

ARIZONA SUPREME COURT

STATE OF ARIZONA

Arizona Supreme Court
No. CR-23-0236-PR

Court of Appeals, Division 1
No. 1 CA-CR 23-0014

Appellant,

v.

Maricopa County Superior Court
No. CR 2018-118086-001

IAN L. MITCHAM

Appellee.

RESPONSE TO CROSS-PETITION FOR REVIEW

OFFICE OF THE PUBLIC DEFENDER

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Question Presented in Cross Appeal

Whether the warrantless extraction and subsequent profiling of DNA from blood obtained by way of consent for the limited purpose of a misdemeanor DUI investigation constitutes a search under the Fourth Amendment?

I. Introduction¹

The Court of Appeals correctly held that the State conducted an unreasonable search when they extracted and developed a DNA profile using Ian’s DUI blood. *State v. Mitcham*, 535 P.3d 948 (App. 2023). The State initially argued “that no Fourth Amendment violation occurred” because there was no search under *King*. State’s Resp. to Pet. for Rev. 18 (hereinafter PFR Resp). Now, they contend that “developing a DNA profile from evidence lawfully in police custody does not violate the Fourth Amendment.” *Id.* at 20-21. However, in making this argument, the State continues to rely on *King’s* holding that “the processing of respondent’s DNA sample’s 13 CODIS loci did not intrude on respondent’s privacy in a way that would make his DNA identification unconstitutional.” *Id.*; *Maryland v. King*, 569 U.S. 435, 464 (2013). But the holding in *King* is largely inapplicable as Ian’s blood was not collected under a statutory framework mandating DNA collection as part of a booking procedure for a serious offense.

¹ Facts contained in the Appellee’s Petition for Review are incorporated by this reference.

Additionally, the State agrees that the concurring opinion’s assessment of the “four factors,” leads to the conclusion that Ian did not have a reasonable expectation of privacy in his 2015 DUI blood. *Id.* at 20-21. [Mitcham, 535 P.3d at ¶ 68](#). Instead, a proper analysis of the “four factors” leads to a different conclusion: the DNA extraction and profiling from Ian’s DUI blood is an unreasonable search under the Fourth Amendment.

A. The Reasonable Expectation of Privacy Test

The concurring opinion identified the starting point as “the reasonable expectation of privacy test” first set forth in *Katz*. PFR Resp. at 20; [Id. at ¶ 65-67](#). A Fourth Amendment search occurs when the government encroaches upon a subjective expectation of privacy that society recognizes as reasonable. [Katz v. U.S., 389 U.S. 347, 361-62 \(1967\)](#) (holding that the government’s warrantless monitoring of a public telephone booth violated the Fourth Amendment) (Harlan, J., concurring). The *Katz* test is a foundational principle in assessing privacy rights, particularly in the face of advancing technology. [Id. at 362](#) (“reasonable expectation of privacy may be defeated by electronic as well as physical invasion”).

In *Kyllo*, the Supreme Court held the government violated the Fourth Amendment when they used a thermal imaging device to gather information about the heat emanating from the interior of a home. *Kyllo v. U.S.*, 533 U.S. 27 (2001). As the Supreme Court noted, **it did not matter that the thermal device did not emit “intimate details” coming from inside.** *Id.* at 37-38 (emphasis added). The *Kyllo* decision underscored the importance of protecting privacy rights, even in cases where no explicit, personal information was exposed.

In 2018, the Supreme Court held an individual maintains a legitimate expectation of privacy in his physical movements as captured through cell site location information which, “provide an intimate window into a person’s life.” *Carpenter v. U.S.*, 138 S. Ct. 2206, 2217 (2018) (“what [one] seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.”) (citing *Katz*, 389 U.S. at 351-352).

The line of reasoning that emerges from the *Katz*, *Kyllo*, and *Carpenter* decisions is that the reasonable expectation of privacy test is fundamentally aimed at preserving privacy interests founded on both reasonable reliance and societal recognition.

1) Ian possesses a legitimate expectation of privacy in his DNA, an expectation that society would recognize as reasonable.

Here, Ian held a subjective expectation of privacy with respect to his DNA, which contains a vast amount of uniquely personal information. When Ian consented to the blood draw on the threat of losing his license, he only waived his expectation of privacy concerning the evidence of the crime itself—the alcohol concentration in his blood, not his DNA. PFR App. Item A (Admin Per Se Affidavit). The DNA in Ian’s blood is not evidence of a DUI crime and requires a separate and distinct scientific process not envisaged, much less authorized, by the Admin Per Se Affidavit.

The development of a DNA profile from blood requires the use of advanced technology, much like the wiretap in *Katz*, the thermal imaging device in *Kyllo*, and cell site location information in *Carpenter*. Technological advancements that allow the State to gain insights that would otherwise be beyond their reach must be subject to Fourth Amendment scrutiny.

Under the reasonable expectation of privacy test, it is also irrelevant that the DNA profiling did not emit “intimate details” of Ian’s

life. *Mitcham*, 535 P.3d at ¶ 71. A person’s reasonable expectation of privacy is protected, even in instances where no explicit, personal information was exposed. See *Kyllo*, 533 U.S. at 37.

The State urges this Court to give law enforcement unrestricted authority to search any evidence in their possession for DNA. That decision would have severe and far-reaching Fourth Amendment consequences, effectively obliterating any constitutional privacy rights over such materials, regardless of their nature. The Fourth Amendment mandates otherwise, necessitating that individuals be informed that their blood may undergo DNA testing prior to consenting to a DUI blood draw. See *Florida v. Jimeno*, 500 U.S. 248, 251 (1991) (“The scope of a search is generally defined by its expressed object.”).

Given the explicit limitations outlined in the Admin Per Se Affidavit, it is unreasonable to assume that society would find that any expectation of privacy was waived with respect to Ian’s DNA. Consequently, the warrantless extraction and subsequent profiling of Ian’s blood violated the Fourth Amendment.

B. Concurring Opinion's Four Factors Test

1) Ian's expectation of privacy extends to the entirety of his DNA profile.

Both the State and concurring opinion rely on *King's* decade-old findings that the non-protein coding junk regions of DNA “do not show more far-reaching and complex characteristics like genetic traits,” and as such, Ian had no reasonable expectation of privacy. *Mitcham*, 535 P.3d at ¶ 69². *Maryland v. King*, 569 U.S. at 466. (“analyzing a cheek swab of the arrestee’s DNA is, like fingerprinting..., a legitimate police booking procedure.”).

