

DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO 7325 S. Potomac St. Centennial, Colorado 80112	▲ COURT USE ONLY ▲
Plaintiff: <b>People of the State of Colorado</b>  v.  Defendant: <b>Holmes, James Eagan</b>	Case No. <b>12CR1522</b>  Division: <b>22</b>
<b>ORDER RE: PRELIMINARY/PROOF EVIDENT HEARING (C-19)</b>	

This Matter comes before the Court on the People's presentation of evidence during the hearing beginning January 7, 2013. After reviewing the evidence presented, the applicable law, and argument of counsel, the Court FINDS and ORDERS as follows:

**I. PROCEDURAL HISTORY AND CHARGES**

Defendant was arrested at the Century Aurora 16 Theater ("Century 16 Theater") and taken into custody on July 20, 2012. He appeared with counsel at the initial advisement hearing on July 23, 2012. A complaint and information was filed by the People on July 27, 2012. The complaint was amended on two occasions to add and edit the charges. Defendant has been charged with 166 counts: twelve counts of murder in the first degree under C.R.S. § 18-3-102(1)(a); twelve counts of murder in the first degree under C.R.S. § 18-3-102(1)(d); seventy counts of criminal attempt to commit murder in the first degree under C.R.S. §§ 18-2-101 and 18-3-102(1)(a); seventy counts of criminal attempt to commit murder in the first degree under C.R.S. §§ 18-2-101 and 18-3-102(1)(d); one count of possession of an explosive or incendiary device under C.R.S. § 18-12-109(2); and one sentence enhancer for a crime of violence under C.R.S. § 18-1.3-406(2)(a)(I)(A).

*A. Murder in the First Degree*

The offense of first degree murder can be committed in six different ways. C.R.S. § 18-3-102 (2012); *see Candelaria v. People*, 148 P.3d 178, 180-81 (Colo. 2006). For one act, the prosecution can charge multiple theories of first degree murder in separate counts. *Candelaria*, 148 P.3d at 181. The Colorado Supreme Court has suggested procedures for pursuing multiple

theories of first degree murder in a single case. See *People v. Lowe*, 660 P.2d 1261, 1271 (Colo. 1983) *abrogated on other grounds by Callis v. People*, 692 P.2d 1045 (Colo. 1984).

### **1. After Deliberation – C.R.S. § 18-3-102(1)(a)**

A person commits first degree murder if, after deliberation and with the intent to cause the death of a person other than himself, he causes the death of that person or of another person. C.R.S. § 18-3-102(1)(a). A person acts “with intent” when “his conscious objective is to cause the specific result proscribed by the statute.” *People v. Dist. Court*, 779 P.2d 385, 388 (Colo. 1989); C.R.S. § 18-1-501(5). “After deliberation” means “that the decision to commit the act has been made after the exercise of reflection and judgment concerning the act.” *Id.* The length of time required for deliberation does not have to be long, but the decision to kill must be made after the exercise of reflection and judgment concerning the act. *People v. Bartowsheski*, 661 P.2d 235, 242 (Colo. 1983). “The element of deliberation, like intent, can rarely be proven other than through circumstantial or indirect evidence.” *People v. Madson*, 638 P.2d 18, 26 (Colo. 1981). The critical inquiry at the preliminary hearing for the charges of murder after deliberation is whether the presentation of evidence, when viewed in the light most favorable to the prosecution, is sufficient to induce a person of ordinary prudence and caution to a reasonable belief that the defendant acted intentionally, after the exercise of reflection and judgment. *Dist. Court*, 779 P.2d at 388. The People have charged Counts 1–12 under this theory.

### **2. Extreme Indifference – C.R.S. § 18-3-102(1)(d)**

A person commits first degree murder if, under circumstances evidencing an attitude of universal malice manifesting extreme indifference to the value of human life generally, he knowingly engages in conduct which creates a grave risk of death to a person, or persons, other than himself, and thereby causes the death of another. C.R.S. § 18-3-102(1)(d). Extreme indifference murder requires awareness on the part of the offender that his actions were practically certain to cause the death of another. *People v. Ellis*, 30 P.3d 774, 779 (Colo. App. 2001). The Court must find that defendant was aware that his conduct was “practically certain to cause death and was carried out under circumstances evidencing a willingness to take the lives of others without knowing or caring who they were,” or without having an understandable motive or provocation. *Candelaria*, 148 P.3d at 183; *see also People v. Reynolds*, 252 P.3d 1128, 1133 (Colo. App. 2010) (stating extreme indifference first degree murder “requires proof that the defendant knowingly engaged in conduct that created a grave risk of death to one or more persons and demonstrated extreme indifference to the value of human life generally”).

To prove extreme indifference murder, the prosecution must show, in general, that the defendant's conduct demonstrates that his lack of care and concern for the value of human life is extreme and that the circumstances of his actions evidence aggravated recklessness or cold-

bloodedness, which has come to be known as “universal malice.” *People v. Jefferson*, 748 P.2d 1223, 1232 (Colo. 1988). “Universal malice” is defined as “that depravity of the human heart, which determines to take life upon slight or insufficient provocation, without knowing or caring who may be the victim.” *Ellis*, 30 P.3d at 778. “It is evinced by acts that are calculated to put the lives of many persons in danger, without being aimed at anyone in particular.” *Id.* Defendant’s conduct must have been aggravated or extremely reckless under circumstances manifesting cold-blooded disregard for the value of human life generally. *Id.* The People have charged Counts 13–24 under this theory.

*B. Attempted Murder in the First Degree*

A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he engages in conduct constituting a substantial step toward the commission of the offense. C.R.S. § 18-2-101(1). A substantial step is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. *Id.*; *People v. Lehnert*, 163 P.3d 1111, 1115 (Colo. 2007) (listing examples of conduct strongly corroborative of an actor’s criminal purpose as “searching out a contemplated victim, reconnoitering the place contemplated for commission of a crime, and possessing materials specially designed for unlawful use and without lawful purpose”).

On the charge of attempted first degree murder after deliberation, the People must show Defendant engaged in conduct constituting a substantial step towards the commission of murder, with the intent to cause the death of someone else, after deliberation. The People have charged Counts 25–82, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, and 165 under this theory.

On the charge of attempted first degree murder with extreme indifference, the People must show that Defendant, with universal malice showing extreme indifference towards the value of human life, engaged in conduct constituting a substantial step towards the commission of murder. The People have charged Counts 83–140, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, and 166 under this theory.

*C. Possession of an Explosive or Incendiary Device*

Any person who knowingly possesses, controls, manufactures, gives, mails, sends, or causes to be sent an explosive or incendiary device commits a class 4 felony. C.R.S. § 18-12-109(2). The Colorado Legislature has listed a number of devices that fall under this definition. C.R.S. § 18-12-109(1)(a)(I)(A)–(C). This list is not exclusive and includes any high explosive or bomb. Generally, “[e]xplosive or incendiary devices are limited to those items which are capable of exploding or burning.” *People v. Lovato*, 630 P.2d 597, 599 (Colo. 1981). It is the “intrinsic

harmful potential” of an item that is key to this statutory classification. *Id.* at 600. Possession of an explosive or incendiary device is a general intent crime; a person “knowingly” possesses if he is aware that his conduct is of such nature or that such circumstance exists. C.R.S. § 18-1-501(6). The People have charged Count 141 under this theory.

*D. Sentence Enhancer: Crime of Violence*

Any person convicted of a crime of violence shall receive an enhanced sentence, somewhere between the midpoint and twice the maximum of the presumptive range. C.R.S. § 18-1.3-406(1)(a). C.R.S. § 18-1.3-406 is a mandatory sentencing provision; it is not a substantive charge and may only be imposed after the defendant has been found guilty of one of the eligible substantive offenses. *Lehnert v. People*, 244 P.3d 1180, 1185 (Colo. 2010). A “crime of violence” means any of the enumerated crimes, including murder, that are committed, conspired, or attempted by a person during which, or in the immediate flight therefrom, the person: (A) used, or possessed and threatened the use of, a deadly weapon; or (B) caused serious bodily injury or death to any other person except another participant. 18-1.3-406(2)(a)(I). “Deadly weapon” essentially means any weapon, device, instrument, material, or substance that, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury. C.R.S. § 18-1-901(3)(e); *Lehnert*, 244 P.3d at 1186. The jury must make this specific finding in order to impose the crime-of-violence mandatory sentence. *Id.* The People have charged Count 142 under this theory.

**II. VENUE**

Venue is proper pursuant to C.R.S. §18-1-202(7)(a), “[w]hen multiple crimes are based upon the same act or series of acts arising from the same criminal episode and are committed in several counties, the offender may be tried in any county in which any one of the individual crimes could have been tried, regardless of whether or not the counties are in the same judicial district.” According to testimony, the Century 16 Theater is located in Arapahoe County. Therefore, Arapahoe County maintains proper venue of this case.

**III. STANDARDS OF LAW**

*A. Preliminary Hearing*

A preliminary hearing is a critical stage in the administration of criminal justice. The purpose of the hearing is to determine whether probable cause exists to support the prosecution’s charge that the accused committed a particular crime. *Maestas v. Dist. Court*, 541 P.2d 889, 891 (Colo. 1975). To establish probable cause, the prosecution must present evidence “sufficient to induce a person of ordinary prudence and caution to entertain a reasonable belief that the

defendant committed the crime.” *People v. Dist. Court*, 803 P.2d 193, 196 (Colo. 1990). It is not necessary for the prosecution to prove the probability of the defendant’s conviction or to show beyond a reasonable doubt that the defendant committed the crime. *Id.* The preliminary hearing is not a mini-trial. Its limited purpose is to determine whether there is probable cause to believe that a crime was committed and that the defendant committed it. *Johnson v. Dist. Court*, 561 P.2d 1, 3 (Colo. 1977). The prosecutor shall have the burden of establishing probable cause. Colo. R. Crim. P. 7(h)(3) (2012).

The prosecution is accorded considerable latitude in presenting its evidence at the preliminary hearing. When determining the sufficiency of the evidence, the trial court should view the evidence in the light most favorable to the prosecution. *People v. Villapando*, 984 P.2d 51, 55 (Colo. 1999). The defendant may cross-examine the prosecutor's witnesses and may introduce evidence at the preliminary hearing. Colo. R. Crim. P. 7(h)(3). However, “it is not for the trial judge at a preliminary hearing to accept the defendant's version of the facts over the legitimate inferences which can be drawn from the People’s evidence.” *People v. Holder*, 658 P.2d 870, 872 (Colo.1983); see *People v. Dist. Court.*, 803 P.2d at 196. The court must draw inferences for the prosecution where conflicting testimony is presented. *People v. Johnson*, 618 P.2d 262, 266 (Colo. 1980) (finding trial court committed error by disregarding prosecution’s evidence of the parties' intent and determining from the face of the document that defendant's conduct was authorized). The prosecution is not required to produce all, or even its best, witnesses at the preliminary hearing. *Maestas*, 541 P.2d at 892. Furthermore, “[h]earsay evidence, and other evidence, which would be incompetent if offered at the time of trial, may well be the bulk of the evidence at the preliminary hearing.” *People v. Quinn*, 516 P.2d 420, 422 (Colo. 1973).

