

CASE NO. CR29-22-2805
BY [Signature] DEPUTY

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**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH**

STATE OF IDAHO

Plaintiff,

V.

BRYAN C. KOHBERGER,

Defendant.

CASE NUMBER CR29-22-0002805

**OBJECTION TO MEDIA'S MOTION TO
VACATE THE AMENDED
NONDISSEMINATION ORDER**

COMES NOW, Bryan C. Kohberger, by and through their attorney, Jay Weston Logsdon, Chief Deputy Litigation, and hereby objects to the Motion to Vacate the Amended Nondissemination Order, on the grounds that justifications exist to support the continued existence of the Amended Nondissemination Order, and even if this Court finds it is overbroad, it remains appropriate to have an Order reminding lawyers and their agents of the rules of engagement in this country and that we try cases in court, not in the press.

ISSUE

- I. Whether the amended nondissemination order violates the First Amendment
 - A. Introduction
 - B. The part of the amended nondissemination order that is merely a restatement of I.R.P.C. 3.6 cmt. 5 did not require specific findings or a hearing before it was entered
 - C. The legal standard for nondissemination orders for attorneys and their agents is substantial likelihood of material prejudice.
 - D. The Amended Nondissemination Order is necessary in this case to protect the parties' right to a fair trial.

FACTUAL AND PROCEDURAL HISTORY

On December 29, 2022, the State filed four charges of First Degree Murder against Bryan Kohberger. On December 30, 2022, attorneys made a limited appearance on his behalf. On January 3, 2023, the State and Mr. Kohberger agreed to the entry of a nondissemination order. That Order stated:

The Court, by stipulation of the parties, enter its Order as follows:

IT IS HEREBY ORDERED that the parties to the above entitled action, including investigators law enforcement personnel, attorneys, and agents of the prosecuting attorney or defense attorney, are prohibited from making extrajudicial statements, written or oral, concerning this case, other than a quotation from or reference to, without comment, the public records of the case.

This order specifically prohibits any statement, which a reasonable person would expect to be disseminated by means of public communication that relates to the following:

1. Evidence regarding the occurrences or transactions involved in this case;
2. The character, credibility, or criminal record of a party;
3. The performance or results of any examinations [sic] or tests or the refusal or failure of a party to submit to such tests or examinations;
4. Any opinion as to the merits of the case or the claims or defense of a party;
5. Any other matter reasonably likely to interfere with a fair trial of this case, such as, but not limited to, the existence or contents of any confession, admission, or

statement give [sic] by the Defendant, the possibility of a plea of guilty to the charged offense or a lesser offense, or any opinion as to the Defendant's guilt or innocence.¹

IT IS FURTHER ORDERED that no person covered by this order shall avoid its proscriptions by actions that indirectly, but deliberately, cause a violation of this order.

IT IS FURTHER ORDERED that this order, and all provisions thereof, shall remain in full force and effect throughout these proceedings, until such time as a verdict has been returned, unless modified by this court.

On January 13, 2023, the Magistrate Court held a meeting via zoom with the parties under seal. As a result of that meeting, the Court entered an Amended Nondissemination Order on January 18, 2023. This Order contained a preface indicating the law permits the entry of such an order, that the parties stipulated to its entry, and added the attorneys for witnesses, victims, and victims' families to those bound by the order. Additionally, it added a first section that prohibited all attorneys and their agents from "making extrajudicial statements (written or oral) concerning this case, except, without additional comment, a quotation from or reference to the official public record of the case." The original order remained as a part 2.

On February 3, 2023, an attorney for a victims' family filed a Motion to Appeal, Amend, and/or Clarify Amended Nondissemination Order. In his Memorandum in Support of Motion for Appeal and/or Clarification of Amended Nondissemination Order, the attorney indicated he had

¹ This language largely mirrors I.R.P.C. 3.6 cmt. 5, which states:

[5] There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

- (1) The character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;*
- (2) In a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;*
- (3) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;*
- (4) Any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;*
- (5) Information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or*
- (6) The fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.*

not stipulated to the entry of the order. The crux of his Motion was that the order should not apply to him at all.

On February 6, 2023, the Media filed a request for a writ that would dissolve the nondissemination order (which the Media continually refers to as a “gag” order) in the Idaho Supreme Court.

On February 28, 2023, the Magistrate Court unsealed a memorandum with redactions of the January 13, 2023, meeting.

On March 24, 2023, the Idaho Supreme Court denied the Media’s Petition for Writ of Mandamus or Writ of Prohibition. *In Re: Petition for Writ of Mandamus or Writ of Prohibition*, --- P.3d --, 2023 WL 3050829 (2023). The Idaho Supreme Court agreed with Mr. Kohberger that the Media had failed to show the absence of an adequate, plain or speedy remedy in the ordinary course of law. The Idaho Supreme Court also agreed with the Media that it had standing, something Mr. Kohberger never disputed.