The ultimate determination in *King*, that the collection and DNA analysis was constitutionally sound, hinged on the specific circumstances presented in that case i.e., a valid arrest supported by probable cause, statutory authorization, and a legitimate state interest in identifying arrestees. *Id.* at 448. (“An assessment of reasonableness to determine the

² The concurring opinion cites *In re Leopoldo L.*, 209 Ariz. 249, 254 (App. 2004) (Timmer, J.), where the Court of Appeals previously compared DNA testing and fingerprints in rejecting a Fourth Amendment challenge. *Mitcham*, 535 P.3d at ¶ 70. (Catlett, J. concurring). But like *King*, *Leopoldo* involved a **statutory provision** which allowed the collection and analysis of juveniles adjudicated delinquent for sexual offenses. A notable distinction from the present case. (emphasis added).

lawfulness of requiring **this class of arrestees** to provide a DNA sample is **central** to the instant case.”) (emphasis added). The court gave considerable weight to the **presence of “scientific and statutory safeguards,”** in determining the reasonableness of the DNA collection and analysis. *Id.* at 465 (emphasis added).

King also recognized that advances in science could have Fourth Amendment consequences if “alleles at the CODIS loci” revealed information beyond identification. *Id.* at 464 (testing based on 13 loci). Ten years later, science has indeed progressed, and profiles have expanded to include 20 loci. See Frequently Asked Questions on CODIS and NDIS www.fbi.gov/how-we-can-help-you/dna-fingerprint-act-of-2005-expungement-policy/codis-and-ndis-fact-sheet.

Advances in technology show that STR profiles yield information beyond identity, including private medical and ancestry information. See ACLU Amicus Br. 5-7; See also Mayra M. Bañuelos, et al., *Associations Between Forensic Loci and Expression Levels of Neighboring Genes May Compromise Medical Privacy*, PNAS (Sept. 27, 2022). <https://www.pnas.org/doi/10.1073/pnas.2121024119>.

Ian’s consent to the blood draw, for the limited purpose of a DUI investigation, does not give the State carte blanche authority to create a DNA profile under *King*. PFR App. Item A (Admin Per Se Affidavit). In the absence of statutory³ and scientific safeguards, *King* is largely inapplicable. Advances in science have expanded the potential intrusions into privacy. Even if the State claims they only used the “non-coding” DNA regions, it does not diminish the importance of privacy considerations and the potential risk of intrusion.

Privacy considerations extend beyond the entirety of the information that may be revealed through a search, not only the information the government claims to examine. See *Riley v. California*, 573 U.S. 373 (2014) (rejecting the government’s proposal to limit the scope of a cell phone search to areas where the officer believes information relevant to the crime will be discovered); *Carpenter*, 138 S. Ct. 2206 (considering the information that could be revealed by the

³ The Maryland Act provided specific limitations as to the use of the DNA profiles i.e., including prohibiting familial DNA testing and imposing criminal penalties to anyone who obtains or tests DNA information except as provided by statute. *Id.* at 444. (“No purpose other than identification is permissible.”); Md. Code, Public Safety, § 2-512(e)-(f). The court also found it significant that “the officers involved” complied with the Maryland Act in all respects. *Id.*

entirety of the data as compared to a small portion the government considered); *Skinner v. Railway Labor Executives' Ass'n*, 489 U.S. 602, 617 (1989) (finding that the chemical testing of urine and blood constitutes a search even where there was no evidence suggesting that the analysis was conducted to unveil private medical information or matters beyond alcohol or drug use). Likewise, Ian's expectation of privacy extends to the entirety of his genetic profile.

2) Law enforcement was no longer in lawful possession of Ian's blood.

In 2015, Ian consented to a blood draw for the limited purpose of determining BAC. PFR App. Item A (Admin Per Se Affidavit). The State drew two blood vials. *See* R.T. 12-9-2022, at 17 (blood vials #1 and #2 according to officer testimony). Blood vial #1-1011685 was used by the State to test Ian's BAC in the DUI investigation. *Id.*; App. Item 1 (Scientific Examination Report dated 5/14/15). The blood from vial #2-1011686 was used to create the DNA profile at issue. App. Item 2 (Scientific Examination Report dated 4/5/18). The destruction notice explicitly stated that Ian's blood would be destroyed after 90 days. PFR App. Item B (Destruction Notice).

In February 2016, the city prosecutor's office also submitted a disposition sheet releasing all evidence to be destroyed. R.T. 12-9-22 at 26. Rather than disposing of the evidence, the State kept the blood. The State did not possess Ian's blood lawfully when it was reprocessed for DNA in 2018.

But even if the State remained in lawful possession of the blood vials three years later, mere lawful possession does not automatically authorize a subsequent search. See *Riley v. California*, 573 U.S. 373 (the search of a cell phone lawfully seized incident to arrest required a warrant); *Walter v. U.S.*, 447 U.S. 649, 654 (1980) (FBI agents' lawful possession of film boxes did not give them the authority to search their contents).

Irrespective of whether law enforcement possessed the blood vials lawfully, the outcome remains unchanged. The relevant exception to the warrant requirement is consent. Developing a DNA profile from Ian's DUI blood exceeded the scope of his consent, and there are no exceptions to the warrant requirement justifying the search. See *Florida v. Jimeno*, 500 U.S. 248 (1991); *Mitcham*, 535 P.3d at ¶ 36.

3) Ian’s expectation that his blood would be destroyed was reasonable.

While the destruction notice did not specify which blood vial would be destroyed, it did indicate “that one of the samples would go.” [Id. at ¶ 76](#); PFR Resp. at 21 (“The text of the Admin Per Se Form never promised that all blood samples would be destroyed.”). Even if we assume that Ian could not reasonably expect that “both” blood vials would be destroyed, it was certainly reasonable for him to expect that the blood vial reserved for independent testing would be. PFR App. Item B (Destruction Notice).

Ian could not have anticipated that his blood sample would still exist three years later. *Id.* Nor did his consent dissipate just because he pled guilty to the misdemeanor DUI charges in 2016. [Mitcham, 535 P.3d at ¶ 78](#). Ian may not have been entitled to demand return of his blood pursuant to [A.R.S. §13-3920\(B\)\(2\)](#)⁴. However, the consent exception to the warrant requirement cannot be exponentially expanded to include DNA extraction and profiling when Ian was not informed of that possibility.

⁴ [A.R.S. 13-3920\(B\)](#) states, among other things, that: “all property seized by a law enforcement...must be returned to the owner,...unless: 1) The owner has been arrested and charged with a criminal offense subject to forfeiture; 2) the property is sought to be used as evidence.

The concurring opinion references several cases in which the government was allowed to use blood in their lawful possession to investigate an unrelated crime. *Mitcham*, 535 P.3d at ¶ 79. But the development of a DNA profile in these cases arose from circumstances that differ significantly from this case. The biological evidence in those cases was collected pursuant to a warrant, consent, or some form of judicial approval.⁵ The primary objective of the testing in those cases was DNA-centered, as opposed to determining intoxicants in the blood. The privacy considerations in this case differ significantly, rendering those cases inapplicable.

4) The search was not supported by probable cause.

