occurred is sufficient to
4 show the unaired footage is “highly relevant and material” to the investigation. *In re Grand Jury*
5 *Subpoenas*, 178 Misc.2d at 1058, 683 N.Y.S.2d at 712.

6 2. **SPD Shows That the Requested Information is “Critical or Necessary” For**
7 **SPD’s Investigation.**

8 SPD’s Subpoena seeks information “critical or necessary” for its investigation of these
9 felonies. RCW 5.68.010(2)(b)(ii). As explained by Detective Magan, he reviewed other
10 available sources, but they do not provide good enough footage for identification, which makes
11 the better-quality footage critical or necessary. *In re Grand Jury Subpoenas*, 178 Misc. 2d at
12 1058, 683 N.Y.S.2d at 712. The News Media parties’ citations do not support their claim that
13 this is a “fishing expedition.”

14 For example, *In re Application to Quash Subpoena to Nat. Broad. Co., Inc.*, the
15 defendant had an opportunity to elicit the information at the plaintiff’s deposition; SPD has no
16 such opportunity here. 79 F.3d 346 (2d Cir. 1996). Moreover, the defendant there was seeking
17 the outtakes for impeachment purposes, which the Second Circuit noted is almost never “critical
18 or necessary.” *In re Application to Quash*, 79 F.3d at 352. The raw footage shot by these News
19 Media parties during the critical 90 minutes may be the best evidence available to identify these
20 suspects. *E.g., Gonzales*, 194 F.3d at 36 (outtakes were necessary because they were likely the
21 best evidence available).

22 Similarly, the News Media parties cite *Flynn v. Roanoke Companies Grp., Inc.*, a
23 personal injury action, where a federal district court judge determined that a defendant’s request
24 for unaired footage of an interview with a witness was permissible because it provided certain
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1 probative evidence. 1:07-MD-1804-TWT, 2007 WL 4564113 (N.D. Ga. Dec. 21, 2007). The
2 court only held that the defendant’s “open ended request for unaired footage that has nothing to
3 do with” the defendant would not be permitted. *Id.*, at *3.

4 SPD’s Subpoena demonstrates that it is highly probable that Respondents’ unpublished
5 material contains information critical or necessary to its investigation. Magan Aff., at 2. SPD’s
6 request here is similar to the subpoena upheld in *In re Grand Jury Subpoenas Served on Nat.*
7 *Broad. Co., Inc.*, 178 Misc. 2d 1052, 683 N.Y.S.2d 708 (N.Y. Sup. Ct. 1998). There, a
8 prosecutor issued a grand jury subpoena to media companies for video footage of assaults on
9 police officers during a demonstration. Applying New York’s similar shield statute, the trial
10 court found the footage was “critical or necessary” because “other than the broadcast camera
11 crews, there are no witnesses available to [the prosecution] now who were uniquely in a position
12 to see the assaults and the perpetrators of the assaults in such a manner as to reliably record the
13 details and identities.” *In re Grand Jury Subpoenas (NBC)*, 178 Misc. 2d at 1058, 683 N.Y.S.2d
14 at 712; *see also People v. Bonie*, 141 A.D.3d 401, 404, 35 N.Y.S.3d 53, 56 (N.Y. App. Div.
15 2016)(outtakes were “critical or necessary” because witnesses alone could not reliably repeat
16 what was on the video).

17 Here, the video footage that SPD has obtained is low quality and damaged: “surveillance
18 footage that was provided to [affiant] from [local businesses] as well as video that was sent to the
19 SPD from citizens who were in the area . . . and [affiant] found that the quality of video footage
20 is poor, limited, or cameras that are in fixed positions do not capture events. Certain cameras
21 from the Nordstrom store were damaged from the fires that were set by [Margaret A. Channon]
22 or that the heavy smoke from the fires make the camera footage useless.” Magan Affidavit at 15.
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1 Like the media's footage in *In re Grand Jury Subpoenas (NBC)*, the News Media's video and
2 photo quality is superior to that available to SPD, and was collected under circumstances that
3 make it highly probable that suspects' conduct was captured, which is enough to show it is
4 "critical or necessary." *See* Magan Affidavit at 15.

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6 3. **SPD Has Exhausted All Reasonable and Available Means to Obtain Proof of Suspects' Identity from Alternative Sources.**

7 Washington's Shield Statute requires the party to have exhausted all reasonable and
8 available means to obtain it from alternative sources. RCW 5.68.010(2)(b)(iii) (emphasis
9 added). Washington decisions before the enactment of the shield statute held that the party
10 should demonstrate that it attempted to use alternative sources for the requested information.
11 *Clampitt v. Thurston Cty.*, 98 Wn.2d 638, 644, 658 P.2d 641, 645 (1983). Generally, cases
12 discussing this issue involve a civil litigant that has not exhausted, for example, their use of
13 discovery tools such as depositions. *See, e.g., Clampitt v. Thurston*, 98 Wn.2d 638, 644, 658
14 P.2d 641, 645 (1983); *Shoen v. Shoen (Shoen I)*, 5 F.3d 1289, 1295 (9th Cir. 1993).