#### B. *Proof Evident or Presumption Great*

In Colorado, all alleged criminal offenders have a constitutionally protected absolute right to bail. However, in capital cases, bail may be denied where “proof is evident or presumption is great.” Colo. Const. Art. 2 §19; C.R.S. § 16-4-101(1)(a) (2012). This standard, which the constitution requires before bail may be denied, is greater than probable cause but less than that required for a conviction. *Orona v. Dist. Court*, 518 P.2d 839, 840 (Colo. 1974). The People bear the burden of proving that the proof is evident or the presumption is great. *Goodwin v. Dist. Court*, 586 P.2d 2, 3 (Colo. 1978). In the absence of a stipulation or other specific circumstances, a trial court must hold a hearing to determine whether the proof is evident or the presumption is great that the accused committed the capital offense charged before denying a request for bail. *Yording v. Walker*, 683 P.2d 788, 791 (Colo. 1984). This proof evident or presumption great hearing can be consolidated with the preliminary hearing, which was done in this case. See C.R.S. § 16-4-101(3).

#### **IV. FINDINGS AND CONCLUSIONS**

The Court FINDS and RULES as follows:

##### *A. Findings of Credibility*

A preliminary hearing and proof evident presumption great hearing (“preliminary/proof evident hearing”) began on January 7, 2013. On Monday, January 7, 2013, this Court heard testimony from Officer Jason Oviatt, Officer Aaron Blue, Officer Justin Grizzle, Special Sergeant Gerald Jonsgaard, Detective Matthew Ingui, Dr. Kelly Lear-Kaul, Dr. Michael J. Dobersen, and Detective Todd Fredericksen. On Tuesday, January 8, 2013, this Court heard testimony from Detective Todd Fredericksen, Detective Randy Hansen, FBI Special Agent Garrett Gumbinner, ATF Agent Steven Beggs, Detective Tom Welton, Detective Craig Appel, and Sergeant Matthew Fyles. On Wednesday, January 09, 2013, this Court heard testimony from Sergeant Matthew Fyles.

After considering the testimony presented, the exhibits admitted, and arguments of counsel, this Court FINDS that the evidence consists of, but is not limited to, the following specific facts which it finds most salient for the purpose of this preliminary/proof evident hearing:

##### **1. Testimony Regarding Location and Identification of Defendant**

Officer Jason Oviatt testified that on July 20, 2012, at approximately 12:30 a.m., the Aurora Police Department (“APD”) dispatch issued a call that there were shots fired at the Century 16 Theater located at 14300 East Alameda Avenue, Aurora, Arapahoe County, Colorado. Officer Oviatt stated that callers into dispatch stated the trouble was inside of theater number nine at the Century 16 Theater complex (“Theater Nine”). The officer testified that after he arrived at the Century 16 Theater, he and Officer Sweeny made their way to the back of the movie theater, guns drawn. He saw a white two-door vehicle parked behind the emergency exit of Theater Nine. Officer Oviatt stated that he noticed a person wearing a helmet and gas mask standing on the driver’s side next to the vehicle. Officer Oviatt stated that he decided the person looked suspicious and, therefore, he held the suspect at gunpoint while Officer Sweeny yelled for the suspect to put his hands up. Officer Oviatt stated he ordered the suspect into the prone position on the ground, and he secured the individual, handcuffing him and searching him. Officer Oviatt observed that the suspect was wearing soft body armor on his chest and legs, a bulky coat with armor, a helmet and gas mask, and track pants with soft body armor leggings or chaps. Officer Oviatt stated that Officer Blue took a wallet out of the suspect’s track pants and that the suspect stated that the address on the license was his address. In court, Officer Oviatt

identified Defendant as the suspect he detained that night. The Court FINDS this testimony by Officer Oviatt to be credible.

Officer Aaron Blue testified that he also responded to a call issued by the APD dispatch that shots were fired at the Century 16 Theater. Officer Blue testified that he went into Theater Nine, that it smelled like tear gas in the theater, and that he exited out the back of the building through Theater Nine. He stated that he saw Officer Oviatt pinning down a suspect who was wearing body armor from head to toe. The Court FINDS this testimony corroborates Officer Oviatt's testimony and is credible.

Officer Justin Grizzle also testified that he responded to the Century 16 Theater at 14300 East Alameda Avenue in Aurora, Colorado, on July 20, 2012. Officer Grizzle testified that he saw a white, two-door vehicle parked outside the emergency exit of Theater Nine. Officer Grizzle stated that he saw a suspect that had been apprehended by other officers near that vehicle who was wearing a ballistic helmet, gas mask, and throat protector. He identified Defendant in court as that suspect. The Court FINDS this testimony corroborates Officers Oviatt's and Blue's testimony and is credible.

Detective Matt Ingui testified that he searched Defendant's cell phone and found that Defendant had purchased a movie ticket to the July 20, 2012, midnight movie and that the ticket displayed a purchase date of July 8, 2012. Detective Ingui stated that on July 22, 2012, he obtained surveillance videos from the twenty-four continuous video cameras inside the Century 16 Theater. Detective Ingui stated that he identified Defendant in footage from six of the Century 16 Theater surveillance cameras. The Court FINDS the testimony of Detective Ingui regarding the Century 16 Theater surveillance video to be credible.

Sergeant Fyles also testified that photographs found on Defendant's phone from July 5, 2012, showed a man, whom Sergeant Fyles identified as Defendant, with red hair wearing ballistic gear similar to the gear removed from Defendant at the Century 16 Theater on July 20, 2012. Another photograph, taken July 16, 2012, showed what appeared to Sergeant Fyles to be Defendant's apartment kitchen and a mason jar filled with amber liquid with wires coming out of it and a bowl of black powder, which Sergeant Fyles stated was determined to be black smokeless powder. Sergeant Fyles stated that a photograph from Defendant's phone that was also taken July 16, 2012, depicted Defendant's apartment with nine black spheres that matched the spheres Agent Gumbinner testified about, as well as the aqua tape and a number of wires, canisters, and cords.

Sergeant Fyles also testified that five photographs were recovered from Defendant's cell phone dated July 19, 2012. These photos were all of a man, whom Sergeant Fyles identified as Defendant, with red hair and wearing black contacts. Sergeant Fyles testified that the black

contacts were recovered from Defendant's apartment. The sergeant also stated that one photo from July 19, 2012, showed Defendant and the muzzle of a Glock handgun, and another photo showed Defendant with one of the initiation systems described by Agent Gumbinner.

The Court FINDS Sergeant Fyles to be credible.

## **2. Testimony Regarding the Deceased Victims**

Detective Matt Ingui testified that he went into the Century 16 Theater on July 20, 2012, and that he viewed Theater Nine that afternoon. Detective Ingui stated that he observed the collection of evidence as well as the bodies of the ten deceased victims in Theater Nine, and he testified as to those observations. The Court FINDS the testimony of Detective Ingui regarding the deceased victims to be credible.

Dr. Kelly Lear-Kaul was offered as an expert in Forensic Pathology. She works for the Arapahoe County Coroner's Office. She performed six of the twelve autopsies of the deceased victims including those related to Counts 1, 3, 6, 8, 9, 10, 13, 15, 18, 20, 21, and 22. The Court FINDS the testimony of Dr. Lear-Kaul regarding the cause of death and manner of death of those six victims to be credible.

Dr. Michael Dobersen is the Coroner/Medical Examiner for Arapahoe County and was offered as an expert in Forensic Pathology. He performed the other six autopsies of the deceased victims including those related to Counts 2, 4, 5, 7, 11, 12, 14, 16, 17, 19, 23, and 24. The Court FINDS the testimony of Dr. Dobersen regarding the cause of death and manner of death of those six victims to be credible.

Sergeant Fyles testified as to the location of the deceased victims and the injuries of the deceased victims on July 20, 2012. The Court FINDS Sergeant Fyles' testimony to be credible.

## **3. Testimony Regarding Injured Victims**

Sergeant Fyles testified that he is a supervisor assigned to this case and that he has reviewed every police report in this case. Sergeant Fyles testified about every victim in this case, basing his knowledge on officer reports, medical records, ambulance reports, photographs, SBI forms, as well as his personal knowledge from interviews and discussions with victims, witnesses, and officers. Sergeant Fyles also testified that bullets and fragments from shots fired in Theater Nine passed through the wall into theater number eight at the Century 16 Theater complex ("Theater Eight"), causing injuries to three victims. The Court FINDS Sergeant Fyles' testimony about the location of and injuries to the victims to be credible.



#### **4. Testimony Regarding Defendant's Possession of Explosive or Incendiary Devices**

FBI Special Agent Garrett Gumbinner testified that on July 20, 2012, he assisted in the coordination of law enforcement resources and the search of Defendant's apartment at 1690 Paris Street, Aurora, Colorado. Agent Gumbinner stated that he personally observed Defendant's apartment on July 20, 2012. Agent Gumbinner stated that inside Defendant's apartment on the floor there were chemicals and devices, including but not limited to: three-inch firework shells filled with smokeless powder, which is very flammable; six-inch firework shells filled with oil and gasoline, which is also flammable; ten green bottles full of gasoline, which is flammable; and multiple jars filled with improvised napalm, .45 caliber ammunition rounds, and thermite connected to "quickfuse," which would have exploded or caught fire if the fuse had been ignited. Agent Gumbinner testified that there were three initiating systems in place for these devices. When asked his opinion about whether any device he saw would be considered an incendiary bomb, fire bomb, or similar device, Agent Gumbinner stated that, in his opinion, the six-inch firework shells were explosive bombs and the gasoline and the jars filled with napalm, smokeless powder, and ammunition were incendiary or fire bombs. Agent Gumbinner stated that he found one passport in the apartment and that the passport was in the name of James Holmes and displayed a photo of Defendant.

The Court FINDS Agent Gumbinner's testimony regarding his observations at Defendant's apartment to be credible. Incorporating by reference the testimony by Sergeant Fyles in Part IV, §A(1) about photographs found on Defendant's cell phone, the Court FINDS that the People have presented evidence that establishes probable cause to believe that Defendant had the requisite mental state to commit the crime of possession of an explosive or incendiary device.