Probable cause to arrest exists when: 1) law enforcement has a reasonable basis to believe that a crime has been committed; 2) by the

⁵ *People v. King*, 232 A.D.2d 111 (N.Y. App. Div. 1997) (dealt with the state’s ability to use DNA evidence collected lawfully during a rape investigation on a separate rape case); *State v. Emerson*, 981 N.E. 2d 787 (Ohio 2012) (DNA collected pursuant to a search warrant on a rape investigation was placed in CODIS and later used during a homicide investigation); *Washington v. State*, 653 So. 2d 362 (Fla. 1994) (defendant consented to providing hair and blood samples); *State v. Benefield*, 103 A.3d 990,994 (Conn. App. Ct. 2014) (defendant consented to providing a saliva sample and signed a form authorizing “a complete search” of those items); and *State v. Hauge*, 79 P.3d 131, 145 (Haw. 2003) (DNA sample obtained pursuant to a warrant).

person being arrested. *U.S. v. Lopez*, 482 F.3d 1067 (9th Cir. 2007); *See also State v. Edwards*, 111 Ariz. 357 (1974). Any search or seizure must be supported by probable cause that is particularized to the individual in question. *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979).

While conclusive evidence of guilt is not necessary to establish probable cause, “[m]ere suspicion, common rumor, or even strong reason to suspect are not enough.” *Lopez*, 482 F.3D at 1072 (citing *Henry v. United States*, 361 U.S. 98 (1959)). The correct standard is not whether a “man of reasonable caution” believes that Mitcham “may” have committed the murder. *Mitcham*, 535 P.3d at ¶ 45 (citing *State v. Sardo*, 112 Ariz. 509 (1975)). The standard is whether a man of reasonable caution believes that a felony was committed **by the person arrested**. *Id.* at 515 (citing *Edwards*, 111 Ariz. at 360) (emphasis added).

In *Pringle*, the United States Supreme Court ruled that a police officer had probable cause to arrest all three passengers of a vehicle after discovering drugs. *Maryland v. Pringle*, 540 U.S. 366 (2003). The Court reasoned that once the officer had probable cause to believe a felony was committed in his presence, it was reasonable to infer that all three individuals were likely involved and had knowledge of the drugs. *Id.*

Here, law enforcement had a reasonable basis to believe a homicide had occurred. The pivotal question is whether they had probable cause to believe Ian was the individual responsible. Law enforcement only developed probable cause with respect to Ian, after learning of the unlawful DNA match. They then used the DNA match results to secure two search warrants⁶. PFR App. Item E (GPS Warrant) and Item H (Buccal Swab Warrant).

Unlike *Pringle*, Ian was neither arrested at the crime scene nor was there any established connection between him and the victim. His mere status as a brother of the familial source did not elevate him to the required level of individualized suspicion absent additional information. At that point in the investigation, Mark's brothers were equal suspects.

The timing of law enforcement's pursuit of search warrants strongly suggests they lacked probable cause. PFR App. Item E (GPS Warrant) ("there has not been any connection discovered between Ian Mitcham and Allison Feldman..."). But rather than devote the time and necessary effort to develop probable cause, law enforcement waited to

⁶ The Court of Appeals found no record of the warrant relating to the DNA buccal swabs. *Mitcham*, 535 P.3d at ¶ 40. This warrant was included as part of the record—See Stipulated R.O.A. 3, Attachment A.

obtain the unlawful DNA results and then included that information in their warrant applications. *Id.*; PFR App. Item H (Buccal Swab Warrant). Law enforcement's reliance on the unlawfully obtained DNA match to establish probable cause becomes evident when those results are excluded from the warrant affidavits. App. Item 3 (Redacted GPS Warrant) and Item 4 (Redacted Buccal Swab Warrant).

During oral argument, defense counsel maintained that at the time of the search, "all the Mitcham brothers could have equally been a match." *Mitcham*, Oral Argument, at **22:09-24:38** (June 14, 2023), *available at*

<https://www.youtube.com/watch?v=mTsLJLQ6KZE&feature=youtu.be>

Counsel did not concede there was individualized suspicion that Ian committed the homicide. The application of the Fourth Amendment is too important to hinge on counsel's statements. Once a search is deemed unlawful and information relating to that search is included in a warrant affidavit, the validity of that warrant hinges on whether the untainted information, considered on its own, is sufficient to establish probable cause. *State v. Gulbrandson*, 184 Ariz. 46, 58 (1995); *United States v. Alexander*, 761 F.2d 1294, 1300 (9th Cir. 1985). Here, it does not.

Prior to the unlawful search results, law enforcement only knew that:

- The familial DNA source was identified as Mark Mitcham
- Ian and Mark are brothers
- Ian was listed as one of Mark's approved visitors in DOC
- Ian was arrested for DUIs and
- Ian owned a Ford Mustang

The search warrants omit any reference to Mark's two other siblings as suspects, other than to acknowledge that at the time of the arrest Ian was living with his brother Craig, who lived near the crime scene. App. Item 3 (GPS Warrant) and Item 4 (Buccal Swab Warrant). Ian's prior DUI arrests (non-violent offenses) did not make him a more likely suspect in a homicide. For these reasons, the trial court correctly determined that the State lacked probable cause at the time of the search. *See* Stipulated Record on Appeal Item 6, at 6; State's PFR Resp. Attch. J. ("The State's investigation was gaining steam through the use of familial DNA, and... may have been able to secure a warrant for Defendant's DNA through further diligent investigation"). Law enforcement's decision to focus exclusively on Ian was undoubtedly influenced by the availability of DUI blood vials in their possession rather than individualized suspicion that he committed the murder.

i. Reasonable cause

Law enforcement did not request an order to collect physical evidence based on the familial DNA match under the lesser standard of reasonable cause. See [A.R.S. § 13-3905⁷](#); [Mitcham, 535 P.3d at ¶ 81](#). Instead, they relied on unlawfully obtained DNA results to secure the later warrant for Ian’s buccal swab. PFR App. Item H. Law enforcement’s failure to seek an order to collect physical evidence cannot be justified. See [Brown v. McClennan, 239 Ariz. 521, 524-25 ¶¶ 13-15 \(2016\)](#) (“to excuse the failure to obtain a warrant merely because the officers had probable cause...would completely obviate the warrant requirement...”). More than three years had passed since the homicide and there were no exigent circumstances justifying the warrantless search of the DUI blood.

C. Conclusion

The Court of Appeals correctly recognized that developing a DNA profile from blood obtained through a limited consent during a misdemeanor DUI investigation was an unreasonable search prohibited

⁷ An officer, “in the investigation of a felony may make a written application upon oath or affirmation to a magistrate for an order authorizing the temporary detention for the purpose of obtaining evidence of identifying physical characteristics...”

by the Fourth Amendment. This is true under the *King* reasonableness standard, as well as the expectation of privacy test stemming from *Katz*. Ian had a reasonable expectation of privacy in his DNA. Given the privacy implications inherent in DNA extraction and profiling and the explicit limitations in the Admin Per Se Affidavit, it is unreasonable to assume that society would find this expectation waived. Therefore, this Court should affirm the Court of Appeals decision finding a Fourth Amendment search violation.

RESPECTFULLY SUBMITTED this 22nd day of November, 2023.