While ruling on the standing issue, the Court found that a “vague, overbroad, unduly restrictive, or not narrowly drawn” nondissemination order would be unconstitutional. *Id.* at *5. The Court then found that the Order states that it “includes but is not limited to” attorneys and their agents- possibly applying to a broad swath of the population. *Id.* at *6. The Court then found that the Memorandum of the January 13, 2023, meeting, shows that the Order does not apply to witnesses. *Id.* All the same, the Court held that the Media’s concerns about the Order were “not merely contrived”. *Id.*

Armed with this language, the Media returned to this Court on May 1, 2023, seemingly triumphant, proclaiming that the Supreme Court agreed that unconstitutional orders are unconstitutional and all that is left is for this Court to follow its lead. Media’s Motion to Vacate the

Amended Nondissemination Order, at *2; *see also*, Media’s Memorandum in Support of Motion to Vacate the Amended Nondissemination Order, at *5, *and* Media’s Motion to Intervene, at *2.

However, things are never so simple. On May 16, 2023, the State’s superseding indictment came down. As if specifically to epitomize the concerns of Mr. Kohberger, the State and this Court, NBC’s Dateline released another special on this case on May 19, 2023. Dateline NBC, *Watch the Dateline Episode “The Killings on King Road” Now* (available at <https://www.nbcnews.com/dateline/watch-dateline-episode-killings-king-road-now-rcna85914>).

Using the same playbook the Media has chosen throughout this case, the special gets details of the investigation wrong (despite access to the arrest affidavit), it chooses to treat Mr. Kohberger as already guilty (asking multiple “experts” to speculate as to how and why he committed the murders without once asking if the police have the right person), and it provides audiences with made up evidence of Mr. Kohberger’s character that will never see the inside of a courtroom. It even had a “leak”, just a little over two weeks after the Media claimed there were none. Media’s Brief, at *1.

The upshot of this and similar media stories is a constant feedback loop of people crying out for Mr. Kohberger’s blood. One of those that now leads that pack happens to be a lawyer who has inserted himself into this case- Mr. Gray, who despite the Order not to communicate to the media- can be seen doing just that over and over again ever since the indictment occurred. *See, e.g.*, Brandon Drey, *Attorney Says University of Idaho Victims’ Families Want Death Penalty for Accused Killer: Report*, DAILY WIRE (May 28, 2023).

Most recently- on June 2, 2023, the Media filed an additional Memorandum in support of its Motion, as well as eight Declarations of various reporters previously contained in counsel for the Media’s own declaration, apparently to illustrate the dangers of hearsay. According to the Media’s new Memorandum, this Court should not accept an “ambush” of evidence from the actual parties in

the case because we had our chance back when we both agreed the Nondissemination Order was necessary.

Into this maelstrom, Mr. Kohberger once again objects to the Media's demands and asks this Court to uphold the rule of law, including, but not limited to, his constitutional rights to being presumed innocent and to a fair trial.

ARGUMENT

A. Introduction

The Media have claimed that the Amended Nondissemination Order in this matter violates the First Amendment on the grounds that there is no record of prejudicial media coverage, the order is overly broad in terms of the speech and parties covered, and the order is vague. The Media makes brief reference to Idaho Rule of Professional Conduct 3.6, claiming a court must provide some justification for entering an order enforcing the professional rules instead of leaving that to the Bar. Media's Brief at *7. Mr. Kohberger will begin by showing that the original order, now the second part of the Amended Nondissemination Order, mirroring 3.6, is absolutely an appropriate order for this court to enter. He will then show that the Amended Nondissemination Order is appropriate given the behaviors of certain attorneys and the manner in which the Media has chosen to cover this case.

B. The part of the amended nondissemination order that is merely a restatement of I.R.P.C. 3.6 cmt. 5 did not require specific findings or a hearing before it was entered.

Starting with the second part of the Amended Nondissemination Order, which is essentially the original Nondissemination Order, the question the Media's brief argument raises is- what findings are required, if any, for a court to enter an order enforcing the Idaho Rules of Professional Ethics? Based on the Idaho Supreme Court's rulings, no such findings are required. In *Litser Frost Injury Lawyers, PLLC v. Idaho Injury law Group, PLLC*, 171 Idaho 1 (2022), the Idaho Supreme Court

not only found that an attorney had violated the rules of professional ethics, but remanded for the district court to devise a sanction. The Idaho Supreme Court found that determining sanctions for conflicts of interest was “precisely the kind of ethical question that this Court, and trial courts, may properly address.” *Id.* at 23 (citing *Hepworth Holzer, LLP*, 169 Idaho at 394). In *Schiermeier v. State*, --- Idaho ---, 521 P.3d 699, 711-12 (2022), the Idaho Supreme Court issued a written public warning in its decision to attorneys violating I.R.P.C. 8.2 and 8.4. Thus, the Idaho Supreme Court has held that courts have the inherent power to sanction attorney misconduct. No initial order reminding parties of what the rules are is necessary for this Court to punish misconduct.