#### **5. Testimony Regarding Mental State**

##### **a. After Deliberation and With Intent**

Detective Tom Welton of the Aurora Police Department testified that he obtained and reviewed information from the internet companies Match.com and AdultFriendFinder.com. Detective Welton stated that there was a dating profile on Match.com in the name of James Holmes. Detective Welton stated there were photographs on the profile and identified Defendant as the person in those profile photos. Detective Welton also stated that the billing data and the IP address matched Defendant's information. Detective Welton testified that sometime between April 19, 2012, and July 18, 2012, Defendant's dating profile read, "Will you visit me in prison?" Similarly, Detective Welton testified that he found the same photographs of a person he identified in court to be Defendant on a profile listed on AdultFriendFinder.com. On that profile,

sometime between July 5, 2012, and July 18, 2012, was written "Will you visit me in prison?" The Court FINDS Detective Welton's testimony regarding the information from Match.com and AdultFriendFinder.com to be credible.

Bureau of Arms, Tobacco, and Firearms ("ATF") Agent Steven Beggs testified that he was assigned to this case to construct a timeline of Defendant's purchases and acquisitions between May 2012, and July 2012. Agent Beggs stated he has personal knowledge of many of these purchases and that he reviewed the reports of all the ATF agents working on this case. Agent Beggs stated that between May and July 2012, Defendant purchased two Glock pistol handguns, one Remington 870 shotgun, and one Smith & Wesson M&P15 semiautomatic rifle. Agent Beggs identified and testified about the serial numbers for all four weapons purchased by Defendant. Additionally, Agent Beggs stated that, during the same time period, Defendant purchased numerous rounds of ammunition, two tear gas canisters, a ballistic helmet, torso neck protection, bullet proof arm protection, groin protection, and ballistic pants or chaps. The Court FINDS Agent Beggs' testimony regarding Defendant's purchases between May and July 2012, to be credible.

Detective Craig Appel of the Aurora Police Department testified that he is the filing detective in this case, he was at the Century 16 Theater on July 20, 2012, and he has reviewed all of the police records and other documents related to this case. Detective Appel stated that he interviewed the suspect that was apprehended at the Century 16 Theater on July 20, 2012; and, in court, Detective Appel identified that suspect as Defendant. Detective Appel also testified that he observed a white car parked directly behind Theater Nine, and the police confirmed that the car was registered to James Holmes at 1690 Paris Street. Detective Appel stated that inside the car, police found a black beanie and a handgun, and next to the car police found a second tear gas canister.

Detective Appel stated that he went into the Century 16 Theater and he observed the scene in Theater Eight and Theater Nine the morning of July 20, 2012. The detective noted there was limited ingress and egress from Theater Nine. Detective Appel stated that inside of Theater Nine, he saw a Remington pump action shotgun, and he found that the serial number on that shotgun matched the shotgun that ATF Agent Beggs stated was purchased by Defendant. Detective Appel testified that outside of the emergency exit from Theater Nine he saw a Smith & Wesson M&P rifle, which had a serial number that matched the rifle that Agent Beggs stated was purchased by Defendant. Detective Appel also stated that he saw a Glock pistol with a laser sight on top of the white car outside of Theater Nine, which had a serial number that matched one of the handguns that Agent Beggs stated was purchased by Defendant. Detective Appel observed a second Glock pistol inside the white car parked outside of Theater Nine, and the detective stated that pistol had a serial number that matched the second handgun that Agent Beggs stated was purchased by Defendant.

Detective Appel stated that he saw six shotgun shells, sixty-five .223 shell casings, and five .40 caliber shell casings as well as live rounds and magazines inside Theater Nine. Detective Appel stated that, in his opinion, the cartridges and magazines found in Theater Nine are the kind that would be used with the shotgun, rifle, and handguns registered to Defendant and found in or near the Century 16 Theater on July 20, 2012. Detective Appel noted that the .223 rounds found in Theater Nine were steel-core rounds, meaning the surrounding casing will fragment but the steel-core will continue on, accounting for multiple holes or injuries, and can go through seats or walls.

The Court FINDS Detective Appel's testimony to be credible.

Sergeant Fyles testified that inside the white car registered to Defendant and parked outside Theater Nine, police found a hard gun case that would fit the rifle found at the scene, a green soft-sided gun carrying case that would fit the shotgun found at the scene, a black jacket, a red gas can, and six caltrops. Sergeant Fyles also stated that near Defendant's car, police found a black and silver canister of tear gas that matched the canister found inside Theater Nine and matched the kind of tear gas that ATF Agent Beggs stated that Defendant purchased.

Sergeant Fyles testified that he interviewed victim-witness Corbin Dates. Mr. Dates told Sergeant Fyles that he was seated inside Theater Nine and noticed a male with red hair sticking out of a black beanie walk toward the emergency exit door in the front of Theater Nine while talking on a cell phone, and the man propped the door ajar with his foot. Sergeant Fyles stated that a picnic clip wrapped in aqua tape was found on the emergency exit door to Theater Nine and another matching clip was found on Defendant when he was searched. Additionally, Sergeant Fyles stated that matching picnic clips were found in the center console of the white car, which Detective Appel stated was registered to Defendant, as well as in Defendant's apartment near a roll of aqua tape.

Sergeant Fyles testified that he reviewed information about and photographs from Defendant's cell phone. Sergeant Fyles stated that on Defendant's phone, police found photographs of the interior of the Century 16 Theater, and the sergeant stated those photos were dated the afternoon of June 29, 2012. Additional photos depicted the back exterior of the Century 16 Theater and were taken on July 5, 2012.

Sergeant Fyles also testified that there were photographs on Defendant's phone of what he determined to be the interior of the Century 16 Theater, including photos of the doorjamb and hinges, and the sergeant stated those photos were taken the afternoon of June 29, 2012. Additional photos depicted what Sergeant Fyles stated was the exterior of the Century 16 Theater, including a purple door similar to the exit door of Theater Nine, the sidewalk, and exit

door hinges. The sergeant explained that those photos were on Defendant's phone, dated July 5, 2012.

The Court FINDS Sergeant Fyles' testimony to be credible.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant had the requisite mental state of "after deliberation and with the intent" necessary to commit the crime of first degree murder after deliberation. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant had the requisite mental state to commit the crime of first degree murder after deliberation.

The Court FINDS that purchasing weapons and ammunition, surveying the inside of the Century 16 Theater, driving to the Century 16 Theater, bringing four weapons inside Theater Nine, and shooting inside Theater Nine all could constitute acts that are "strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense," and each could be considered a "substantial step toward the commission of the offense" of first degree murder after deliberation. The Court FINDS that the People have provided sufficient evidence that establishes that there is probable cause to believe that Defendant had the requisite mental state and took a substantial step towards committing the crime of first degree murder after deliberation as required for the crime of attempted murder in the first degree after deliberation.

b. Evidencing Universal Malice Manifesting Extreme Indifference to the Value of Human Life

The Court incorporates by reference its findings of credibility regarding the testimony of Detective Appel and Agent Beggs from Part IV, § A(5)(a). Detective Appel testified that he found four weapons in or near Theater Nine on July 20, 2012, and he stated all four weapons were reported to be registered to Defendant. The detective noted there was limited ingress and egress from Theater Nine. Detective Appel stated that he saw six shotgun shells, sixty-five .223 shell casings, and five .40 caliber shell casings, as well as live rounds and magazines inside Theater Nine. Detective Appel stated that, in his opinion, the cartridges and magazines found in Theater Nine are the kind that would be used with the shotgun, rifle, and handguns registered to Defendant, and the detective explained that the .223 rounds found in Theater Nine were steel-core rounds and that such rounds are capable of penetrating seats and walls.

Officer Grizzle testified that he entered Theater Nine on July 20, 2012, early in the morning. Officer Grizzle stated that his eyes and throat started to burn when he entered Theater Nine and that such a reaction was consistent with the inhalation of tear gas. Sergeant Jonsgaard testified he was one of the first people into Theater Nine after the police had been dispatched,

and he testified that the air inside Theater Nine was full of tear gas. The testimony from Officer Grizzle and Sergeant Jonsgaard correspond, and the Court FINDS the testimony from Officer Grizzle and Sergeant Jonsgaard regarding the air in Theater Nine on July 20, 2012, to be credible.

Detective Matt Ingui testified that he interviewed a witness on July 20, 2012, and the witness stated he had been in Theater Nine on July 20, 2012, near the back of the theater. Detective Ingui stated the witness heard shots being fired, and noticed something similar to tear gas. A different witness also sitting in the back of Theater Nine on July 20, 2012, told Detective Ingui that he saw a shooter inside Theater Nine in dark clothing and that he heard multiple kinds of shots fired. This information is consistent with the multiple kinds of shell casings and different types of weapons found near the Century 16 Theater and connected to Defendant. Detective Ingui testified that he spoke with at least four additional witnesses who also saw or felt tear gas while inside Theater Nine on July 20, 2012. The detective testified those additional witnesses also heard shots fired and some saw muzzle flashes in Theater Nine. Detective Ingui also stated that at least one witness described the shooter as wearing dark clothing, a Kevlar-style vest, and elbow and leg pads. The Court FINDS Detective Ingui's testimony regarding these interviews credible.

Detective Randy Hansen testified that he obtained, reviewed, and identified the calls made to 911 July 20, 2012, regarding the shooting at the Century 16 Theater. Detective Hansen submitted into evidence and played a 911 call from a victim in Theater Nine, and numerous gun shots and the voices of many people were heard. The Court FINDS Detective Hansen's testimony regarding the 911 calls to be credible.

Given the large number of victims and the large number of people otherwise in Theater Eight and Theater Nine, the Court FINDS that the number of different weapons and number of rounds of ammunition fired into Theater Nine evidence "an attitude of universal malice manifesting extreme indifference to the value of human life generally," and may constitute "conduct which creates a grave risk of death to a person." Additionally, this Court FINDS that the steel core .223 rounds that are capable of penetrating objects such as theater seats and walls also evidence "an attitude of universal malice manifesting extreme indifference to the value of human life generally," and may constitute "conduct which creates a grave risk of death to a person," particularly given the large number of people in the theater.

The Court FINDS that the People have presented evidence that establishes that there is probable cause to believe that Defendant demonstrated the requisite mental state of having universal malice manifesting an extreme indifference to the value of human life inside the Century 16 Theater to commit the crime of first degree murder with extreme indifference. The Court also FINDS that the People have presented evidence that establishes that the proof is

evident or the presumption is great to believe that Defendant demonstrated the requisite mental state for the crime of first degree murder with extreme indifference.