OFFICE OF THE PUBLIC DEFENDER

By: /s/ Martha Barco Penunuri
MARTHA BARCO PENUNURI
Deputy Public Defender
Attorney for APPELLEE

ARIZONA SUPREME COURT

STATE OF ARIZONA

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APPENDIX TO RESPONSE TO CROSS-PETITION FOR REVIEW

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ITEM 1

Exhibit No.: 3

Case No.: CR2018-118086-001 DT

For Identification:

DEFENDANT

12/9/2022

In Evidence:

STIP

12 | 09 | 2022

Clerk of Superior Court

By: S. YODER
(Deputy Clerk)



1004937259



ARIZONA DEPARTMENT OF PUBLIC SAFETY

SCIENTIFIC EXAMINATION REPORT

DR NO. 2015701946

Page 1 of 1

AGENCY

AGENCY NO.

OFFICER

DATE

NAME(S)

Scottsdale Police Department

Scottsdale, AZ 85231

1500566

ICAIN, #1418

May 14, 2015

MITCHAM, IAN L.



EXAMINATION REQUESTED

Alcohol Analysis

ITEMS

1011685. Blood specimen

RESULTS / INTERPRETATIONS

1011685. Analysis of the specimen showed it to contain 0.242 ± 0.013 grams of ethanol per 100 mL of blood.

M. Verhaeghe

MELISSA VERHAEGHE, #6676, Criminalist
Northern Regional Crime Laboratory
1140 W. Kaibab Lane, Flagstaff, AZ 86001
(928) 773-3687

Uncertainty of the concentration is given at a level of confidence greater than 99.73%.

Laboratory System Accredited by the ASCLD/LAB - International (ISO)
Any notes, photographs, charts, or graphs generated during the examination are retained in the laboratory.

ITEM 2

Exhibit No.: 6

Case No.: CR2018-118086-001 DT

For Identification:

DEFENDANT

12/9/2022

In Evidence:

STIP

12/09/2022

Clerk of Superior Court

By:

S. YODER

(Deputy Clerk)



1004937256



Scottsdale Police Department
Crime Laboratory
Examination Report



Agency: Scottsdale Police Department

Page 1 of 1

DR#: 15-04116

Lab Number: L15-02-00539

Request Number: 0134

Requester: Lockerby, #707

Date of Request: 04/05/18

Type of Examination: DNA

Subjects: Ian Mitcham 10/06/75

Items:

Item #1019242: (PM-H) Swab from cluster on floor near chair (previously analyzed; see amended report dated 7/13/15; request #0023).

Item #1011685: Vial of blood collected from Ian Mitcham.

Item #1011686: Vial of blood collected from Ian Mitcham.

Results:

DNA was extracted, amplified and typed using PCR technology for the STR loci contained in the Globalfiler Express Kit from item #1011686 (Mitcham) and compared to the DNA profile previously obtained from item #1019242 (PM-H cluster stain).

Conclusions:

The mixed DNA profile obtained from item #1019242 (PM-H cluster stain) is consistent with originating from 2 individuals. It is 3.52×10^{27} times more likely to obtain the observed DNA results if item #1011686 (Mitcham) is a contributor than if he is not a contributor.

Item #1011685 (Mitcham) was not analyzed.

The items of evidence were returned to the Property Section.

STR = Short Tandem Repeat
CODIS = Combined DNA Index System

DNA = Deoxyribonucleic Acid

PCR = Polymerase Chain Reaction

Examiner:

Vickie Beamer

Vickie S. Beamer, DNA Technical Leader 04/06/18

This report contains the results, interpretations and opinions of the above signed examiner.

001973

ITEM 3

STATE OF ARIZONA - COUNTY OF MARICOPA
SEARCH WARRANT AFFIDAVIT

SEARCH WARRANT # SW 2018-003663 **DR# 15-04116**

STATEMENT OF PROBABLE CAUSE

PLACE TO BE SEARCHED AND ITEMS TO BE SEIZED

Based on the facts and opinions set forth below, I have probable cause to believe that the crime of ARS 13-1105.A1, First Degree Murder has been committed or is continuing to be committed, and I seek authorization to surreptitiously search the following vehicle for the sole purpose of affixing a self powered detachable GPS tracking device and allowing operation and/or monitoring of said device twenty four hours a day, seven days a week not to exceed 30 days:

- On the vehicle(s) known as: black 2001 Ford Mustang bearing Arizona plate of CAW9036, with VIN: 1FAFP44421F197154, registered to Ian Mitcham (DOB:10/06/1975)
- On the premises known as: 3724 East Earll Drive in Phoenix, Arizona 85018

OR

- No private property will be entered to install, maintain, or remove the self-powered detachable GPS tracking device

AND TO SEARCH AND SEIZE THE FOLLOWING ITEMS:

GPS Tracking Data obtained through real time or historical data in furtherance of an ongoing criminal investigation. The GPS device will capture electronic data as both real time and historical GPS locations, addresses, dates, times, vehicle speed and direction of travel. The device will record data no faster than in five second increments. This will commence upon installation of the device on the listed vehicle and cease upon removal of the device from the listed vehicle within the specific time period authorized. All of the above stated electronic data will be preserved as evidence.

AFFIANT'S EXPERIENCE:

Sergeant Lockerby #707, your Affiant, has been employed by the Scottsdale Police Department since March of 1998. Your Affiant attended the Phoenix Regional Police Academy and received basic training in various aspects of police work, including investigations. Upon graduation from the Police Academy, your Affiant worked as a patrol officer and made numerous arrests for misdemeanor and felony crimes and investigated numerous misdemeanor and felony cases. Your Affiant has also participated in the Field Training Program of the Scottsdale Police Dept in which, your Affiant has trained numerous new Officers in basic police operations and investigations. Your Affiant attended training to participate as a Gang Liaison Officer.

In September of 2004, your Affiant was assigned as a Detective to the Violent Crimes Unit (VCU) of the Scottsdale Police Department. In April of 2015, Your Affiant was promoted to the rank of Sergeant and re-assigned to the Patrol Bureau to supervise Officers. In August of 2016, Your Affiant was transferred back to the Violent Crimes Unit to supervise Detectives in Violent Crimes. The Violent Crimes Unit is primarily responsible for investigation of Violent Crimes occurring within or related to the City of Scottsdale.

As a Detective, and prior, your Affiant has attended and successfully completed schools and training presented by The Scottsdale Police Department, other Agencies and private companies. Some of these training courses/classes were, Basic Prison and Street Gangs, Gang Liaison Officer training, California Robbery Investigation Seminar, Unequivocal Death and Cold Case Homicide Investigations, 40 hour Basic Homicide Investigation, Officer Involved Shooting Investigations, Basic Bloodstain and Advanced Bloodstain Pattern Analysis, Buried Body Investigations, Domestic Violence Training, Updated Miranda Rights training, Basic and Advanced Reid Technique of Interviewing and Interrogation, Kinesic Interviewing/Interrogation, Rape and Sexual Assault Investigations, Basic and Advanced Criminal Investigative Analysis. Your Affiant is an active member of the following Professional Associations: Arizona Homicide Investigators (AHIA), California Homicide Investigators (CHIA), and International Homicide Investigators (IHIA).

