

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

THE STATE OF OREGON,

Plaintiff,

v.

IAN KRAMER, MATTHEW COOPER,  
CHRISTOPHER PONTE, MACKENZIE  
LEWIS, and JOSEPH GIBSON,

Defendants.

No. 19CR50007, DA#2403568  
No. 19CR50009, DA#2403568  
No. 19CR53033, DA#2407865  
No. 19CR53038, DA#2407863  
No. 19CR53040, DA#2407868  
No. 19CR53042, DA#2407866  
No. 19CR54815, DA#2407862

STATE'S MOTION TO CONSOLIDATE  
CASES FOR TRIAL

Comes now Rod Underhill, Multnomah County District Attorney, by and through Brad Kalbaugh, Deputy District Attorney, and respectfully moves the court for an order consolidating the above captioned cases now pending for trial on the grounds and for the reason that each of the above captioned cases are based on the same act or transaction as the other cases.

**FACTS**

On the evening of May 1, 2019, police received numerous reports describing a crowd of people fighting outside of a business called "Cider Riot". Earlier that same day, there had been demonstrations and protest marches in various locations in the city. Demonstrators included, but were not limited to, individuals loosely associated with a political group called "Patriot Prayer" and individuals loosely associated with a political group called "Antifa". Both factions have a

1 history of being violent toward one another. Portland Police Sergeant Jerry Cioeta responded to  
2 the calls. Sergeant Cioeta arrived in the vicinity of a business called "Cider Riot". He was  
3 dressed in plain clothes and operating an unmarked car. Sergeant Cioeta observed approximately  
4 15 members of individuals affiliated with "Patriot Prayer" verbally arguing with approximately  
5 50 members of individuals affiliated with "Antifa". Many of the people affiliated with "Antifa"  
6 were wearing masks and were situated in an outdoor seating area of the business. Many of the  
7 individuals present were recording the incident on their cell phones. As the situation escalated,  
8 Sergeant Cioeta observed individuals from both groups deploying what he believed to be pepper  
9 spray at one another. He also observed individuals from both groups throwing projectiles at one  
10 another. A woman associated with the "Antifa" group and later identified as Heather Clark was  
11 knocked unconscious by a member of Patriot Prayer who was wielding a metal baton and was  
12 later identified as Ian Kramer. Investigations later revealed that Heather Clark had suffered a  
13 spinal fracture of her C5 vertebrae.

14 Portland Police Bureau Detective Christopher Traynor investigated the incident after the  
15 fact. Detective Traynor located and viewed numerous video clips of the incident that were  
16 readily available on the internet via numerous sources. Through his investigation, Detective  
17 Traynor was able to identify Joseph Gibson, Russell Schultz, Mackenzie Lewis, Matthew  
18 Cooper, Ian Kramer, and Christopher Ponte as individuals who were actively participating and  
19 engaging in the violent and tumultuous conduct that was captured on video and all of whom he  
20 believed to be affiliated with the "Patriot Prayer" contingency. In the video footage, Detective  
21 Traynor observed all six individuals physically and verbally taunting members of the "Antifa"  
22 group in an effort clearly designed to provoke a fight. In one particular video clip, Detective  
23 Traynor heard Joseph Gibson repeatedly challenging members of the "Antifa" group to fight him

1 as he says "do something" repeatedly. Video obtained in the course of Detective Traynor's  
2 investigation shows individuals associated with "Antifa" spitting on Joseph Gibson, who reacts  
3 by wiping the spit on a third party and then challenging that person to "do something" about it.  
4 Video obtained by Detective Traynor shows Christopher Ponte discharge pepper spray or mace  
5 at the crowd of "Antifa" sympathizers. Video obtained by Detective Traynor shows Joseph  
6 Gibson, Russell Schultz, Ian Kramer, Matthew Cooper, Mackenzie Lewis, and Christopher Ponte  
7 encircling two individuals who engage in a fist fight, one from each opposing group. Video  
8 shows Christopher Ponte punch a man in the face. Video obtained by Detective Traynor shows  
9 Matthew Cooper and Ian Kramer throwing projectiles in the crowd of Antifa supporters and  
10 business patrons, who in turn can be seen throwing projectiles at members of the "Patriot Prayer"  
11 group. Video shows Matthew Cooper challenging members of "Antifa" to a fist fight separate  
12 and apart from the fight referenced above.