The Court FINDS that purchasing weapons and ammunition, surveying the inside of the Century 16 Theater, bringing four weapons inside Theater Nine, and shooting inside Theater Nine all could constitute acts that are “strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense,” and each could be considered a “substantial step toward the commission of the offense” of extreme indifference murder. The Court FINDS that the People have provided sufficient evidence that establishes that there is probable cause to believe that Defendant had the requisite mental state and took a substantial step towards committing the crime of first degree murder with extreme indifference as required for the crime of attempted murder in the first degree with extreme indifference.

*B. Findings of Probable Cause and Proof Evident/Presumption Great*

Incorporating its findings above, the Court FINDS that the People carried their burden of proof and have established that there is probable cause to believe that Defendant committed the crimes charged in Counts 1–24, as stated below. Therefore, the Court FINDS that Defendant may be bound over for trial on those counts. The Court also FINDS that the proof is evident or presumption is great that Defendant committed the crimes charged in Counts 1–24, as stated below; therefore, the People have met their burden and Defendant may be held without bail on those counts. The Court makes the following additional specific findings which it finds most salient to Counts 1–24:

**Count 1: Jonathan Blunk**

Sergeant Fyles stated that Jonathan Blunk was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on the afternoon of July 20, 2012, he observed the body of Jonathan Blunk inside Theater Nine. Dr. Lear-Kaul testified that she performed the autopsy on Mr. Blunk and that Mr. Blunk had been declared dead at the scene. Dr. Lear-Kaul stated Mr. Blunk suffered two penetrating gunshot wounds: one to the chest and one to the head. Dr. Lear-Kaul stated that she determined cause of death to Mr. Blunk to be a penetrating gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 1. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 1.

**Count 2: Alexander Boik**

Sergeant Fyles stated that Alexander Boik was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on July 20, 2012, he saw the body of Alexander Boik in Theater Nine. Dr. Dobersen testified that he performed the autopsy on Mr. Boik. Dr. Dobersen stated that Mr. Boik had suffered a single shotgun wound to the head which also caused injuries to Mr. Boik's chest and right arm. Dr. Dobersen stated cause of death to Mr. Boik was a gunshot wound to the head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 2. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 2.

**Count 3: Jesse Childress**

Sergeant Fyles stated that Jesse Childress was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on July 20, 2012, he observed the body of Jesse Childress in Theater Nine. Dr. Lear-Kaul testified that she performed the autopsy of Mr. Childress. She stated Mr. Childress suffered a shotgun wound to the torso that also involved both legs and his right arm. Dr. Lear-Kaul testified that cause of death to Mr. Childress was a penetrating shotgun wound to the trunk and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 3. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 3.

**Count 4: Gordon Cowden**

Sergeant Fyles stated that Gordon Cowden was in Theater Nine on July 20, 2012, and Detective Matt Ingui stated that he observed the body of Gordon Cowden in Theater Nine on the afternoon of July 20, 2012. Mr. Cowden had been declared deceased in the Century 16 Theater. Dr. Dobersen testified that he performed the autopsy of Mr. Cowden and that Mr. Cowden had suffered a gunshot wound to the chest. Dr. Dobersen determined that cause of death to Mr. Cowden was severe internal injuries from a gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 4. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 4.

**Count 5: Jessica Ghawi**

Sergeant Fyles testified that Jessica Ghawi was in Theater Nine and suffered gunshot wounds to her head and leg. Sergeant Fyles testified that Jessica Ghawi was transported from the Century 16 Theater to University Hospital where she was pronounced dead. Officer Blue testified that he sat in the back seat of a patrol car with Jessica Ghawi during her transport from the Century 16 Theater to University Hospital. The Court FINDS that Officer Blue's testimony corroborates Sergeant Fyles' testimony and is credible.

Dr. Dobersen testified that he performed the autopsy of Ms. Ghawi. Dr. Dobersen stated that Ms. Ghawi suffered six gunshot wounds, including one gunshot wound to the head and four gunshot wounds to her trunk and extremities. Dr. Dobersen testified that he determined cause of death to Ms. Ghawi to be a gunshot wound to the head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 5. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 5.

**Count 6: John Larimer**

Sergeant Fyles stated that John Larimer was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on the afternoon of July 20, 2012, he observed the body of John Larimer in Theater Nine. Dr. Lear-Kaul testified that she performed the autopsy of Mr. Larimer, who was declared dead at the scene. She testified Mr. Larimer suffered gunshot wounds to his chest and abdomen. Dr. Lear-Kaul testified that cause of death to Mr. Larimer was perforating gunshot wounds of the trunk and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 6. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that



Defendant has committed first degree murder with the requisite mental state as charged in Count 6.

**Count 7: Matthew McQuinn**

Sergeant Fyles stated that Matthew McQuinn was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on the afternoon of July 20, 2012, he observed the body of Matthew McQuinn in Theater Nine. Dr. Dobersen testified that he performed the autopsy of Mr. McQuinn, and Mr. McQuinn was pronounced dead at the Century 16 Theater. Dr. Dobersen stated Mr. McQuinn suffered nine gunshot wounds and that the most severe were the gunshot wounds to his neck and chest. Dr. Dobersen testified that cause of death to Mr. McQuinn was severe internal injuries from gunshot wounds to the neck and chest and the manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 7. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 7.

**Count 8: Micayla Medek**

Sergeant Fyles stated that Micayla Medek was in Theater Nine on July 20, 2012, and Detective Matt Ingui stated that he observed the body of Micayla Medek on July 20, 2012, in Theater Nine. Dr. Lear-Kaul stated that she performed the autopsy on Ms. Medek. Dr. Lear-Kaul testified that Ms. Medek suffered a penetrating gunshot wound to the chest. Dr. Lear-Kaul stated that she determined cause of death to Ms. Medek to be a gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 8. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 8.

**Count 9: Veronica Moser-Sullivan**

Sergeant Fyles testified that Veronica Moser-Sullivan was in Theater Nine, was shot, and was transported from the Century 16 Theater to Children's Hospital where she was pronounced dead. Dr. Lear-Kaul testified that she performed the autopsy of Ms. Moser-Sullivan. Dr. Lear-Kaul testified that Ms. Moser-Sullivan suffered multiple gunshot wounds to her trunk and

extremities, including a penetrating gunshot wound to the chest. Dr. Lear-Kaul stated she determined cause of death to Ms. Moser-Sullivan to be a gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 9. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 9.

**Count 10: Alex Sullivan**

Sergeant Fyles stated that Alex Sullivan was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that he observed the body of Alex Sullivan inside of Theater Nine on the afternoon of July 20, 2012. Dr. Lear-Kaul testified that she performed the autopsy on Mr. Sullivan. Dr. Lear-Kaul stated that Mr. Sullivan suffered a perforating gunshot wound to the chest. Dr. Lear-Kaul stated she determined cause of death to be a perforating gunshot wound and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 10. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 10.

**Count 11: Alexander Teves**

Sergeant Fyles stated that Alexander Teves was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that he saw the body of Alexander Teves in Theater Nine on the afternoon of July 20, 2012. Dr. Dobersen stated that he performed the autopsy on Mr. Teves and that Mr. Teves suffered a penetrating gunshot wound to the head. Dr. Dobersen concluded that cause of death to Mr. Teves was a penetrating gunshot wound to the head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 11. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 11.

**Count 12: Rebecca Wingo**

Sergeant Fyles stated that Rebecca Wingo was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that he observed the body of Rebecca Wingo on July 20, 2012, in Theater Nine. Dr. Dobersen performed the autopsy of Ms. Wingo. Dr. Dobersen testified that Ms. Wingo suffered four gunshot wounds: a gunshot wound to the head, a penetrating shotgun wound to the head, a perforated gunshot wound to the trunk, and a gunshot wound to the extremities. Dr. Dobersen stated he determined cause of death to Ms. Wingo to be a head injury from both the gunshot wound and the shotgun wound to her head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 12. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 12.

**Count 13: Jonathan Blunk**

Sergeant Fyles stated that Jonathan Blunk was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on the afternoon of July 20, 2012, he observed the body of Jonathan Blunk inside Theater Nine. Dr. Lear-Kaul testified that she performed the autopsy on Mr. Blunk and that Mr. Blunk had been declared dead at the scene. Dr. Lear-Kaul stated Mr. Blunk suffered two penetrating gunshot wounds: one to the chest and one to the head. Dr. Lear-Kaul stated that she determined cause of death to Mr. Blunk to be a penetrating gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 13. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 13.

**Count 14: Alexander Boik**

Sergeant Fyles stated that Alexander Boik was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on July 20, 2012, he saw the body of Alexander Boik in Theater Nine. Dr. Dobersen testified that he performed the autopsy on Mr. Boik. Dr. Dobersen stated that Mr. Boik had suffered a single shotgun wound to the head which also caused injuries

to Mr. Boik's chest and right arm. Dr. Dobersen stated cause of death to Mr. Boik was a gunshot wound to the head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 14. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 14.

**Count 15: Jesse Childress**

Sergeant Fyles stated that Jesse Childress was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on July 20, 2012, he observed the body of Jesse Childress in Theater Nine. Dr. Lear-Kaul testified that she performed the autopsy of Mr. Childress. She stated Mr. Childress suffered a shotgun wound to the torso that also involved both legs and his right arm. Dr. Lear-Kaul testified that cause of death to Mr. Childress was a penetrating shotgun wound to the trunk and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 15. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 15.

**Count 16: Gordon Cowden**

Sergeant Fyles stated that Gordon Cowden was in Theater Nine on July 20, 2012, and Detective Matt Ingui stated that he observed the body of Gordon Cowden in Theater Nine on the afternoon of July 20, 2012. Mr. Cowden had been declared deceased in the Century 16 Theater. Dr. Dobersen testified that he performed the autopsy of Mr. Cowden and that Mr. Cowden had suffered a gunshot wound to the chest. Dr. Dobersen determined that cause of death to Mr. Cowden was severe internal injuries from a gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 16. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 16.

**Count 17: Jessica Ghawi**

Sergeant Fyles testified that Jessica Ghawi was in Theater Nine and suffered gunshot wounds to her head and leg. Sergeant Fyles testified that Jessica Ghawi was transported from the Century 16 Theater to University Hospital where she was pronounced dead. Officer Blue testified that he sat in the back seat of a patrol car with Jessica Ghawi during her transport from the Century 16 Theater to University Hospital. The Court FINDS that Officer Blue's testimony corroborates Sergeant Fyles' testimony and is credible.

Dr. Dobersen testified that he performed the autopsy of Ms. Ghawi. Dr. Dobersen stated that Ms. Ghawi suffered six gunshot wounds, including one gunshot wound to the head and four gunshot wounds to her trunk and extremities. Dr. Dobersen testified that he determined cause of death to Ms. Ghawi to be a gunshot wound to the head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 17. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 17.