The focus of some of the above-named police training was to educate the participants in various investigative methods and techniques, including identification of gang members, proper documentation and methods used by gang members, unequivocal deaths, domestic violence homicides, child crimes, and the investigation of officer-involved shootings. Additionally, these schools and/or training seminars addressed techniques used to identify, investigate, infiltrate, and recognized the methods used by criminals their associates and/or members of their organizations. Methods by which criminals convert, transfer, dispose or convey their properties and items utilized to commit crimes were also presented. As a core part of your Affiant's experience and the various training courses, your Affiant knows that it is common for criminals to alienate, or appear to alienate, their ownership or interests in property and or evidence in attempt to avoid detection or capture by law enforcement.

Furthermore, since your Affiant has been assigned in the Violent Crimes Unit, he has participated and supervised numerous felony investigations to include, Aggravated Assaults, Kidnappings, Murder for Hire, Officer Involved Shootings, Armed Robbery, Homicides Cold Case homicides, and other crimes as necessary. Your Affiant was a co-case agent in the Serial Shooter Homicide Task Force Investigation. Your Affiant has also authored numerous search warrants over the past years and has been co-affiant in Title 3 Wiretap murder investigation.

Your Affiant is also familiar with the methods used by those engaged in illegal activities to conduct their business, protect their associates and conceal their identities, avoid detection and identification of the assets, and activities and whereabouts. Your Affiant has also authored numerous reports in relation to oral, electronic and wire communications.

Your Affiant has spoken to numerous individuals about the methods and practices of people involved in illegal activities, including subjects involved in/with violent crimes. These people include subjects involved in crimes and/or experienced federal, state, and/or local investigators. All of these types of training, experience, and sources of information have provided your Affiant with objective details of the methods and practices used by criminals involved in illegal activities.

Your Affiant also makes note that the opinions and/or evaluation expressed about the information, activities, methods and/or practices of people involved in this investigation are based on experience, training, as well, as information received from other sources.

STATEMENT OF FACTS:

On February 18, 2015 at approximately 1602 hours the Scottsdale Police Department was dispatched to 8526 E. Monterey Way, Scottsdale, Maricopa County, Arizona in reference to a medical call. The reporting party advised he found his girlfriend, Allison Feldman, unresponsive and there was blood everywhere. Officers and paramedics responded to the residence and found the victim deceased in the home as the result of a homicide. The victim's body was found to have trauma.

Responding officers found the interior of the home to have blood drops, blood spatter and blood smears on the floor. In addition, there was an overpowering chemical odor, similar to bleach, inside the home. The residence appeared to show signs of an attempt to clean up the crime scene, as well as to destroy forensic evidence. This included the apparent use of a Swiffer cleaning device. Officers also found the home to have no signs of forced entry. A check of the residential security system found the home had an open rear door that evening.

The residence was processed for forensic evidence to include DNA and fingerprints. A full DNA profile was obtained from three locations in the crime scene and was identified to an unknown male. The locations of the DNA were found to be on a capped broken beer bottle lying in a dried pool of blood with matching shards of glass around the victim, in an unknown substance (Item #1019242) on the dining room floor where the suspect had utilized a Swiffer device and an unknown chemical to clean the scene, and on a cabinet where the Swiffer box. The DNA profile (Item #1019242) was uploaded into CODIS and searched against known profiles in the database with negative results.

On November 22nd 2017, the Scottsdale Police Department requested the Arizona Department of Public Safety Crime Lab to conduct a Familial DNA search of Arizona Convicted Offender and Arrestee DNA profiles to identify candidates who are potential close biological relatives to the unknown perpetrator (Item #1019242) as determined by a statistical comparison of the DNA profiles.

On April 4th 2018, the Arizona Department of Public Safety Crime Lab met with Scottsdale Police Detectives to inform them on the Familial Search findings. Item #1019242 was searched against convicted offenders and arrestees (candidates) in the Arizona database in an attempt to

identify male relatives of the contributor to the profile in this case. AZ DPS advised that the information on the candidates whose samples are in the DNA database were to be used as an investigative lead. Furthermore, DPS also noted the following:

1. The named candidates are not the source of the forensic unknown DNA (Item #1019242).
2. The DNA results are best explained by a parent-child or full sibling relationship; however other familial relationships could also explain these results. Any possible connection of the candidate's relationship to the forensic profile must be determined through further investigation by Scottsdale PD.
3. There is a possibility that the candidates on the list are not related to the source of the unknown profile.
4. The DNA results provide an indirect association, based solely on potential genetic relationships between the source of the forensic unknown profile and the named candidates.

The following candidate with a concordant Y-STR profile type was identified as Mark L Mitcham (DOB: 01/09/64) Social Security Number: 527-69-2538, Arizona State Identification number AZ08405387. It should be noted that this was the first Familial search conducted by AZ DPS.

Scottsdale Police Detectives learned through the Arizona Department of Corrections (AZ DOC) website that Mark L Mitcham is currently incarcerated in Eyman Prison for multiple molestation, and sex conduct with a minor sentences until 2137. These offenses occurred in late 1992 and early 1993. Mark L Mitcham was sentenced in 1995.

Scottsdale Police Detectives began using traditional investigative resources, (police reports, Open-Source internet searches, Lexis Nexis, etc) to identify all known relatives, family members of Mark L Mitcham. Detectives contacted AZ DOC to determine all known approved visitors for Mark L Mitcham. Detectives learned that Ian Mitcham (DOB:10/06/1975) was listed as a visitor. Detectives also learned through investigative resources that Ian Mitcham and Mark L Mitcham are brothers. During a criminal history check for Ian Mitcham, it was found that Ian Mitcham was arrested for DUI-Alcohol on January 8th 2015 and 2 vials of blood from Ian Mitcham were obtained. These vials of blood were still in custody of the Scottsdale Police Department.

[REDACTED]
[REDACTED]
[REDACTED] A criminal records query confirmed that Ian Mitcham does not have a DNA profile in CODIS for comparison.

During the course of this ongoing investigation for the past thirty-seven (37) months there has not been any connection discovered between Ian Mitcham and Allison Feldman and/or her residence at 8526 East Monterey Way, Scottsdale, Arizona. Through an Arizona Motor Vehicle query it was discovered Ian Mitcham owns a black 2001 Ford Mustang bearing Arizona plate of, **CAW9036**, with VIN: **1FAFP44421F197154** and a registration address of 3724 East Earll Drive in Phoenix, Arizona 85018.

Scottsdale Police Department Detectives located Ian Mitcham's 2001 Ford Mustang bearing Arizona license plate CAW9036 parked at his residence in Phoenix, Arizona. Scottsdale Detectives are currently surveilling the Ford Mustang and have positively identified Ian Mitcham driving the vehicle.