The only case that seems to stand for the proposition that courts cannot is *Kosmann v. Dinius*, 165 Idaho 375, 385 (2019), wherein the Idaho Supreme Court found that the professional rules should not be used by attorneys as weapons and that the district court appropriately left the issue of a violation of I.R.C.P. 4.2 to the State Bar. That case clearly delineates between attorney misconduct reported by a party from that which a judge personally experiences.

In this case- while it is true that media relations are extrajudicial- no hearing is required for a court to take judicial notice of publicly available media coverage that is not subject to reasonable dispute. I.R.E. 201(b)(2). Courts have routinely taken judicial notice of things like webpages and social media postings. *See, Al -Ahmed v. Twitter, Inc.*, 603 F. Supp. 3d 857, 869 (N.D. Cal. 2022), *appeal dismissed*, 2022 WL 4352712 (9th Cir. 2022); *BYD Company Ltd. v. Alliance for American Manufacturing*, 554 F. Supp. 3d 1, 13 (D.D.C. 2021); *Williams v. PMA Cos., Inc.*, 419 F. Supp. 3d 471, 484 (N.D. N.Y. 2019). An Order to Show Cause is a perfectly appropriate way for a trial court to give a violator a chance to explain themselves and for the trial court to put a stop to any issues quickly.

Thus, the Idaho Supreme Court’s precedents are clear- the Rules of Professional Conduct are active limitations in this matter on the attorneys and their agents. Thus, the magistrate court’s portion of the Nondissemination Order that simply restated the rule was nothing more than an

admonishment to the attorneys and their agents that they must abide by I.R.P.C. 3.6. Even without the Order, the magistrate would have been able to sanction parties for violating those rules. This is not a case where the attorneys seek to use the rules as a weapon against one another. It is a case where a young man is on trial for his life. There was nothing inappropriate about the magistrate court reminding the attorneys involved of their ethical obligations.

C. The legal standard for nondissemination orders for attorneys and their agents is substantial likelihood of material prejudice.

In its Memorandum in Support of its Motion, the Media deals with the standard of review for nondissemination orders last, and in an oddly piecemeal fashion. To be clear- the Media's claim that strict scrutiny is appropriate for an order limiting speech for attorneys and their agents has no basis in law. The standard is "substantial likelihood of material prejudice."

The Media's latest argument seems to run thusly-

- *Sheppard v. Maxwell*, 384 U.S. 333 (1966) is bad law because it did not consider the First Amendment. Media's Brief at *11.
- *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 563 (1976), is a case involving a nondissemination order that was found unconstitutional. Media's Brief at *11.
- The majority opinion in *Gentile v. State Bar of Nevada*, 501 U.S. 1030 (1991) requires strict scrutiny for nondissemination orders for lawyers. Media's Brief at *15.
- The Media then encourage this Court to follow *People v. Sledge*, 879 N.W.2d 884 (Ct.App.Mich. 2015) and *CBS Inc. v. Young*, 552 F.2d 234 (6th Cir.1975). Media's Brief at *18.

This Court should certainly read *Sheppard*. The case set the standard for the entry of nondissemination orders as whether "there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial". 384 U.S. at 363. It also contains gems such as:

Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function. Collaboration between counsel and the press as to information affecting the fairness of a criminal trial is not only subject to regulation, but is highly censurable and worthy of disciplinary measures.

Id. To the Media's contention that it is no longer good law, that argument seems overstated. Certainly, the days of presuming prejudice based on media coverage are gone. *See, e.g. U.S. v. Tsarnaev*, 142 S.Ct. 1024 (2022) (discretion of the trial court is key). But to understand the grounds for a nondissemination order such as the one before the Court, one must follow the cases.

To do so, it helps if one honestly reads them. *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539 (1976), was not about a nondissemination order at all like the one in this matter. It was about an order enjoining the press. *Id.* at 562. The Court actually noted the attractiveness of nondissemination orders for counsel and the police. *Id.* at 563. Oddly, the Media's briefing fails to mention either that the nondissemination order in *Stuart* is nothing like the case at bar, or fact that *Stuart* explicitly endorsed orders *just like this one*. Media's Brief at *11- 13. This is particularly peculiar where the Media (Media's Brief at *12) actually quotes language from the paragraph just above where *Stuart* says:

This Court has outlined other measures short of prior restraints on publication tending to blunt the impact of pretrial publicity. See [Sheppard v. Maxwell, supra, at 361-362, 86 S.Ct., at 1521-1522](#). Professional studies have filled out these suggestions, recommending that trial courts in appropriate cases limit what the contending lawyers, the police, and witnesses may say to anyone. See American Bar Association Project on Standards for Criminal Justice, Fair Trial and Free Press 2-15 (App. Draft 1968).⁸

Footnote 8: Closing of pretrial proceedings with the consent of the defendant when required is also recommended in guidelines that have emerged from various studies. At oral argument petitioners' counsel asserted that judicially imposed restraints on lawyers and others would be subject to challenge as interfering with press rights to news sources. Tr. of Oral Arg. 7-8. See E. g., [Chicago Council of Lawyers v. Bauer, 7 Cir., 522 F.2d 242 \(CA7 1975\)](#), cert. denied, [Sub nom. Cunningham v. Chicago Council of Lawyers, 427 U.S. 912, 96 S.Ct. 3201, 49 L.Ed.2d 1204](#). We are not now confronted with such issues.

Stuart, 427 U.S. at 563. Even stranger- the Media argue that the Order in *Stuart* was *less* broad than that in this case, without ever recognizing it was an order to the press to refrain from publishing. Media's Brief at *13. It appears the Media is attempting to mislead its reader, a violation of I.R.P.C. 3.1, 3.3, and 3.4

Assuming it is now settled that *Stuart* provides no support for the Media, *Gentile* is the next major case on the subject, and the first to actually consider an order such as the one in this matter. The Media attempts to distill the holding of the case on page 14 of its brief, but then turns around and claims it applied strict scrutiny just a page later. To be clear- the holding, as to the standard of review- was:

We agree with the majority of the States that the "substantial likelihood of material prejudice" standard constitutes a constitutionally permissible balance between the First Amendment rights of attorneys in pending cases and the State's interest in fair trials.

501 U.S. at 1075. And despite the Media's constant focus on "alternatives" to such orders throughout its briefing, the Court goes on to hold:

Even if a fair trial can ultimately be ensured through *voir dire*, change of venue, or some other device, these measures entail serious costs to the system. Extensive *voir dire* may not be able to filter out all of the effects of pretrial publicity, and with increasingly widespread media coverage of criminal trials, a change of venue may not suffice to undo the effects of statements such as those made by petitioner. The State has a substantial interest in preventing officers of the court, such as lawyers, from imposing such costs on the judicial system and on the litigants.

Id. In short, the majority upheld the constitutionality of I.R.P.C. 3.6. *See id.* It also made it clear that parties have different limitations on their speech as opposed to most others.

The Media, having mangled Supreme Court precedent, make one last attempt to save their argument. They rely on *Young* and *Sledge*. This is curious, as it has already been pointed out to the Media at the Supreme Court via Mr. Kohberger's briefing that *Sledge* was wrongly decided in that it relied solely on *CBS Inc. v. Young*, 552 F.2d 234 (6th Cir.1975) for its standard. "It is easy to see why *CBS Inc.* is of no help to the petitioners- it was a civil case in which no one had any Sixth

Amendment rights to be balanced. (It also occurred pre-*Gentile*.)” Mr. Kohberger’s Brief in Opposition to the Writ, at *9. Despite having plainly read Mr. Kohberger’s briefing, the Media fails to even mention that *Young* was not a case involving Sixth Amendment interests.

This Court should simply apply the standards set out in *Sheppard* and *Gentile*. The Media’s attempt at a rebalancing First and Sixth Amendment concerns in this context would necessarily require this Court to overrule the Supreme Court of the United States. Similarly- the Media’s argument that the Idaho Constitution can draw a different line (Media’s Brief at *23) must fail- states cannot provide less protection than the federal constitution- and to rebalance one right against another necessarily requires this Court to undercut one of those rights. *See State v. Donato*, 135 Idaho 469, 471 (2001).

D. The Amended Nondissemination Order is necessary in this case to protect the parties’ right to a fair trial.

The first part of the amended nondissemination order prohibits essentially any speech concerning the case, and is sometimes termed a “no comment order.” Bennett L. Gershman, *Remedies – Judicial Control of Extra-Judicial Statements*, Prosecutorial Misconduct § 6:24 (2d ed. 2022). Here- the issue is with an order whose entry indeed must be reasonable to avoid substantial likelihood of material prejudice. The question then is whether the Court properly entered the order and applied the governing law.

The media insists that the record does not show that the magistrate conducted a hearing before issuing the order. This Court is aware that the magistrate had a duty pursuant to the Idaho Code of Judicial Conduct Rule 2.15 to take appropriate action where attorneys engage in conduct in violation of the Rules of Professional Conduct. Moreover, it has a duty to safeguard Mr. Kohberger’s right to a fair trial. *Sheppard*, 384 U.S. at 358. Thus, if the magistrate was aware of

conduct concerning the behavior of attorneys in this matter, it had a duty to implement an order to correct misbehavior.