### 13 PROCEDURAL POSTURE

14 **RE: July 29, 2019, indictment charging Ian Kramer on 19CR50007 and Matthew Cooper**  
15 **on 19CR50009.**

16 On July 29, 2019, a grand jury indicted Ian Kramer and Matthew Cooper for crimes  
17 pertaining to a May 1, 2019, incident that occurred in Multnomah County, in the State of  
18 Oregon. The indictment charges Ian Kramer with the crimes of ASSAULT IN THE SECOND  
19 DEGREE, UNLAWFUL USE OF A WEAPON, ATTEMPTED ASSAULT IN THE SECOND  
20 DEGREE, UNLAWFUL USE OF A WEAPON, UNLAWFUL USE OF MACE IN THE  
21 SECOND DEGREE, and DISORDERLY CONDUCT IN THE SECOND DEGREE. The same  
22 indictment charges Matthew Cooper with the crimes of DISORDERLY CONDUCT and  
23 HARASSMENT. All of the crimes are alleged to have occurred on May 1, 2019, in conjunction

1 with a disturbance at an establishment called "Cider Riot". The incident was the subject of an  
2 investigation by Portland Police Detective Christopher Traynor and is documented in reports 19-  
3 141483.

4 Both Ian Kramer and Matthew Cooper were arraigned on the indictments for case nos.  
5 19CR50007 and 19CR50009 on August 8, 2019. Ian Kramer was denied release and held in  
6 custody pursuant to ORS 135.240(5). Matthew Cooper was released from custody.

7 On September 19, 2019, Ian Kramer waived his right to a trial within 60 days as set forth  
8 under ORS 136.290.

9  
10 **RE: August 20, 2019, indictment charging Ian Kramer on 19CR54815**

11 On August 20, 2019, a grand jury indicted Ian Kramer for additional criminal activity  
12 pertaining to the May 1, 2019, incident at "Cider Riot". The indictment charges Ian Kramer with  
13 the crime of RIOT. The crime is alleged to have occurred on May 1, 2019, in conjunction with a  
14 disturbance at an establishment called "Cider Riot". The incident was subject of an investigation  
15 by Portland Police Detective Christopher Traynor and is documented in reports 19-141483, 19-  
16 143459, 19-141889, and 19-650568. The incident that was the subject of the August 20, 2019,  
17 indictment charging Ian Kramer with RIOT on case no. 19CR54815 is the exact same incident  
18 that gave rise to the indictments on 19CR50007, 19CR50009, 19CR53033, 19CR53038,  
19 19CR53040, and 19CR53042.

20 Ian Kramer was arraigned on the indictment for case no. 19CR54815 on August 21,  
21 2019. On August 30<sup>th</sup>, Judge Angel Lopez ordered case no. 19CR54815 joined with case no.  
22 19CR50007. Both cases currently are scheduled to go to trial on October 28, 2019.

1           On September 19, 2019, Ian Kramer waived his right to a trial within 60 days as set forth  
2 under ORS 136.290.  
3

4 **RE: August 22, 2019, indictment charging Matthew Cooper on 19CR53038**

5           On August 22, 2019, a grand jury indicted Matthew Cooper for additional criminal  
6 activity pertaining to the May 1, 2019, incident at “Cider Riot”. The indictment charges Matthew  
7 Cooper with the crime of RIOT. The crime is alleged to have occurred on May 1, 2019, in  
8 conjunction with a disturbance at an establishment called “Cider Riot”. The incident was subject  
9 of an investigation by Portland Police Detective Christopher Traynor and is documented in  
10 reports 19-141483, 19-143459, 19-141889, and 19-650568. The incident that was the subject of  
11 the August 22, 2019, indictment charging Matthew Cooper with RIOT on case no. 19CR53038 is  
12 the exact same incident that gave rise to the indictments on 19CR50007, 19CR50009,  
13 19CR53033, 19CR53040, 19CR53042, and 19CR54815.

14           Matthew Cooper was arraigned on the indictment for case no. 19CR53038 on August 30,  
15 2019.  
16

17 **RE: August 22, 2019, indictment charging Mackenzie Lewis on 19CR53040**

18           On August 22, 2019, a grand jury indicted Mackenzie Lewis for criminal activity  
19 pertaining to the May 1, 2019, incident at “Cider Riot”. The indictment charges Mackenzie  
20 Lewis with the crime of RIOT. The crime is alleged to have occurred on May 1, 2019, in  
21 conjunction with a disturbance at an establishment called “Cider Riot”. The incident was subject  
22 of an investigation by Portland Police Detective Christopher Traynor and is documented in  
23 reports 19-141483, 19-143459, 19-141889, and 19-650568. The incident that was the subject of

1 the August 22, 2019, indictment charging Mackenzie Lewis with RIOT on case no. 19CR53040  
2 is the exact same incident that gave rise to the indictments on 19CR50007, 19CR50009,  
3 19CR53033, 19CR53038, 19CR53042, and 19CR54815.