Due to the ongoing investigation and the high profile nature of the investigation, Your Affiant requests this Affidavit and Warrant be sealed.

NECESSITY STATEMENT TO AFFIX A SELF POWERED GPS DEVICE

It is well known that employing alternative surveillance techniques, i.e. tracking technology, used in conjunction with traditional surveillance techniques is necessary to attempt to follow suspects in the furtherance of any ongoing criminal investigation. Experienced criminals will attempt to identify police surveillance by doing "Heat Runs" to determine if they are being followed. Any conventional police surveillance, especially nighttime and early morning hours vehicle surveillance is not always effective based upon the very limited number of vehicles traveling upon the roadways during these hours, manpower, and other uncontrollable circumstances. Air surveillance also becomes challenging due to many factors including manpower and police budgets.

As an aid to conventional police surveillances, a common police tactic is to affix a self powered, self contained Global Positioning Systems (GPS) device to the suspect's vehicle. The device is attached to the vehicle by the least intrusive means by way of magnets. This device simply assists police in maintaining surveillance of a suspect(s) by monitoring the transmissions via real time or historical data, that they have probable cause to believe has committed and/or is committing felony crimes by minimizing the risk of compromising an ongoing investigation. In addition to being used as an aid in surveillance, historical data abstracted from the device can help identify additional suspects and/or locations where criminal activity is taking place.

Based on the aforementioned reasonable justification for its use, your affiant requests the following, which is requesting permission and authorization to affix a self powered GPS device upon this listed vehicle driven and controlled by Ian Mitcham (DOB:10/06/1975), AZ : DL #D06299424, SSN #600-38-4170, a black 2001 Ford Mustang bearing Arizona plate of CAW9036, with VIN: 1FAFP44421F197154, registered to Ian Mitcham (DOB:10/06/1975).

A **Nighttime Exception** is requested due to the unpredictability of a suspect's daily movements and other factors. It is requested that Detectives and/or their designee be authorized to affix a self-powered GPS device any time of the day or night. Avoiding detection is absolutely imperative to the ongoing criminal investigation. Due to the fact that it is unknown when an opportune moment will present itself to safely and covertly deploy a GPS device on the listed vehicle. The appropriate time to safely and covertly deploy the GPS device may occur during the night time hours. Allowing Officer's to move under the cover of night will allow the Officer's to avoid detection, making it safer to affix the GPS device. Due to the surreptitious nature, the purpose of the affixing the GPS device at this time will not disrupt or disturb anyone in the area.

Wherefore your affiant prays that a search warrant be issued commanding that an immediate search be made of the person(s), premise(s) and building(s), and vehicle(s) described herein for the property and things herein described, and that the same be retained in the custody of your affiant or in the custody of the agency which the affiant represents and disposed of according to law, pursuant to A.R.S 13-3911, 13-3924. I swear the information set forth above is truthful and accurate, to the best of my knowledge.

Sgt. H. Lockerby #707

Sgt Hugh Lockerby #707

SUBSCRIBED AND SWORN to before me this ____ day of ____, 2018, at ____ A.M.
/P.M.

Judge of the Superior Court
County of Maricopa

ITEM 4

AFFIDAVIT FOR SEARCH WARRANT
COUNTY OF MARICOPA, STATE OF ARIZONA

No. **2018-003761**

Your Affiant, Detective Heinzelman #844, a peace officer in the State of Arizona being first duly sworn, upon oath, deposes and says: That on or about February 17th, 2015, in the County of Maricopa, the State of Arizona, the crime of 13-1105.A1, First Degree Murder, a Class 1 Felony, may have been committed by Ian L. Mitcham, in the County of Maricopa, the State of Arizona.

THAT THE AFFIANT HAS PROBABLE CAUSE TO BELIEVE THAT:

(X) in/on the person(s) of: Ian L. Mitcham, a white male with a date of birth of 10/6/75, 5'09" tall, 180 pounds, red hair and brown eyes

(X) in/on the premises known as: 3724 E. Earll Drive, Phoenix, Arizona, 85018
The residence located at 3724 E Earll Dr, is a single-story, single-family house. The outside walls are constructed of brick with exposed brick on the lower half and yellow painted stucco on the top half. The front door is wood in color and material and is centrally located on the south side of the house facing south, with windows on either side. There is a large wooden/metal RV gate on the west side of the house. A short brick fence with a steel railing surrounds the front yard. The numbers "3724" are horizontally affixed to the first brick pillar of the fence just east of the driveway.

(X) in/on the vehicles described as: a black 2001 Ford Mustang convertible VIN: 1FADP44421F197154 bearing Arizona registration plate CAW9036.

there is now being possessed or concealed property or things, which are described as:

1. Any indicia of occupancy, residency, identification, records, receipts, notes, ledgers, photographs, and/or other papers/items relating to the occupancy of 3724 E. Earll Drive, Phoenix, AZ, 85018.
2. Any and all paperwork, notes, receipts, documents, photos related to Allison Feldman and/or dated on or around February 17th to February 18th, 2015.
3. Any and all clothing that could have been worn by Ian L. Mitcham during the commission of the crime to include any items that appear bleach-stained or discolored.
4. Any and all house keys that could fit the lockset collected from the victim's residence.
5. Any women's small handbags or wallets.
6. Any credit cards, debit cards, driver licenses or any other card related to Allison Feldman.
7. Any and all shoes that would have a honeycomb sole similar to the shoe impression located inside the victim's residence.

- 8. Any and all pornographic material to include but not limited to videos, magazines, photographs, toys or sexual aids, etc.
- 9. Any documentation relating to the homicide of Allison Feldman in any medium to include but not limited to newspaper articles, internet articles, or magazines, etc.
- 10. Any and all towels.
- 11. Any and all white blankets.
- 12. Any and all women's underwear.
- 13. Any and all coaxial-type cable or charging cords.
- 14. Any white Apple I-Phones.
- 15. Any bleach or spray bottle cleaning products.
- 16. Any women's wrist watches to include:
 - A Michele Tahitian Ceramic watch with a black dial and white metal band
 - A Jowissa watch with blue dial and white metal band
 - A Michele Swiss Quartz watch with a silver dial and white metal band
 - A Coach Sydney bracelet watch with a pink dial and white metal band
 - A Michael Kors Runway Twist watch with a rose gold dial and band
 - A Michael Kors watch with a silver face and white and yellow metal band
 - A Dolce and Gabbana watch with a silver dial and white metal band
- 17. Buccal (DNA) swab(s) from Ian. L. Mitcham
- 18. Major case fingerprints and footprints exemplars from Ian. L. Mitcham
- 19. Any and all cell phones owned or controlled by Ian L. Mitcham
- 20. Any and all computers, laptops, tablets or other similar electronic devices owned or controlled by Ian L. Mitcham

- were stolen or embezzled.
- were used as a means for committing a public offense.
- is (are) in the possession of _____ to whom it was delivered for the purpose of concealing it or preventing it from being discovered.
- constitutes evidence tending to show that a public offense may have been committed or that Ian L. Mitcham may have committed the offense.
- may be searched and inspected in the interest of the public health, safety, or welfare as a part of an inspection program authorized by law.
- is a person being sought who is the subject of an outstanding arrest warrant.