This Court now has the opportunity to make a factual record. The Media in its most recent filing argues the parties have had their chance to do so and claim to permit them to do so now would be an “ambush.” This argument is difficult to take seriously, especially given the fact that Mr. Kohberger made it known he would provide a record on May 11, 2023, when he objected to the Media’s attempting to have a quick set hearing. And also given the fact that Mr. Kohberger requested at the hearing on May 22, 2023, for the Nondissemination Order to be considered on the date that this Court offered the week of June 25th so as to give everyone more time, a request the Media rejected. In any case, it is this Court’s discretion whether to take additional evidence for a reconsideration. *See, State v. Thorngren*, 149 Idaho 729, 736 (2010).

This Court can start by noting that there have been somewhere around 46,000 media stories on this case so far. *See* Exhibit A. There have been 2.1 billion possible individual exposures to this story. *Id.* This Court can conclude that public interest is intense.

Then, this Court can consider the pervasive nature of the reporting. Since November 13, 2022, on the day of the tragedy, media have never stopped reporting on this case. *See* Exhibit A. The lowest point appears to be the week in February when only somewhere around 2000 stories were made public. *Id.*

Then this Court can consider the nature of the publicity. The media coverage of this case has been uniformly abysmal. Even ignoring the “true crime” community on social media, professional media such as NBC Dateline, NewsNation, and Fox News have been a never ending circus of bad facts and worse opinions- all intended to see Mr. Kohberger killed. To be sure, none of these organizations knows Mr. Kohberger. And some will occasionally remind viewers he has not been convicted yet. But none put on any substantive information about the case, preferring

instead to tantalize viewers with gory theories and whatever nightmares their parade of “experts” can create. Even after this Court admonished the Media at the previous hearing in this case to recall it has a duty to truth and upholding our Sixth Amendment, only a handful thought it worth reporting. *See* Alexandra Duggan, *Judge Warns of “Irreparable Harm” in Idaho Murder Case*, KTVB7 (May 22, 2023) (available at <https://www.ktvb.com/article/news/special-reports/moscow-murders/judge-warns-of-irreparable-harm-in-idaho-murder-case-bryan-kohberger-standing-silent-plead-media-associated-press-motion/277-de751a01-aebe-448a-bfa9-8abc61dea7af>).

Finally, this Court can consider the behavior of the attorneys and their agents. For whatever reason, Mr. Gray has apparently decided the Amended Nondissemination Order does not apply to him. Attorneys for the other victims and witnesses have all remained silent. The parties have been largely silent, though if it can be believed NBC Dateline claims to have a leak. Comparing the coverage of the “experts” giving their latest fantasies to the public to Mr. Gray expressing his clients’ support for the death penalty- Mr. Gray had more than twice the exposure to the public as the most widely heard expert. *See* Exhibit A.

As for prejudice- the most obvious is the effect on empaneling a jury, as the above quoted cases note. Mr. Kohberger also offers the declaration of Dr. El-Alayli explaining how the Media’s constant barrage of negative news subtly alters a jury pool. *See* Exhibit D. Dr. El-Alayli also provides research showing that the speech of attorneys and parties to a case have a much larger impact on a case compared to others. Exhibit D at *4-*5.

However, there are other groups effected by constant negative publicity. The Media’s insistence on seeing Mr. Kohberger convicted and killed can have effects on others who are part of this case. Witnesses, seeing the insanity, may not want to testify. *See In re M.B.* 819 A.2d 59, 64 (Penn. 2003) (“As the trial court noted, publicity may also jeopardize M.B. and J.B. indirectly because witnesses may be hesitant to speak freely and foster parents may be reluctant to get involved

for fear of sacrificing their own privacy.”) Those afraid of testifying are far more likely to have information that will exonerate Mr. Kohberger, as they will have to deal with those who the Media has helped convince that no amount of evidence matters in this case.

Even this Court, faced with angry public pressure created by the Media and those feeding it, may feel the pull to go with the crowd. The United States Supreme Court found as much in *Frank v. Magnum*, 237 U.S. 309, 349-50 (1915):