**Count 18: John Larimer**

Sergeant Fyles stated that John Larimer was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on the afternoon of July 20, 2012, he observed the body of John Larimer in Theater Nine. Dr. Lear-Kaul testified that she performed the autopsy of Mr. Larimer, who was declared dead at the scene. She testified Mr. Larimer suffered gunshot wounds to his chest and abdomen. Dr. Lear-Kaul testified that cause of death to Mr. Larimer was perforating gunshot wounds of the trunk and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 18. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 18.

**Count 19: Matthew McQuinn**

Sergeant Fyles stated that Matthew McQuinn was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that on the afternoon of July 20, 2012, he observed the body of Matthew McQuinn in Theater Nine. Dr. Dobersen testified that he performed the autopsy of Mr. McQuinn, and Mr. McQuinn was pronounced dead at the Century 16 Theater. Dr. Dobersen

stated Mr. McQuinn suffered nine gunshot wounds and that the most severe were the gunshot wounds to his neck and chest. Dr. Dobersen testified that cause of death to Mr. McQuinn was severe internal injuries from gunshot wounds to the neck and chest and the manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 19. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 19.

**Count 20: Micayla Medek**

Sergeant Fyles stated that Micayla Medek was in Theater Nine on July 20, 2012, and Detective Matt Ingui stated that he observed the body of Micayla Medek on July 20, 2012, in Theater Nine. Dr. Lear-Kaul stated that she performed the autopsy on Ms. Medek. Dr. Lear-Kaul testified that Ms. Medek suffered a penetrating gunshot wound to the chest. Dr. Lear-Kaul stated that she determined cause of death to Ms. Medek to be a gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 20. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 20.

**Count 21: Veronica Moser-Sullivan**

Sergeant Fyles testified that Veronica Moser-Sullivan was in Theater Nine, was shot, and was transported from the Century 16 Theater to Children's Hospital where she was pronounced dead. Dr. Lear-Kaul testified that she performed the autopsy of Ms. Moser-Sullivan. Dr. Lear-Kaul testified that Ms. Moser-Sullivan suffered multiple gunshot wounds to her trunk and extremities, include a penetrating gunshot wound to the chest. Dr. Lear-Kaul stated she determined cause of death to Ms. Moser-Sullivan to be a gunshot wound to the chest and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 21. The Court also FINDS that the People have provided

sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 21.

**Count 22: Alex Sullivan**

Sergeant Fyles stated that Alex Sullivan was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that he observed the body of Alex Sullivan inside Theater Nine on the afternoon of July 20, 2012. Dr. Lear-Kaul testified that she performed the autopsy on Mr. Sullivan. Dr. Lear-Kaul stated that Mr. Sullivan suffered a perforating gunshot wound to the chest. Dr. Lear-Kaul stated she determined cause of death to be a perforating gunshot wound and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 22. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 22.

**Count 23: Alexander Teves**

Sergeant Fyles stated that Alexander Teves was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that he saw the body of Alexander Teves in Theater Nine on the afternoon of July 20, 2012. Dr. Dobersen stated that he performed the autopsy on Mr. Teves and that Mr. Teves suffered a penetrating gunshot wound to the head. Dr. Dobersen concluded that cause of death to Mr. Teves was a penetrating gunshot wound to the head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 23. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 23.

**Count 24: Rebecca Wingo**

Sergeant Fyles stated that Rebecca Wingo was in Theater Nine on July 20, 2012, and Detective Matt Ingui testified that he observed the body of Rebecca Wingo on July 20, 2012, in Theater Nine. Dr. Dobersen performed the autopsy of Ms. Wingo. Dr. Dobersen testified that Ms. Wingo suffered four gunshot wounds: a gunshot wound to the head, a penetrating shotgun wound to the head, a perforated gunshot wound to the trunk, and a gunshot wound to the

extremities. Dr. Dobersen stated he determined cause of death to Ms. Wingo to be a head injury from both the gunshot wound and the shotgun wound to her head and that manner of death was homicide.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 24. The Court also FINDS that the People have provided sufficient evidence to establish that the proof is evident or the presumption is great to believe that Defendant has committed first degree murder with the requisite mental state as charged in Count 24.

*C. Findings of Probable Cause*

The Court FINDS that the People have carried their burden of proof and have established that there is probable cause to believe that Defendant committed the preliminary hearing eligible crimes charged in Counts 25–166, as stated below. Defendant may be bound over for trial on these counts. The Court’s additional specific findings as to these counts are as follows:

**Count 25: Petra Anderson**

Sergeant Fyles testified that he had knowledge of Petra Anderson’s location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Anderson was in Theater Nine and that Ms. Anderson suffered a gunshot wound to the face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 25.

**Count 26: Adan Avila**

Sergeant Fyles testified that he had knowledge of Adan Avila’s location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Avila was in Theater Nine and that Mr. Avila suffered gunshot wounds to the right lower leg and left arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 26.



**Count 27: Brandon Axelrod**

Sergeant Fyles testified that he had knowledge of Brandon Axelrod's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Axelrod was in Theater Nine and suffered injuries to ligaments in his knee while he was fleeing the Century 16 Theater.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 27.

**Count 28: Toni Billapando**

Sergeant Fyles testified that he had knowledge of Toni Billapando's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Billapando was in Theater Nine and suffered a gunshot wound to her face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 28.

**Count 29: Christina Blanche**

Sergeant Fyles testified that he had knowledge of Christina Blanche's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Blanche was in Theater Nine and suffered gunshot wounds to her left and right legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 29.

**Count 30: Maria Carbonell**

Sergeant Fyles testified that he had knowledge of Maria Carbonell's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Carbonell was in Theater Nine and suffered a gunshot wound to her right thigh.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 30.

**Count 31: Alejandra Cardona-Lamas**

Sergeant Fyles testified that he had knowledge of Alejandra Cardona-Lamas' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Cardona-Lamas was in Theater Nine and suffered gunshot wounds to her right hip, thigh, and groin.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 31.

**Count 32: Louis Duran**

Sergeant Fyles testified that he had knowledge of Louis Duran's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Duran was in Theater Nine and suffered gunshot wounds to his right chest, knee, head, and to his arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 32.

**Count 33: Craig Enlund**

Sergeant Fyles testified that he had knowledge of Craig Enlund's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Enlund was in Theater Nine and suffered gunshot wounds to his right shoulder, left shoulder, left arm, and left side of his face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 33.

**Count 34: Alex Espinoza**

Sergeant Fyles testified that he had knowledge of Alex Espinoza's location and injuries on July 20, 2012. Sergeant Fyles stated that Alex Espinoza was in Theater Nine and suffered a gunshot wound to the triceps and upper arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 34.

**Count 35: Jacqueline Fry**

Sergeant Fyles testified that he had knowledge of Jacqueline Fry's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Fry was in Theater Nine and suffered gunshot wounds to her right arm, thigh, and knee and that she lost a tooth.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 35.

**Count 36: Yousef Gharbi**

Sergeant Fyles testified that he had knowledge of Yousef Gharbi's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Gharbi was in Theater Nine and suffered gunshot wounds to the head and right arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 36.

**Count 37: Zackary Golditch**

Sergeant Fyles testified that he had knowledge of Zackary Golditch's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Golditch was in Theater Eight and suffered a gunshot wound to the neck. Sergeant Fyles testified that, in his opinion, Mr. Golditch's injuries resulted from bullets and fragments from shots fired in Theater Nine that passed into Theater Eight.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 37.

**Count 38: Munirah ("Moni") Gravelly**

Sergeant Fyles testified that he had knowledge of Munirah Gravelley's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Gravelley was in Theater Nine and suffered gunshot wounds to the head, right arm, and left arm and hand.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 38.

**Count 39: Eugene Han**

Sergeant Fyles testified that he had knowledge of Eugene Han's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Han was in Theater Nine and suffered gunshot wounds to the right hip, leg, and pelvis.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 39.

**Count 40: Kirstin Davis**

Sergeant Fyles testified that he had knowledge of Kirstin Davis' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Davis was in Theater Nine and suffered a gunshot wound to her back and buttocks.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 40.

**Count 41: Katie Medley**

Sergeant Fyles testified that he had knowledge of Katie Medley's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Medley was in Theater Nine and suffered a gunshot wound to her head.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 41.

**Count 42: Jasmine Kennedy**

Sergeant Fyles testified that he had knowledge of Jasmine Kennedy's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Kennedy was in Theater Nine and suffered a gunshot wound to her lower right leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 42.

**Count 43: Marcus Kizzar**

Sergeant Fyles testified that he had knowledge of Marcus Kizzar's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Kizzar was in Theater Nine and suffered gunshot wounds to his lower legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 43.

**Count 44: Patricia Legarreta**

Sergeant Fyles testified that he had knowledge of Patricia Legarreta's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Legarreta was in Theater Nine and suffered a gunshot wound to her right lower leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 44.

**Count 45: Brenton Lowak**

Sergeant Fyles testified that he had knowledge of Brenton Lowak's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Lowak was in Theater Nine and suffered gunshot wounds to his left buttocks, hip, and back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 45.

**Count 46: Ryan Lumba**

Sergeant Fyles testified that he had knowledge of Ryan Lumba's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Lumba was in Theater Nine and suffered gunshot wounds to his left hip, abdomen, chest, and arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 46.

**Count 47: Caleb Medley**

Sergeant Fyles testified that he had knowledge of Caleb Medley's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Medley was in Theater Nine and suffered gunshot wounds to his face, right eye, and head. Officer Grizzle testified that he drove a victim that he believes was Caleb Medley from the Century 16 Theater to University Hospital in his patrol car. During that transport, Officer Grizzle observed that Mr. Medley had suffered a gunshot wound to the head or face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 47.

**Count 48: Ashley Moser**

Sergeant Fyles testified that he had knowledge of Ashley Moser's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Moser was in Theater Nine and suffered a gunshot wound to the left side of her chest and torso. Sergeant Fyles testified Ms. Moser was transported by Officer Grizzle from the Century 16 Theater to the hospital. Officer Grizzle testified he transported Ms. Moser from the Century 16 Theater to the Medical Center of Aurora in the back of his patrol car.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 48.

**Count 49: Stefan Moton**

Sergeant Fyles testified that he had knowledge of Stefan Moton's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Moton was in Theater Nine and suffered a gunshot wound to his shoulder and spine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 49.

**Count 50: Joshua Nowlan**

Sergeant Fyles testified that he had knowledge of Joshua Nowlan's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Nowlan was in Theater Nine and suffered gunshot wounds to his right arm, abdomen, and leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 50.