That the following facts established probable cause for believing that grounds for the issuance of a search warrant for the aforementioned items exists:

Your Affiant, Detective John Heinzelman #844, has been employed by the Scottsdale Police Department since September of 2001. Upon hire, your Affiant attended the Arizona Law Enforcement Academy in Phoenix and received basic training in various aspects of police work and investigations. Upon graduation, your Affiant worked as a patrol officer and made numerous arrests for misdemeanor and felony crimes and investigated several misdemeanor and felony cases. Your Affiant was a patrol officer for the Scottsdale Police Department for four years. Your Affiant has also acted as a Field

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Training Officer for the Scottsdale Police Department since November of 2003 and has trained several new officers in basic police operations and investigations.

In February of 2006, your Affiant was assigned as a detective in the Domestic Violence Unit of the Scottsdale Police Department. Your Affiant's responsibilities included investigating Domestic Violence crimes occurring in the City of Scottsdale. Your Affiant was also assigned to manage and maintain files on all of the registered sex offenders in the city as part of the Sex Offender Unit. In this capacity, your Affiant had the opportunity to interview numerous sex offenders pertaining to the method, mode, and commission of their past criminal activities.

In June 2006, your Affiant was assigned as a detective in the Sex Crimes Unit of the Scottsdale Police Department. This unit is primarily responsible for the investigation of all of the sex related crimes occurring within the City of Scottsdale. As a Sex Crimes Detective, your Affiant has investigated and/or assisted in numerous sex-related investigations; interviewed and/or monitored numerous interviews with suspects, victims, and/or witnesses; and processed and/or analyzed numerous items of evidence.

In August of 2012, your Affiant was assigned as a detective in the Violent Crimes Unit of the Scottsdale Police Department. This unit is primarily responsible for the investigation of all death investigations, robberies and aggravated assaults occurring within the City of Scottsdale. Your Affiant has investigated and/or assisted in numerous homicide and death investigation, robberies, and aggravated assault allegations.

Your Affiant has attended and successfully completed schools and training presented by the Scottsdale Police Department and other P.O.S.T. certified training seminars. These include but are not limited to: Basic Criminal Investigations and New Detective Training, Death and Homicide Investigation, Medical Pathology, Criminal Analysis and Advanced Criminal Analysis Training, Computer Facilitated Child Sexual Exploitation Investigation, and multiple Homicide and Sexual Assault Conferences. The focus of some of the above-named police training was to educate the participants in various investigative methods and techniques. Your Affiant has also attended numerous interview and interrogation courses including: Basic and Advanced Forensic Interviewing, REID Method Interview and Interrogation, and Phases One and Two of Kinesic Interview and Interrogation.

Your Affiant has spoken to several individuals about the methods and practices of people involved in illegal activities such as sexual offenses or violent crimes. These people include subjects involved in crimes and experienced federal, state, and local investigators. All of the training, experience, interviews, and sources of information have provided your Affiant with details of the methods and practices used by criminals involved in illegal activities.

Your Affiant also makes note that the opinions and/or evaluation expressed about the information, activities, methods and/or practices of people involved in this investigation are based on experience, training, as well, as information received from other sources.

Facts and Circumstances:

At about 4:02pm Wednesday, February 18th, 2015, the Scottsdale Police Department received a 911 call from the male reporting party. He reported that he went to his girlfriend's residence at 8526 E. Monterey Way, Scottsdale, Arizona, Maricopa County, to check her welfare. She had not been heard from since Tuesday evening, February 17th. He reported that her car was parked in the garage and the front door to the house was locked. He rang the doorbell but got no answer. He used a key and opened the front door to the house. He said he immediately smelled an overpowering odor of chlorine or bleach coming from inside the house.

The residence is a single-family, single-story house on the east side of the street. The front door faces west. The open concept living room/dining room/kitchen are in the center of the house. The living room is sunken about four inches compared to the kitchen and dining room floor. The living room is immediately south of the front door and in the front of the house. The dining room and kitchen are east of the living room and are in the back of the house. A glass sliding glass door is along the east wall in the dining room that leads to the rear yard of the residence. A hallway runs north from the center of the house to the bedrooms along the north end of the house.

The reporting party entered the house and saw his girlfriend lying deceased in the hallway. She was supine with her head to the south and her feet to the north. She was naked with a black piece of fabric, later determined to be a cotton maxi-dress, draped over her face and right shoulder. The fabric had several white spots on it that appeared to be chemical burns or bleach spots as if the agent was splashed on it.

There was a large pool of coagulating blood under her head. There was what appeared to be blood on the floor under her genital area. Her body was covered with small orange deformities that appeared to be chemical burns. She had several small contusions on her hands, arms and shins. Her knees had what appeared to be recent contusions on them. A clear liquid was pooled inside her belly button that appeared to be burning the skin. There appeared to be a dark ligature mark around her neck just under her chin.

The flooring in the hallway, kitchen and dining room is a light-colored tile. The sunken living-room floor is a simulated wood tile. There was a large amount of what appeared to be blood in front of the sliding glass door in the dining room. There was what appeared to be blood spatter along the edge of the door and in that track indicating the door was open during the bloodletting event. There were large sweeping blood swipes on the floor in the dining room and kitchen that led near the body.

There was a large area of coagulated blood in the northeast corner of the sunken living room floor. It appeared that the blood flowed or was pushed over the edge from the hallway to the living room floor. There was also a large amount of a white crystalline substance on the floor in the living room. It appeared to be evaporated bleach or some sort of chlorinated liquid. There were also small bits of broken brown glass throughout the kitchen, dining room, and living room floors. The glass appeared to be broken bits of a Leinenkugel beer bottle. There were also areas of floor that appeared to have had some sort of liquid spilled on it and allowed to evaporate leaving a somewhat sticky residue behind.

Scottsdale Police Department Crime Scene Specialists and Crime Laboratory personnel forensically processed the residence. Numerous swabs were collected from several surfaces inside the residence for later possible DNA comparison. Additionally, several latent fingerprints and partial latent fingerprints were processed and collected from several items and surfaces inside the residence for later possible fingerprint comparison.

Scottsdale Police Crime Laboratory personnel processed the floors in the kitchen, living room and dining room. Bare footprints, socked footprints, and shoe impressions were discovered on the floor. The shoe impressions had a honeycomb-type pattern similar to the sole found on Vans, Sketchers, and Reef sneakers among others. Several footprints and shoe impressions were processed and collected as evidence for later forensic comparison.

There were several cabinets and drawers inside the house including a chest of drawers in the master bedroom that had metal knobs on them. It appeared that several knobs throughout the house had been sprayed with a spray-bottle cleaning product of some sort.