15 SPD exhausted all reasonable and available means to obtain the requested
16 information from alternative sources and only makes this request as a "last resort." *See* RCW
17 5.68.010(2)(b)(iii); *Clampitt.*, 98 Wn.2d at 644, 658 P.2d at 645. SPD sought the requested
18 information from: (1) an incident report from a citizen that recovered two of the stolen firearms;
19 (2) video captured by the SPD Police Department Video Unit who was located inside the
20 Nordstrom Store during the unrest; (3) surveillance footage from the Nordstrom Corporation,
21 Pacific Place, and West Lake Mall; (4) video footage that was sent to the SPD Police Department
22 by citizens who were in the area of the during the civil unrest; (5) published video footage from
23 KIRO TV, KING TV, KOMO TV, KCPQ, and published photos from Seattle Times. Magan
24 Affidavit at 6; 8-9; 15. Clear and convincing evidence demonstrates that SPD has exhausted the
25 reasonable and available sources for the information that it seeks; it does not need to show more.
26 *In re Grand Jury Subpoenas (NBC)*, 178 Misc. 2d at 1056, 683 N.Y.S.2d at 711.

1 4. There is a compelling public interest here.

2 SPD does not take its requests to the press lightly or as routine. But Washington’s
3 Legislature, through enacting the Shield Statute, allows this court to compel raw footage for a
4 criminal investigation. RCW 5.68.010(2)(a)(i). And when balancing the public policy
5 considerations, this Court should also consider the continued danger represented by the firearms
6 that have not been recovered, and the suspects who were willing to steal such firearms from SPD
7 vehicles. Freedom of the press is not the only interest at play here.

8 “A court may consider whether or not the news or information was obtained from a
9 confidential source in evaluating the public interest in disclosure.” RCW 5.68.010(2)(a)(iv); *see*
10 *also Shoen II*, 48 F.3d at 416 (citing *Shoen v. Shoen*, 5 F.3d 1289, 1295 (9th Cir. 1993)). The
11 Subpoena only requests footage of individuals’ conduct in the *public space* “from the locations
12 of Olive Street to Pike Street and also from 6th Avenue to 4th Avenue.” Subpoena at 2.
13 Compelling the media to produce “photographs taken in a public place carries no realistic threat
14 of prior restraint or of any direct restraint whatsoever” on the media’s ability to publish. *Zurcher*
15 *v. Stanford Daily*, 436 U.S. 547, 567, 98 S.Ct. 1970, 56 L.Ed. 525 (1978).

16 Respondents and Amicus point to potential violence against journalists as an interest
17 weighing against disclosure. But the News Media and Amicus point to incidents that occurred
18 in the absence of any subpoena. SPD’s (and the public’s) interest in identifying these very
19 specific suspects and recovering stolen firearms should outweigh the News Media parties’
20 speculative claim that responding to this specific subpoena might increase distrust of journalists.

21 **C. THERE IS NO “OVERBROAD AND UNDULY BURDENSOME” EXCEPTION.**

22 The Legislature did not incorporate the full Civil Rules into CrR 2.3, RCW 10.79.015, or
23 the Shield Statute; this Court should not accept the News Media parties’ invitation to do so on its
24 own. Rather, if the Court finds SPD has shown “clear and convincing evidence” on all four
25 elements in RCW 5.68.010(2)(b), the Court should compel disclosure.

1 SPD's Subpoena seeks video and photographs from a 90-minute time-period in particular
2 locations where the felonies occurred. The News Media parties do not offer any suggestions as
3 to how that could be narrowed further; rather, their stance seems to be that any request would be
4 "overbroad and unduly burdensome," without even a particularized showing as to how much
5 responsive footage they have. SPD has offered a protective order, but received no response. For
6 most citizens, once a judge finds probable cause, SPD would execute the warrant and seize the
7 evidence without the court hearing objections first. *E.g., Zurcher*, 436 U.S. at 567 (approving of
8 such procedure). Responding to any subpoena entails some burden, but the Legislature set the
9 standard; if it is met, the News Media parties should have to comply.

10 **VI. CONCLUSION**

11 While the News Media has unique protections as a result of the Shield Statute, that does
12 not render them immune from producing the evidence that they may have to help SPD catch
13 these suspects and recover the stolen firearms.

14 DATED this 13th day of July, 2020.

15 *s/ Brian W. Esler*

16

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26 I certify that this pleading contains 4,079 words, in
compliance with the Local Civil Rules.

1 CERTIFICATE OF SERVICE

2 I certify that on the 13th day of July, 2020, a true and correct copy of the foregoing
3 document was served on counsel for the parties by the method indicated below:

4 Eric M. Stahl via Hand Delivery
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21 Reporters Committee for
22 Freedom of the Press

23 Under the laws of the state of Washington, the undersigned hereby declares, under the
24 penalty of perjury, that the foregoing statements are true and correct to the best of my
25 knowledge.

26 Executed at Seattle, Washington, this 13th day of July, 2020.

27 s/ Gillian Fadaie
28 Gillian Fadaie, Legal Assistant