**Count 51: Pierce O'Farrill**

Sergeant Fyles testified that he had knowledge of Pierce O'Farrill's location and injuries on July 20, 2012. Sergeant Fyles stated that Pierce O'Farrill was in Theater Nine and suffered gunshot wounds to the left arm and foot.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 51.

**Count 52: Prodeo Patria**

Sergeant Fyles testified that he had knowledge of Prodeo Patria's location and injuries on July 20, 2012. Sergeant Fyles stated that Prodeo Patria was in Theater Nine and suffered a gunshot wound to the lower left back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 52.

**Count 53: Rita Paulina**

Sergeant Fyles testified that he had knowledge of Rita Paulina's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Paulina was in Theater Nine and suffered gunshot wounds to her left upper arm and leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 53.

**Count 54: Christopher Rapoza**

Sergeant Fyles testified that he had knowledge of Christopher Rapoza's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rapoza was in Theater Nine and suffered multiple gunshot wounds.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 54.

**Count 55: Carli Richards**

Sergeant Fyles testified that he had knowledge of Carli Richards' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Richards was in Theater Nine and suffered multiple gunshot wounds to her chest, back, arms, and legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 55.

**Count 56: Dion Rosborough**

Sergeant Fyles testified that he had knowledge of Dion Rosborough's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rosborough was in Theater Nine and suffered a gunshot wound to the right shoulder. Detective Fredericksen testified that he interviewed Dion Rosborough and that Mr. Rosborough explained that he had seen the shooter near the emergency exit in Theater Nine where Mr. Rosborough was seated. Detective Fredericksen stated that Mr. Rosborough watched the shooter approach him, that the shooter was wearing headgear, and that the shooter shot him in the right shoulder from about five feet away with some sort of automatic weapon. The Court FINDS Detective Fredericksen's testimony corroborates Sergeant Fyles' testimony and is credible.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 56.



**Count 57: Carey Rottman**

Sergeant Fyles testified that he had knowledge of Carey Rottman's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rottman was in Theater Nine and suffered a gunshot wound to his upper right leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 57.

**Count 58: Lucas Smith**

Sergeant Fyles testified that he had knowledge of Lucas Smith's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Smith was in Theater Nine and suffered gunshot wounds to his right pelvis and thigh.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 58.

**Count 59: Heather Snyder**

Sergeant Fyles testified that he had knowledge of Heather Snyder's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Snyder was in Theater Nine and suffered gunshot wounds to her right arm and hand and to her left thigh, knee, and lower leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 59.

**Count 60: Farrah Soudani**

Sergeant Fyles testified that he had knowledge of Farrah Soudani's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Soudani was in Theater Nine and suffered a gunshot wound to her abdomen. Detective Fredericksen testified that he interviewed Ms. Soudani on August 20, 2012, and that Ms. Soudani told him she was in Theater Nine and a tear gas can was thrown over her head and then she heard pops. Detective Fredericksen stated that Ms. Soudani told him she stood up when the pops stopped and was shot in her left side and that she said she was transported from the Century 16 Theater to the hospital by a police officer. The Court FINDS Detective Fredericksen's testimony credible and corroborative of Sergeant Fyles' testimony.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 60.

**Count 61: Catherine Streib**

Sergeant Fyles testified that he had knowledge of Catherine Streib's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Streib was in Theater Nine and suffered gunshot wounds to her left lower back and buttock.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 61.

**Count 62: Jamison Toews**

Sergeant Fyles testified that he had knowledge of Jamison Toews' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Toews was in Theater Nine and suffered a gunshot wound to the head.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 62.

**Count 63: Denise Traynom-Axelrod**

Sergeant Fyles testified that he had knowledge of Denise Traynom-Axelrod's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Traynom-Axelrod was in Theater Nine and suffered a gunshot wound to her right lower back and buttock. Detective Fredericksen testified that he interviewed Ms. Traynom-Axelrod on August 9, 2012, regarding the events in Theater Nine and that she told him she had been shot in the right buttock and was waiting to have surgery. The Court FINDS Detective Fredericksen's testimony to be credible and corroborative of Sergeant Fyles' testimony.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 63.

**Count 64: Marcus Weaver**

Sergeant Fyles testified that he had knowledge of Marcus Weaver's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Weaver was in Theater Nine and suffered gunshot wounds to his right shoulder, elbow, and both legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 64.

**Count 65: Michael White, Jr.**

Sergeant Fyles testified that he had knowledge of Michael White's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. White was in Theater Nine and suffered gunshot wounds to his right torso and shoulder.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 65.

**Count 66: David Williams**

Sergeant Fyles testified that he had knowledge of David Williams' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Williams was in Theater Nine and suffered a gunshot wound to his left hand and fingers.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 66.

**Count 67: Alleen Young**

Sergeant Fyles testified that he had knowledge of Alleen Young's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Young was in Theater Nine and suffered gunshot wounds to her chest and back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 67.

**Count 68: Jansen Young**

Sergeant Fyles testified that he had knowledge of Jansen Young's location and injuries on July 20, 2012. Sergeant Fyles stated that Jansen Young was in Theater Nine and suffered gunshot wounds to the left side of her torso.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 68.

**Count 69: Samantha Yowler**

Sergeant Fyles testified that he had knowledge of Samantha Yowler's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Yowler was in Theater Nine and suffered a gunshot wound to her right knee.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 69.

**Count 70: Gage Hankins**

Sergeant Fyles testified that he had knowledge of Gage Hankins' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Hankins was in Theater Eight and suffered a gunshot wound to the right arm and shrapnel retention. Sergeant Fyles testified that, in his opinion, Mr. Hankins' injuries resulted from bullets and fragments fired in Theater Nine that passed into Theater Eight.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 70.

**Count 71: McKayla Hicks**

Sergeant Fyles testified that he had knowledge of McKayla Hicks' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hicks was in Theater Eight and suffered a gunshot wound to the right side of her face. Sergeant Fyles testified that, in his opinion, Ms. Hicks' injuries resulted from bullets and fragments fired in Theater Nine that passed into Theater Eight.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 71.

**Count 72: Stephen Barton**

Sergeant Fyles testified that he had knowledge of Stephen Barton's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Barton was in Theater Nine and suffered a gunshot wound to the head and shrapnel injuries to his chest.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 72.

**Count 73: Nickelas Gallup**

Sergeant Fyles testified that he had knowledge of Nickelas Gallup's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Gallup was in Theater Nine and suffered a gunshot wound to the head and embedded shrapnel near his temporal artery.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 73.

**Count 74: Evan Farris**

Sergeant Fyles testified that he had knowledge of Evan Farris' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Farris was in Theater Nine and suffered an ankle fracture and possible graze wound as a result of being present in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 74.

**Count 75: Jennifer Avila-Arredondo**

Sergeant Fyles testified that he had knowledge of Jennifer Avila-Arredondo's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Avila-Arredondo was in Theater Nine and suffered a gunshot wound to her head.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 75.

**Count 76: Jarell Brooks**

Sergeant Fyles testified that he had knowledge of Jarell Brooks' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Brooks was in Theater Nine and suffered a gunshot wound to his left thigh.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 76.

**Count 77: Amanda Hernandez-Memije**

Sergeant Fyles testified that he had knowledge of Amanda Hernandez-Memije's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hernandez-Memije was in Theater Nine and suffered a minor head injury.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 77.

**Count 78: Kelly Lewis**

Sergeant Fyles testified that he had knowledge of Kelly Lewis' location and injuries on July 20, 2012. Sergeant Fyles stated that Kelly Lewis was in Theater Nine and suffered chemical irritation as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 78.

**Count 79: Bonnie Pourciau**

Sergeant Fyles testified that he had knowledge of Bonnie Pourciau's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Pourciau was in Theater Nine and suffered a gunshot wound to her left knee.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 79.

**Count 80: Anggiat Mora**

Sergeant Fyles testified that he had knowledge of Anggiat Mora's location and injuries on July 20, 2012. Sergeant Fyles stated that Anggiat Mora was in Theater Nine and suffered a gunshot wound to the left face and eye.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 80.

**Count 81: Ethan Rohrs**

Sergeant Fyles testified that he had knowledge of Ethan Rohrs' location and injuries on July 20, 2012. Sergeant Fyles stated that Ethan Rohrs was in Theater Nine and suffered bumps and bruises from being dropped when his parents tried to flee Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 81.

**Count 82: Nathan Juranek**

Sergeant Fyles testified that he had knowledge of Nathan Juranek's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Juranek was in Theater Nine and suffered gunshot wounds to the lower right leg and calf.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 82.

**Count 83: Petra Anderson**

Sergeant Fyles testified that he had knowledge of Petra Anderson's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Anderson was in Theater Nine and that Ms. Anderson suffered a gunshot wound to the face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 83.

**County 84: Adan Avila**

Sergeant Fyles testified that he had knowledge of Adan Avila's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Avila was in Theater Nine and that Mr. Avila suffered gunshot wounds to the right lower leg and left arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 84.

**Count 85: Brandon Axelrod**

Sergeant Fyles testified that he had knowledge of Brandon Axelrod's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Axelrod was in Theater Nine and suffered injuries to ligaments in his knee while he was fleeing the Century 16 Theater.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 85.

**Count 86: Toni Billapando**

Sergeant Fyles testified that he had knowledge of Toni Billapando's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Billapando was in Theater Nine and suffered a gunshot wound to her face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 86.

**Count 87: Christina Blanche**

Sergeant Fyles testified that he had knowledge of Christina Blanche's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Blanche was in Theater Nine and suffered gunshot wounds to her left and right legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 87.



**Count 88: Maria Carbonell**

Sergeant Fyles testified that he had knowledge of Maria Carbonell's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Carbonell was in Theater Nine and suffered a gunshot wound to her right thigh.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 88.

**Count 89: Alejandra Cardona-Lamas**

Sergeant Fyles testified that he had knowledge of Alejandra Cardona-Lamas' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Cardona-Lamas was in Theater Nine and suffered gunshot wounds to her right hip, thigh, and groin.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 89.

**Count 90: Louis Duran**

Sergeant Fyles testified that he had knowledge of Louis Duran's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Duran was in Theater Nine and suffered gunshot wounds to his right chest, knee, head, and to his arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 90.

**Count 91: Craig Enlund**

Sergeant Fyles testified that he had knowledge of Craig Enlund's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Enlund was in Theater Nine and suffered gunshot wounds to his right shoulder, left shoulder, left arm, and left side of his face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 91.

**Count 92: Alex Espinoza**

Sergeant Fyles testified that he had knowledge of Alex Espinoza's location and injuries on July 20, 2012. Sergeant Fyles stated that Alex Espinoza was in Theater Nine and suffered a gunshot wound to the triceps and upper arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 92.