4 Mackenzie Lewis was arraigned on the indictment for case no. 19CR53040 on August  
5 28, 2019.

6  
7 **RE: August 22, 2019, indictment charging Joseph Gibson on 19CR53042**

8 On August 22, 2019, a grand jury indicted Joseph Gibson for criminal activity pertaining  
9 to the May 1, 2019, incident at "Cider Riot". The indictment charges Joseph Gibson with the  
10 crime of RIOT. The crime is alleged to have occurred on May 1, 2019, in conjunction with a  
11 disturbance at an establishment called "Cider Riot". The incident was subject of an investigation  
12 by Portland Police Detective Christopher Traynor and is documented in reports 19-141483, 19-  
13 143459, 19-141889, and 19-650568. The incident that was the subject of the August 22, 2019,  
14 indictment charging Joseph Gibson with RIOT on case no. 19CR53042 is the exact same  
15 incident that gave rise to the indictments on 19CR50007, 19CR50009, 19CR53033, 19CR53038,  
16 19CR53040, and 19CR54815.

17  
18 **RE: August 22, 2019, indictment charging Christopher Ponte on 19CR53033**

19 On August 22, 2019, a grand jury indicted Christopher Ponte for criminal activity  
20 pertaining to the May 1, 2019, incident at "Cider Riot". The indictment charges Christopher  
21 Ponte with the crimes of RIOT and RECKLESSLY ENDANGERING ANOTHER PERSON.  
22 The crimes are alleged to have occurred on May 1, 2019, in conjunction with a disturbance at an  
23 establishment called "Cider Riot". The incident was subject of an investigation by Portland

1 Police Detective Christopher Traynor and is documented in reports 19-141483, 19-143459, 19-  
2 141889, and 19-650568. The incident that was the subject of the August 22, 2019, indictment  
3 charging Christopher Ponte with RIOT and RECKLESSLY ENDANGERING ANOTHER  
4 PERSON on case no. 19CR53033 is the exact same incident that gave rise to the indictments on  
5 19CR50007, 19CR50009, 19CR53033, 19CR53038, 19CR53040, and 19CR54815.

### 7 ARGUMENT

8 Permissive joinder in Oregon requires the court to first consider whether a basis for joinder exists  
9 under ORS 132.560. *State v. Buys*, 280 Or App 564, 568 (2016). If one of those criteria applies, then the  
10 cases may be consolidated. ORS 132.560(2). If the charges are of the same or similar character, based on  
11 the same act or transaction, or connected together as part of a common scheme or plan, they may be  
12 consolidated. *Buys* at 568. Here, joinder is proper because each defendant is charged with the felony  
13 crime of riot in which 6 or more people engage in tumultuous and violent conduct and thereby  
14 intentionally or recklessly create a grave risk of causing public alarm. Because each defendant's acts are  
15 part of the same act or transaction and are of a similar character, the evidence the state will present as to  
16 one defendant is generally the same evidence that the state will present against all defendants.

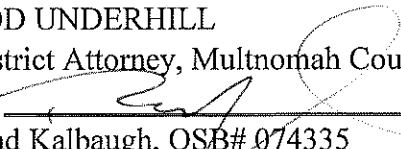
### 18 CONCLUSION

19 For the reasons set out above, the state respectfully requests that the court grant the  
20 motion to join these cases for trial.

21 Dated this 23 day of September, 2019.

22 Respectfully Submitted,

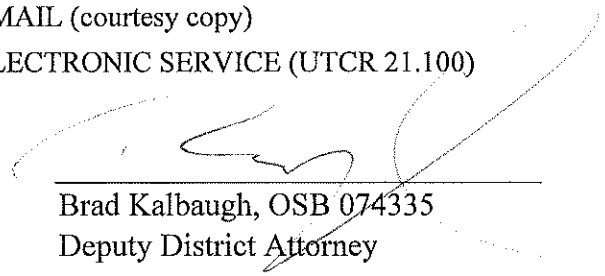
23 ROD UNDERHILL  
District Attorney, Multnomah County

24 By   
Brad Kalbaugh, OSB# 074335  
Deputy District Attorney

### Certificate of Service

I certify that on August 29, 2019, I caused the foregoing motion to join cases to be served upon the parties hereto by the method indicated below, and addressed as follows:

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