The single question in our minds is whether a petition alleging that the trial took place in the midst of a mob savagely and manifestly intent on a single result is shown on its face unwarranted, by the specifications, which may be presumed to set forth the strongest indications of the fact at the petitioner's command. This is not a matter for polite presumptions; we must look facts in the face. Any judge who has sat with juries knows that, in spite of forms, they are extremely likely to be impregnated by the enviroing atmosphere. And when we find the judgment of the expert on the spot,-of the judge whose business it was to preserve not only form, but substance-to have been that if one juryman yielded to the reasonable doubt that he himself later expressed in court as the result of most anxious deliberation, neither prisoner nor counsel would be safe from the rage of the crowd, we think the presumption overwhelming that the jury responded to the passions of the mob. Of course we are speaking only of the case made by the petition, and whether it ought to be heard. Upon allegations of this gravity in our opinion it ought to be heard, whatever the decision of the state court may have been, and it did not need to set forth contradictory evidence, or matter of rebuttal, or to explain why the motions for a new trial and to set aside the verdict were overruled by the state court. There is no reason to fear an impairment of the authority of the state to punish the guilty. We do not think it impracticable in any part of this country to have trials free from outside control. But to maintain this immunity it may be necessary that the supremacy of the law and of the Federal Constitution should be vindicated in a case like this. It may be that on a hearing a different complexion would be given to the judge's alleged request and expression of fear. But supposing the alleged facts to be true, we are of opinion that if they were before the supreme court, it sanctioned a situation upon which the courts of the United States should act; and if, for any reason, they were not before the supreme court, it is our duty to act upon them now, and to declare lynch law as little valid when practiced [sic] by a regularly drawn jury as when administered by one elected by a mob intent on death.

Assuming, as we necessarily do, that this Court would never do such a thing- the intense public sentiment in this case will necessarily color perception of every decision this Court makes- eventually leading to some who will claim the Court favors one side or the other. None of this is good for our

justice system. *Tumey v. Ohio*, 273 U.S. 510, 523 (1927). All of it is an absolute disaster for Mr. Kohberger.

Keeping the Amended Nondissemination Order means the Media will have to report facts as they come out and are vetted in court. Keeping the Order means certain involved parties and lawyers are committed to trying this case in a courtroom, not to the press. Keeping this case in the courtroom sends a signal to the public that our courts and participants in our justice system believe it is that system, not an outrageously biased media, which can resolve our toughest issues.

Looking then at the “broad” and “vague” order- this Court can quickly do away with any possible infirmities by making it plain- attorneys, their agents, law enforcement, and anyone else with business in this case- including victim’s families- need to let the justice system work. However much it may help the horrific pain of the victim’s families to scream at the system, their alternative- mob justice- is far worse. It helps nothing to come to court assuming guilt. It helps nothing to overcome law in Latah County and kill an innocent man or have a worthless conviction overturned. Mr. Gray and the Goncalves family have made it clear they want justice. But there is no history of harassing local law enforcement to provide justice *now and violently* ever turning out well.

In this case, the record makes it clear that the magistrate court was responding, as it is required to do for purposes of due process and the judicial canons, to the media coverage of this case. *See, Shepard*, 384 U.S. at 358; ICJC R. 2.15. Even if the magistrate court went too far, that is something that is best addressed by this Court reverting to the original Nondissemination Order. However, when considering what is appropriate, it should be noted that no one affected by the Amended Nondissemination Order, except the attorney whose behavior brought it about and has defied it, is trying to get this Court to let them talk to the media. There is really no benefit to our judicial system, so long as it is ethical and cares to find truth, to changing the status quo.

CONCLUSION

This Court should find that the second part of the Amended Nondissemination Order in this matter merely echoes the ethical rules already binding on the attorneys and their agents and required no additional consideration or findings to be entered to maintain it. The Court should also find that because of the biased, intense media coverage and the effects of attorneys and their agents speaking out to prejudice Mr. Kohberger that have already arisen, the Media's Motion to Dissolve the Amended Nondissemination Order should be DENIED in its entirety, and Mr. Kohberger's right to a fair trial remain protected.

DATED this ___6___ day of June, 2023.

ANNE C. TAYLOR, PUBLIC DEFENDER
KOOTENAI COUNTY PUBLIC DEFENDER

BY:



JAY WESTON LOGSDON
CHIEF DEPUTY LITIGATION
ASSIGNED ATTORNEY

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the ___6___ day of June, 2023 addressed to:

Latah County Prosecuting Attorney –via iCourt: paservice@latahcountyid.gov
Shannon Gray – via iCourt shanon@graylaw.org
WENDY J. OLSON
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EXHIBIT A



Overall Media Coverage Data -

11.13.22 - 6.6.23

This report was produced on the Truescope platform on 6 Jun 2023

In this report

- 1 Total volume, Total potential impressions, Unique authors
- 2 Metrics over time
- 3 Key Phrases in Data Set
- 4 Top People Mentioned in Data Set
- 5 Top Organizations Mentioned in Data Set
- 6 Top Locations in Data Set
- 7 Media Types