**Count 93: Jacqueline Fry**

Sergeant Fyles testified that he had knowledge of Jacqueline Fry's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Fry was in Theater Nine and suffered gunshot wounds to her right arm, thigh, and knee and that she lost a tooth.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 93.

**Count 94: Yousef Gharbi**

Sergeant Fyles testified that he had knowledge of Yousef Gharbi's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Gharbi was in Theater Nine and suffered gunshot wounds to the head and right arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 94.

**Count 95: Zackary Golditch**

Sergeant Fyles testified that he had knowledge of Zackary Golditch's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Golditch was in Theater Eight and suffered a gunshot wound to the neck. Sergeant Fyles testified that, in his opinion, Mr. Golditch's injuries resulted from bullets and fragments from shots fired in Theater Nine that passed into Theater Eight.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 95.

**Count 96: Munirah (“Moni”) Gravelly**

Sergeant Fyles testified that he had knowledge of Munirah Gravelley’s location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Gravelley was in Theater Nine and suffered gunshot wounds to the head, right arm, and left arm and hand.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 96.

**Count 97: Eugene Han**

Sergeant Fyles testified that he had knowledge of Eugene Han’s location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Han was in Theater Nine and suffered gunshot wounds to the right hip, leg, and pelvis.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 97.

**Count 98: Kirstin Davis**

Sergeant Fyles testified that he had knowledge of Kirstin Davis’ location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Davis was in Theater Nine and suffered a gunshot wound to her back and buttocks.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 98.

**Count 99: Katie Medley**

Sergeant Fyles testified that he had knowledge of Katie Medley’s location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Medley was in Theater Nine and suffered a gunshot wound to her head.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 99.

**Count 100: Jasmine Kennedy**

Sergeant Fyles testified that he had knowledge of Jasmine Kennedy's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Kennedy was in Theater Nine and suffered a gunshot wound to her lower right leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 100.

**Count 101: Marcus Kizzar**

Sergeant Fyles testified that he had knowledge of Marcus Kizzar's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Kizzar was in Theater Nine and suffered gunshot wounds to his lower legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 101.

**Count 102: Patricia Legarreta**

Sergeant Fyles testified that he had knowledge of Patricia Legarreta's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Legarreta was in Theater Nine and suffered a gunshot wound to her right lower leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 102.

**Count 103: Brenton Lowak**

Sergeant Fyles testified that he had knowledge of Brenton Lowak's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Lowak was in Theater Nine and suffered gunshot wounds to his left buttocks, hip, and back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 103.

**Count 104: Ryan Lumba**

Sergeant Fyles testified that he had knowledge of Ryan Lumba's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Lumba was in Theater Nine and suffered gunshot wounds to his left hip, abdomen, chest, and arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 104.

**Count 105: Caleb Medley**

Sergeant Fyles testified that he had knowledge of Caleb Medley's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Medley was in Theater Nine and suffered gunshot wounds to his face, right eye, and head. Officer Grizzle testified that he drove a victim that he believes was Caleb Medley from the Century 16 Theater to University Hospital in his patrol car. During transport, Officer Grizzle observed that Mr. Medley had suffered a gunshot wound to the head or face.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 105.

**Count 106: Ashley Moser**

Sergeant Fyles testified that he had knowledge of Ashley Moser's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Moser was in Theater Nine and suffered a gunshot wound to the left side of her chest and torso. Sergeant Fyles testified Ms. Moser was transported by Officer Grizzle from the Century 16 Theater to the hospital. Officer Grizzle testified he transported Ms. Moser from the Century 16 Theater to the Medical Center of Aurora in the back of his patrol car.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 106.

**Count 107: Stefan Moton**

Sergeant Fyles testified that he had knowledge of Stefan Moton's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Moton was in Theater Nine and suffered a gunshot wound to his shoulder and spine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 107.

**Count 108: Joshua Nowlan**

Sergeant Fyles testified that he had knowledge of Joshua Nowlan's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Nowlan was in Theater Nine and suffered gunshot wounds to his right arm, abdomen, and leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 108.

**Count 109: Pierce O'Farrill**

Sergeant Fyles testified that he had knowledge of Pierce O'Farrill's location and injuries on July 20, 2012. Sergeant Fyles stated that Pierce O'Farrill was in Theater Nine and suffered gunshot wounds to his left arm and foot.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 109.

**Count 110: Prodeo Patria**

Sergeant Fyles testified that he had knowledge of Prodeo Patria's location and injuries on July 20, 2012. Sergeant Fyles stated that Prodeo Patria was in Theater Nine and suffered a gunshot wound to the lower left back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 110.

**Count 111: Rita Paulina**

Sergeant Fyles testified that he had knowledge of Rita Paulina's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Paulina was in Theater Nine and suffered gunshot wounds to her left upper arm and leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 111.

**Count 112: Christopher Rapoza**

Sergeant Fyles testified that he had knowledge of Christopher Rapoza's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rapoza was in Theater Nine and suffered multiple gunshot wounds.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 112.

**Count 113: Carli Richards**

Sergeant Fyles testified that he had knowledge of Carli Richards' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Richards was in Theater Nine and suffered multiple gunshot wounds to her chest, back, arms, and legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 113.

**Count 114: Dion Rosborough**

Sergeant Fyles testified that he had knowledge of Dion Rosborough's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rosborough was in Theater Nine and suffered a gunshot wound to the right shoulder. Detective Fredericksen testified that he interviewed Dion Rosborough and that Mr. Rosborough explained that he had seen the shooter near the emergency exit in Theater Nine where Mr. Rosborough was seated. Detective Fredericksen stated that Mr. Rosborough watched the shooter approach him, that the shooter was wearing headgear, and that the shooter shot him in the right shoulder from about five feet away with some sort of automatic weapon. The Court FINDS Detective Fredericksen's testimony is consistent Sergeant Fyles' testimony and is credible.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 114.

**Count 115: Carey Rottman**

Sergeant Fyles testified that he had knowledge of Carey Rottman's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rottman was in Theater Nine and suffered a gunshot wound to his upper right leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 115.

**Count 116: Lucas Smith**

Sergeant Fyles testified that he had knowledge of Lucas Smith's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Smith was in Theater Nine and suffered gunshot wounds to his right pelvis and thigh.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 116.

**Count 117: Heather Snyder**

Sergeant Fyles testified that he had knowledge of Heather Snyder's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Snyder was in Theater Nine and suffered gunshot wounds to her right arm and hand and to her left thigh, knee, and lower leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 117.

**Count 118: Farrah Soudani**

Sergeant Fyles testified that he had knowledge of Farrah Soudani's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Soudani was in Theater Nine and suffered a gunshot wound to her abdomen. Detective Fredericksen testified that he interviewed Ms. Soudani on August 20, 2012, and that Ms. Soudani told him she was in Theater Nine and a tear gas can was thrown over her head and then she heard pops. Detective Fredericksen stated that Ms. Soudani told him she stood up when the pops stopped and was shot in her left side and that she said she was transported from the Century 16 Theater to the hospital by a police officer. The



Court FINDS Detective Fredericksen's testimony credible and corroborative of Sergeant Fyles' testimony.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 118.

**Count 119: Catherine Streib**

Sergeant Fyles testified that he had knowledge of Catherine Streib's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Streib was in Theater Nine and suffered gunshot wounds to her left lower back and buttock.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 119.

**Count 120: Jamison Toews**

Sergeant Fyles testified that he had knowledge of Jamison Toews' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Toews was in Theater Nine and suffered a gunshot wound to the head.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 120.

**Count 121: Denise Traynom-Axelrod**

Sergeant Fyles testified that he had knowledge of Denise Traynom-Axelrod's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Traynom-Axelrod was in Theater Nine and suffered a gunshot wound to her right lower back and buttock. Detective Fredericksen testified that he interviewed Ms. Traynom-Axelrod on August 9, 2012, regarding the events in Theater Nine and that she told him she had been shot in the right buttock and was waiting to have surgery. The Court FINDS Detective Fredericksen's testimony to be credible and corroborative of Sergeant Fyles' testimony.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 121.

**Count 122: Marcus Weaver**

Sergeant Fyles testified that he had knowledge of Marcus Weaver's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Weaver was in Theater Nine and suffered gunshot wounds to his right shoulder, elbow, and both legs.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 122.

**Count 123: Michael White, Jr.**

Sergeant Fyles testified that he had knowledge of Michael White's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. White was in Theater Nine and suffered gunshot wounds to his right torso and shoulder.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 123.

**Count 124: David Williams**

Sergeant Fyles testified that he had knowledge of David Williams' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Williams was in Theater Nine and suffered a gunshot wound to his left hand and fingers.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 124.

**Count 125: Alleen Young**

Sergeant Fyles testified that he had knowledge of Alleen Young's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Young was in Theater Nine and suffered gunshot wounds to her chest and back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 125.

**Count 126: Jansen Young**

Sergeant Fyles testified that he had knowledge of Jansen Young's location and injuries on July 20, 2012. Sergeant Fyles stated that Jansen Young was in Theater Nine and suffered gunshot wounds to the left side of her torso.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 126.

**Count 127: Samantha Yowler**

Sergeant Fyles testified that he had knowledge of Samantha Yowler's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Yowler was in Theater Nine and suffered a gunshot wound to her right knee.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 127.

**Count 128: Gage Hankins**

Sergeant Fyles testified that he had knowledge of Gage Hankins' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Hankins was in Theater Eight and suffered a gunshot wound to the right arm and shrapnel retention. Sergeant Fyles testified that, in his opinion, Mr. Hankins' injuries resulted from bullets and fragments fired in Theater Nine that passed into Theater Eight.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 128.

**Count 129: McKayla Hicks**

Sergeant Fyles testified that he had knowledge of McKayla Hicks' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hicks was in Theater Eight and suffered a gunshot wound to the right side of her face. Sergeant Fyles testified that, in his opinion, Ms. Hicks' injuries resulted from bullets and fragments fired in Theater Nine that passed into Theater Eight.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 129.

**Count 130: Stephen Barton**

Sergeant Fyles testified that he had knowledge of Stephen Barton's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Barton was in Theater Nine and suffered a gunshot wound to the head and shrapnel injuries to his chest.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 130.

**Count 131: Jennifer Avila-Arredondo**

Sergeant Fyles testified that he had knowledge of Jennifer Avila-Arredondo's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Avila-Arredondo was in Theater Nine and suffered a gunshot wound to her head.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 131.

**Count 132: Jarrell Brooks**

Sergeant Fyles testified that he had knowledge of Jarell Brooks' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Brooks was in Theater Nine and suffered a gunshot wound to his left thigh.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 132.

