

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON,	)	Case No.: 20CR50067
	)	
Plaintiff,	)	DEFENDANT'S MOTION
	)	FOR ELECTION
vs.	)	
	)	
ALAN JAMES SWINNEY,	)	
	)	
Defendant.	)	

Comes now Defendant, Alan Swinney, by and through counsel Joseph Westover, and hereby moves this court for an order requiring the state to identify the complaining witnesses and specific conduct alleged to be criminal with regard to Counts 1–4 and 8–10. Defendant also requests the state be required to confirm the specific acts alleged as the basis for counts 5, 6, 11 and 12. This motion is in the opinion of counsel well founded in law and neither made nor filed for the purposes of delay.

Pursuant to UTCR 4.050, Defendant requests an evidentiary hearing and estimates the time necessary for this hearing will not exceed one hour.

**FACTS**

Defendant stands charged with twelve offenses spanning two days in August of 2020. Complaining witnesses are only identified by the indictment in counts 5, 6, 11 and 12.

**MEMORANDUM**

In Oregon, all criminal defendants have a constitutional right “to demand the nature and cause of the accusation against him \* \* \* .” Or Const, Art I, § 11. When an indictment is

1 sufficient do survive a demurrer, *see* ORS 135.630, but nonetheless leaves questions about the  
2 nature and the cause of the accusations, a defendant may make a pretrial motion for election,  
3 *State v. Payne*, 298 Or App 411, 420–21, 447 P3d 515 (2019).

4 This case involves allegations stemming from two incidents where Defendant came to  
5 downtown Portland to exercise his constitutional rights, including his right to speech, in which  
6 his group was targeted by protestors who disagreed with Defendant’s position. Defendant was  
7 downtown for hours in each case. He has a right to defend against specific allegations, in this  
8 case he is entitled to know the identity of the complaining witnesses in each count, as well as the  
9 exact conduct the state intends to offer proof of at trial.

10  
11 Dated: September 13, 2021.

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14 /s/ Joseph Westover  
15 Joseph Westover, OSB 141427  
16 [jwestover@multnomahdefenders.org](mailto:jwestover@multnomahdefenders.org)  
17 Attorney for Defendant  
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1 **CERTIFICATE OF SERVICE**

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3 I hereby certify that I served the foregoing

4 **DEFENDANT'S MOTION FOR ELECTION**

5 on:

6 Deputy District Attorney Nathan Vasquez  
7 [nathan.vasquez@mcdca.us](mailto:nathan.vasquez@mcdca.us)

8 and

9 Deputy District Attorney Reid Schweitzer  
10 [reid.schweitzer@mcdca.us](mailto:reid.schweitzer@mcdca.us)

11 by the e-mailing a full, true, and correct copy thereof to the individual(s) at the e-mail  
12 address(es) shown above and via the Oregon File & Serve system on the date set forth below.

13 Dated: September 13, 2021.

14 /s/ Joseph Westover  
15 Joseph Westover, OSB 141427  
16 [jwestover@multnomahdefenders.org](mailto:jwestover@multnomahdefenders.org)  
17 Attorney for Defendant  
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