1 Total volume, Total potential impressions, Unique authors
between 13th November 2022 to 6th June 2023



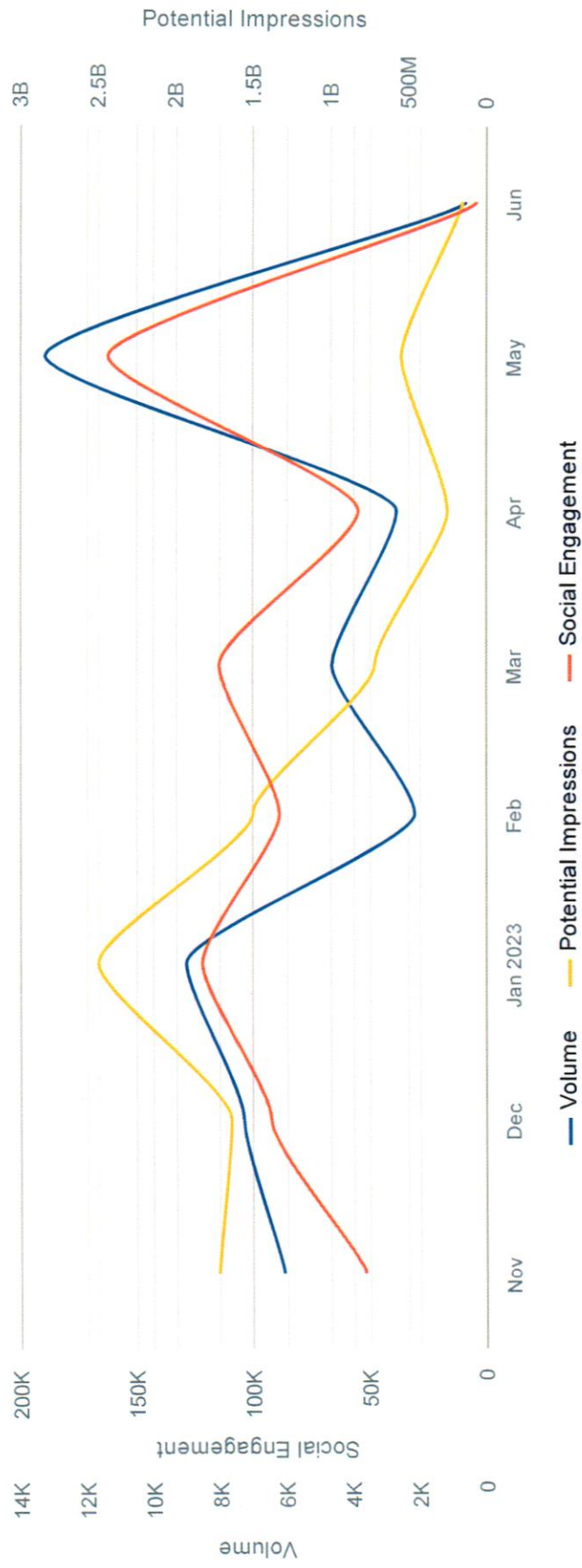
Total volume
46K 4604700.0%
1 previous period