**Count 133: Amanda Hernandez-Memije**

Sergeant Fyles testified that he had knowledge of Amanda Hernandez-Memije's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hernandez-Memije was in Theater Nine and suffered a minor head injury.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 133.

**Count 134: Nathan Juranek**

Sergeant Fyles testified that he had knowledge of Nathan Juranek's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Juranek was in Theater Nine and suffered gunshot wounds to the lower right leg and calf.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 134.

**Count 135: Kelly Lewis**

Sergeant Fyles testified that he had knowledge of Kelly Lewis' location and injuries on July 20, 2012. Sergeant Fyles stated that Kelly Lewis was in Theater Nine and suffered chemical irritation as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 135.

**Count 136: Anggiat Mora**

Sergeant Fyles testified that he had knowledge of Anggiat Mora's location and injuries on July 20, 2012. Sergeant Fyles stated that Anggiat Mora was in Theater Nine and suffered a gunshot wound to the left face and eye.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 136.

**Count 137: Bonnie Pourciau**

Sergeant Fyles testified that he had knowledge of Bonnie Pourciau's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Pourciau was in Theater Nine and suffered a gunshot wound to her left knee.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 137.

**Count 138: Ethan Rohrs**

Sergeant Fyles testified that he had knowledge of Ethan Rohrs' location and injuries on July 20, 2012. Sergeant Fyles stated that Ethan Rohrs was in Theater Nine and he suffered bumps and bruises when he was dropped while his parents were trying to flee Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 138.

**Count 139: Nickelas Gallup**

Sergeant Fyles testified that he had knowledge of Nickelas Gallup's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Gallup was in Theater Nine and suffered a gunshot wound to the head and embedded shrapnel near his temporal artery.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 139.

**Count 140: Evan Farris**

Sergeant Fyles testified that he had knowledge of Evan Farris' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Farris was in Theater Nine and suffered an ankle fracture and possible graze wound as a result of being present in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 140.

**Count 141: Possession of Explosives**

The Court incorporates by reference its findings regarding Agent Gumbinner's testimony about his observations of Defendant's apartment from Part IV, §A(4). The Court FINDS the People have provided sufficient evidence to establish there is probable cause to believe that Defendant knowingly possessed, controlled, manufactured, gave, mailed, sent, or caused to be sent an explosive or incendiary device as charged in Count 141.

**Count 142: Crime of Violence Sentence Enhancer**

A preliminary hearing may be had with regard to offenses only. The application of the violent crimes sentencing statute is only a sentencing provision, not an offense. *Brown v. Dist. Court*, 569 P.2d 1390, 1391 (Colo. 1977). The application of the statute is triggered only after a defendant has been found guilty of the substantive crime. *Id.* Therefore, no preliminary hearing

is required for this count and no probable cause determination is necessary. *Id.*; see also *People v. Simpson*, No. 11CA2431, 2012 WL 4021636, at \*3 (Colo. App. 2012).

**Count 143: Corbin Dates**

Sergeant Fyles testified that he had knowledge of Corbin Dates' location and injuries on July 20, 2012. Sergeant Fyles stated that Corbin Dates was in Theater Nine and suffered a gunshot wound to the arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 143.

**Count 144: Corbin Dates**

Sergeant Fyles testified that he had knowledge of Corbin Dates' location and injuries on July 20, 2012. Sergeant Fyles stated that Corbin Dates was in Theater Nine and suffered a gunshot wound to the arm.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 144.

**Count 145: Lauren Ellis**

Sergeant Fyles testified that he had knowledge of Lauren Ellis' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Ellis was in Theater Nine and suffered shotgun wounds to her left shoulder, neck, and back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 145.

**Count 146: Lauren Ellis**

Sergeant Fyles testified that he had knowledge of Lauren Ellis' location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Ellis was in Theater Nine and suffered shotgun wounds to her left shoulder, neck, and back.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 146.

**Count 147: Jamie Rhors**

Sergeant Fyles testified that he had knowledge of Jamie Rohrs' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rohrs was in Theater Nine and suffered an ankle and wrist injury as well as abrasions while trying to flee Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 147.

**Count 148: Jamie Rhors**

Sergeant Fyles testified that he had knowledge of Jamie Rohrs' location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Rohrs was in Theater Nine and suffered an ankle and wrist injury as well as abrasions while trying to flee Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 148.

**Count 149: Evan Morrison**

Sergeant Fyles testified that he had knowledge of Evan Morrison's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Morrison was in Theater Nine and suffered a dislocated knee as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 149.

**Count 150: Evan Morrison**

Sergeant Fyles testified that he had knowledge of Evan Morrison's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Morrison was in Theater Nine and suffered a dislocated knee as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 150.



**Count 151: Richelle Hill**

Sergeant Fyles testified that he had knowledge of Richelle Hill's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hill was in Theater Nine and suffered chemical irritation and a head injury as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 151.

**Count 152: Richelle Hill**

Sergeant Fyles testified that he had knowledge of Richelle Hill's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hill was in Theater Nine and suffered chemical irritation and a head injury as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 152.

**Count 153: Kaylan Bailey**

Sergeant Fyles testified that he had knowledge of Kaylan Bailey's location and injuries on July 20, 2012. Sergeant Fyles stated that Kaylan Bailey was in Theater Nine and suffered injuries related to chemical irritation as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 153.

**Count 154: Kaylan Bailey**

Sergeant Fyles testified that he had knowledge of Kaylan Bailey's location and injuries on July 20, 2012. Sergeant Fyles stated that Kaylan Bailey was in Theater Nine and suffered injuries related to chemical irritation as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 154.

**Count 155: Kelly Bowen**

Detective Ingui testified that he interviewed Ms. Bowen and that Ms. Bowen stated she was in Theater Nine on July 20, 2012. Detective Ingui stated that Ms. Bowen heard many shots fired. Sergeant Fyles testified that he had knowledge of Ms. Bowen's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Bowen was in Theater Nine and suffered a gunshot wound to her leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 155.

**Count 156: Kelly Bowen**

Detective Ingui testified that he interviewed Ms. Bowen and that Ms. Bowen stated she was in Theater Nine on July 20, 2012. Detective Ingui stated that Ms. Bowen heard many shots fired. Sergeant Fyles testified that he had knowledge of Ms. Bowen's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Bowen was in Theater Nine and suffered a gunshot wound to her leg.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 155.

**Count 157: Shirley Clark**

Sergeant Fyles testified that he had knowledge of Shirley Clark's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Clark was in Theater Nine and suffered a minor head injury.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 157.

**Count 158: Shirley Clark**

Sergeant Fyles testified that he had knowledge of Shirley Clark's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Clark was in Theater Nine and suffered a minor head injury.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 158.

**Count 159: Hailee Hensley**

Sergeant Fyles testified that he had knowledge of Hailee Hensley's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hensley was in Theater Nine and suffered chemical irritation as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 159.

**Count 160: Hailee Hensley**

Sergeant Fyles testified that he had knowledge of Hailee Hensley's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Hensley was in Theater Nine and suffered chemical irritation as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 160.

**Count 161: Victor Nava**

Sergeant Fyles testified that he had knowledge of Victor Nava's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Nava was in Theater Nine and suffered a gunshot wound to his right arm and hand.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 161.

**Count 162: Victor Nava**

Sergeant Fyles testified that he had knowledge of Victor Nava's location and injuries on July 20, 2012. Sergeant Fyles stated that Mr. Nava was in Theater Nine and suffered a gunshot wound to his right arm and hand.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 162.

**Count 163: Daybra Thomas-Kizzar**

Sergeant Fyles testified that he had knowledge of Daybra Thomas-Kizzar's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Thomas-Kizzar was in Theater Nine and suffered gunshot wounds to her abdomen.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 163.

**Count 164: Daybra Thomas-Kizzar**

Sergeant Fyles testified that he had knowledge of Daybra Thomas-Kizzar's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Thomas-Kizzar was in Theater Nine and suffered gunshot wounds to her abdomen.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 164.

**Count 165: Caitlin Peddicord**

Sergeant Fyles testified that he had knowledge of Caitlin Peddicord's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Peddicord was in Theater Nine and suffered an injury to her right knee as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 165.

**Count 166: Caitlin Peddicord**

Sergeant Fyles testified that he had knowledge of Caitlin Peddicord's location and injuries on July 20, 2012. Sergeant Fyles stated that Ms. Peddicord was in Theater Nine and suffered an injury to her right knee as a result of being in Theater Nine.

The Court FINDS that the People have provided sufficient evidence to establish that there is probable cause to believe that Defendant has committed attempted first degree murder with the requisite mental state as charged in Count 166.

## V. CONCLUSION

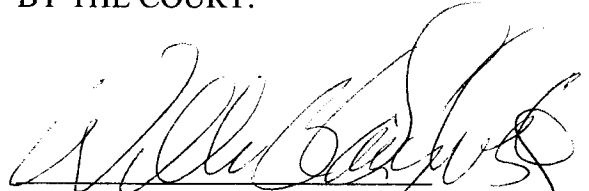
Based on its findings above, the Court FINDS that the People have carried their burden of proof and have established that there is probable cause to believe that Defendant committed the crimes charged in all of the preliminary hearing eligible counts. Therefore, the Court ORDERS that Defendant shall be bound over for trial on all counts.

The Court also FINDS that the proof is evident or the presumption is great that Defendant committed the crimes charged in Counts 1–24. The Court ORDERS that Defendant shall be held without bail on those counts.

The hearing scheduled for January 11, 2013, at 9:00 a.m. is HEREBY converted to an arraignment. This Court recognizes that the defense, in their Objection to Expanded Media Coverage (D-25), is requesting that the matter be set for a status hearing. This Court believes that procedurally it should be an arraignment, but notes, based on D-25, that the defense is likely to request a continuance of this arraignment and that the People should be on notice for Victims' Bill of Rights purposes.

Entered January 10, 2013

BY THE COURT:



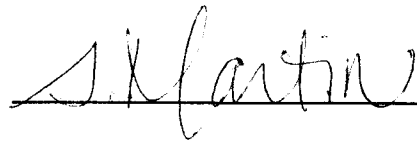
WILLIAM BLAIR SYLVESTER  
CHIEF JUDGE  
18TH JUDICIAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2013, a true and correct copy of **Order Re: Preliminary/Proof Evident Hearing (c-19)** was served upon the following parties of record.

Karen Pearson  
Amy Jorgenson  
Arapahoe County District Attorney's Office  
6450 S. Revere Parkway  
Centennial, CO 80111-6492  
(via email)

Sherilyn Koslosky  
Rhonda Crandall  
Colorado State Public Defender's Office  
1290 S. Broadway, Suite 900  
Denver, CO 80203  
(via email)

  
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