There was a glass topped kitchen table centered in the dining room. Three black plastic chairs were around the table. A fourth chair was pulled away west from the table. There were drops of what appeared to be a brown liquid substance on the floor near the chair. The substance appeared thick and had a curdled appearance.

Swabs of the unknown substance were collected. The swabs were examined in the Scottsdale Police Department Crime Laboratory and a full autosomal DNA profile was developed from the substance.

Interviews were done with several family members and friends of the victim. It was discovered that the victim owned a white Apple I-Phone. She carried several credit cards and her Arizona driver license in a small wallet she regularly kept inside her purse. A large purse was found on the kitchen counter but it did not contain the wallet, the Apple I-Phone or any house keys. It is believed these items were stolen from the residence. Since it was believed house keys were stolen, the lockset from the front door was collected as evidence for possible future comparison purposes.

Family members told investigators that the victim owned several wrist watches. A search was done of the residence and several wrist watches were located. The family members

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searched the house and reported the following watches were not located and presumed stolen by the suspect:

- A Michele Tahitian Ceramic watch with a black dial and white metal band
- A Jowissa watch with blue dial and white metal band
- A Michele Swiss Quartz watch with a silver dial and white metal band
- A Coach Sydney bracelet watch with a pink dial and white metal band
- A Michale Kors Runway Twist watch with a rose gold dial and band
- A Michale Kors watch with a silver face and white and yellow metal band
- A Dolce and Gabbana watch with a silver dial and white metal band
- A Movado Museum watch with a black dial and black leather band

Family members also reported that the victim usually kept several hand and dish towels in the kitchen and a white blanket on the back of the couch. The towels and blanket were not located inside the kitchen. It is presumed the suspect used the towels to clean up evidence.

An autopsy was performed on the female victim on Thursday morning, February 19th, 2015. DNA swabs were collected from the victim for later comparative purposes. It was discovered that the female victim suffered massive blood loss from a large laceration to the rear of her head. The female victim had a three-eighths inch smooth ligature mark around her neck and she had trauma to the deep structures of her neck. The doctor found petechiae consistent with strangulation and believed she was strangled both manually and with a ligature. The ligature mark appeared to have been caused by a non-polarized cord similar to a coaxial cable or charging cord.

There were several lacerations to the victim's vaginal walls including one that was about two and a half inches long and about three-eighths inch deep. There was no trauma to the victim's cervix and the doctor opined that the injuries were caused by an object.

There was evidence of "broad force trauma" to the victim's chest that would be consistent with a stomp or kneeling on her chest. There were contusions and evidence of trauma to her face, both arms and hands, and both legs. The doctor characterized the orange marks on her body as post-mortem chemical burns. The tentative cause of the female victim's death was determined to be asphyxiation with blunt force trauma and the manner to be homicide.

Crime Scene Specialists processed the residence. The broken neck of a brown glass Leinenkugel's Honey Weisse beer bottle was found under the couch in the living room. The cap was still on the bottle neck and appeared to have bits of rust on it. The bottle neck was collected as evidence. It was examined in the Scottsdale Police Department Crime Laboratory for DNA. A mixture of DNA was discovered that matched the victim's DNA and DNA that matched the brown substance on the dining room floor at all genetic loci tested.

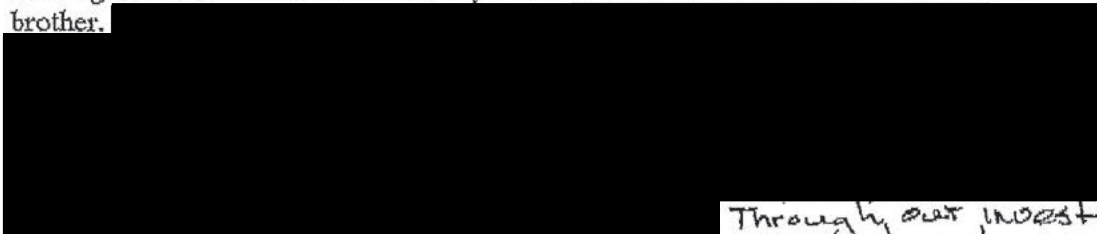
There were what appeared to be blood stains on the back of the cloth couch in the living room. The stained areas were cut from the couch and collected as evidence. They were

examined in the Scottsdale Police Department Crime Laboratory for DNA. The major contributor matched the female victim at all genetic loci tested. A mixture of DNA was discovered that matched the DNA from the boyfriend and DNA that matched the brown substance on the dining room floor at 19 loci. The boyfriend reported that he had been to the residence on numerous occasions including to spend the night and it is not uncommon to discover his DNA inside the residence.

There is a laundry room south of the kitchen. A washer and dryer were along the west wall in the laundry room. There was a cabinet mounted to the wall above the washer and dryer that had three doors with metal knobs. Swabs were taken from the metal knobs and examined in the Scottsdale Police Department Crime Laboratory for DNA. A partial DNA profile was developed that matched the DNA profile of the brown substance on the dining room floor at 14 loci.

Arizona Department of Public Safety conducted a "familial" test on the DNA profile from the unknown brown substance found on the dining room floor. The familial search matched a Mark Mitcham. Although his was not the actual DNA profile developed in the brown substance, it was believed that he was a close relative of the subject.

A search of the Scottsdale Police Department records was done. Ian L. Mitcham, a white male with a date of birth of 10/6/75, was arrested by the Scottsdale Police Department for Driving Under the Influence in January of 2016. It was discovered that he is Mark's brother.



Through our investigation, no relationship between Ian L. Mitcham and victim could be established.

Ian's Arizona driver license showed an address of 3724 E. Earl Drive, Phoenix. That is a single-family residence owned by Craig and Gina Mitcham. Craig is Ian's brother. Surveillance units responded to the residence and conducted surveillance for several days. Ian was seen coming and going from the residence and is believed to reside there.

Ian was seen driving a black 2001 Ford Mustang convertible VIN: 1FAFP44421F197154 bearing Arizona registration plate CAW9036. That vehicle is registered to Ian L. Mitcham. Scottsdale Police Department Officers arrested Ian for Driving Under the Influence in January of 2015. He had been driving a black 2001 Ford Mustang convertible VIN: 1FAFP44421F197154 bearing Arizona registration plate 910SNG. That registration plate is not valid for highway use.

Wherefore your Affiant prays that a search warrant be issued commanding that an immediate search be made of the person, premise, and/or vehicles described herein, for the property and things described herein, and that the same be retained in the custody of your Affiant or in the custody of the agency which the Affiant represents, or in any other court in which such property or things is sought to be used as evidence, pursuant to A.R.S 13-3911, 13-3912, and 13-3913.

John Heintz 844

Your Affiant, Detective John Heintzman
Scottsdale Police Department

SUBSCRIBED AND SWORN to before me this 9th day of April, 2018.

Cindi Nannetti

Judge of the Maricopa County Superior Court

HONORABLE CINDI NANNETTI
MARICOPA COUNTY SUPERIOR COURT