Total potential impressions
2.1B 390086.9%
535K previous period

Unique authors
4.2K

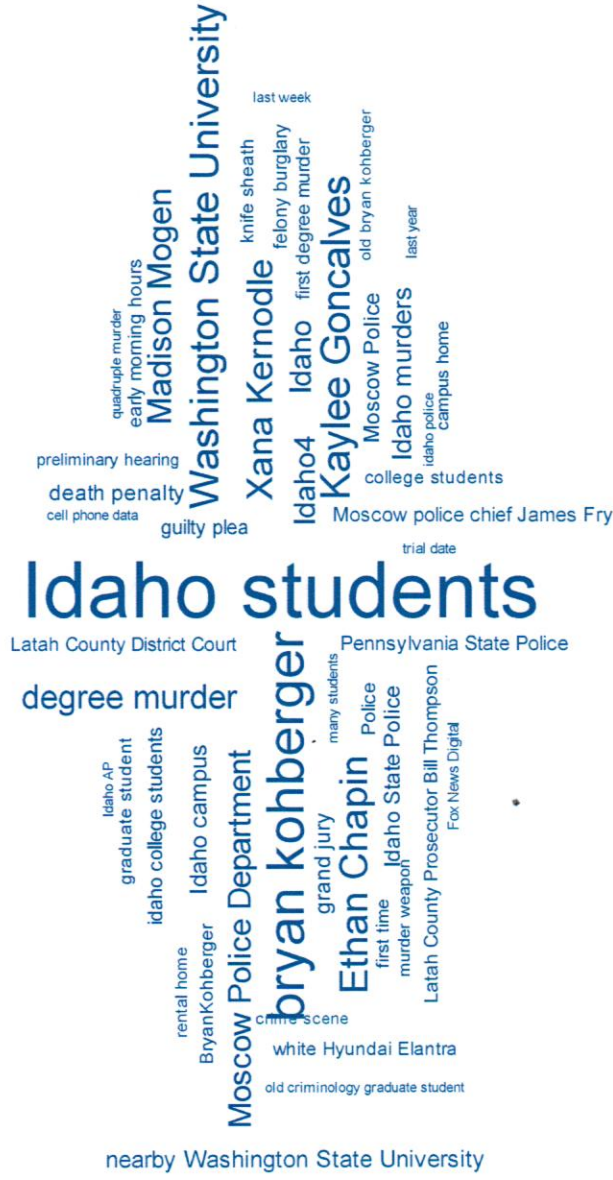


2 Metrics over time between 13th November 2022 to 6th June 2023



3 Key Phrases in Data Set

between 13th November 2022 to 6th June 2023



4 Top People Mentioned in Data Set

between 13th November 2022 to 6th June 2023



Person	Volume
Ethan Chapin	11.1K
Kaylee GonCalves	11K
Xana Kernodle	10K
Bryan Kohberger	8.8K
Madison Mogen	8.2K
James Fry	1.8K
Bill Thompson	1.6K
Anne Taylor	1.5K
Bryan Kohberger's	1.5K
Kernodle	1.2K

5 Top Organizations Mentioned in Data Set

between 13th November 2022 to 6th June 2023



Company	Volume
University of Idaho	13.4K
Washington State University	6.4K
Investigators	4.1K
Associated Press	4.1K
the Moscow Police Department	3K
Police	2.6K
Federal Bureau of Investigation	2.4K
Idaho State Police	1.7K
Facebook	1.7K
CNN	1.5K

6 Top Locations in Data Set

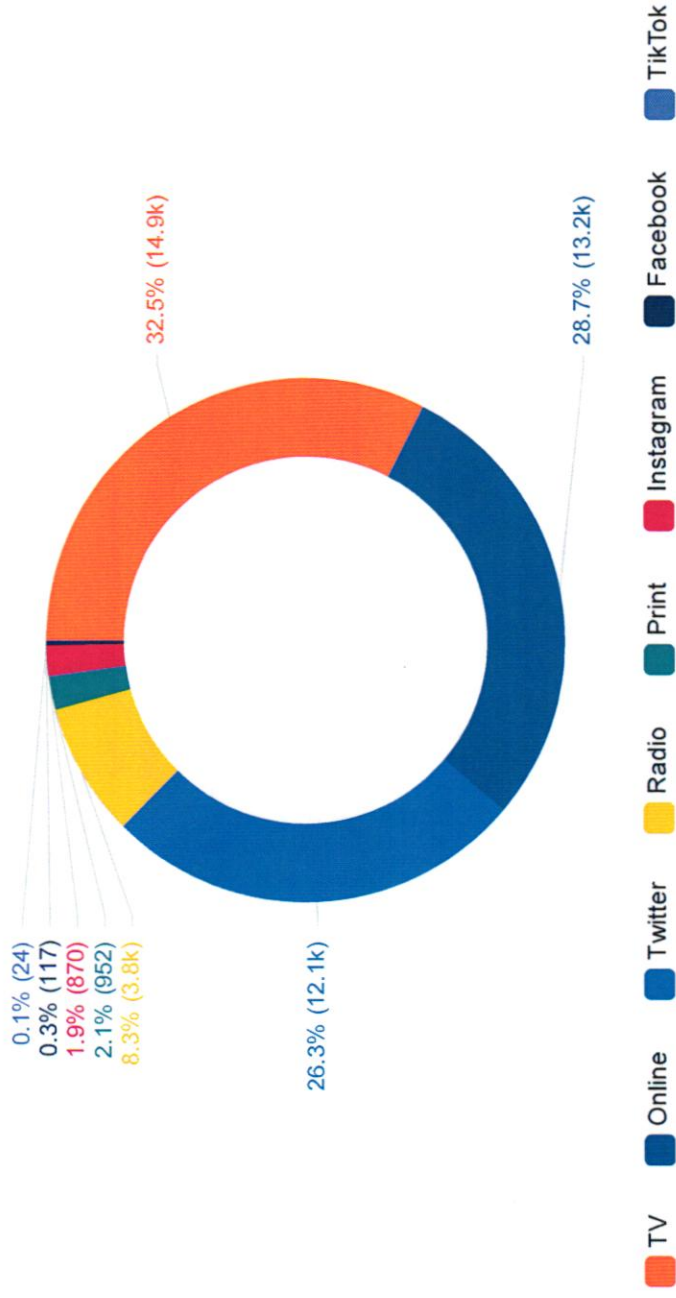
between 13th November 2022 to 6th June 2023



Location	Volume
Idaho	11.4K
Moscow	8K
Pennsylvania	4.9K
Latah County	3.2K
Moscow	2.5K
Boise	2.4K
Pullman	2.2K
Rathdrum	1.5K
Monroe County	1.4K
Coeur d'Alene	1.2K

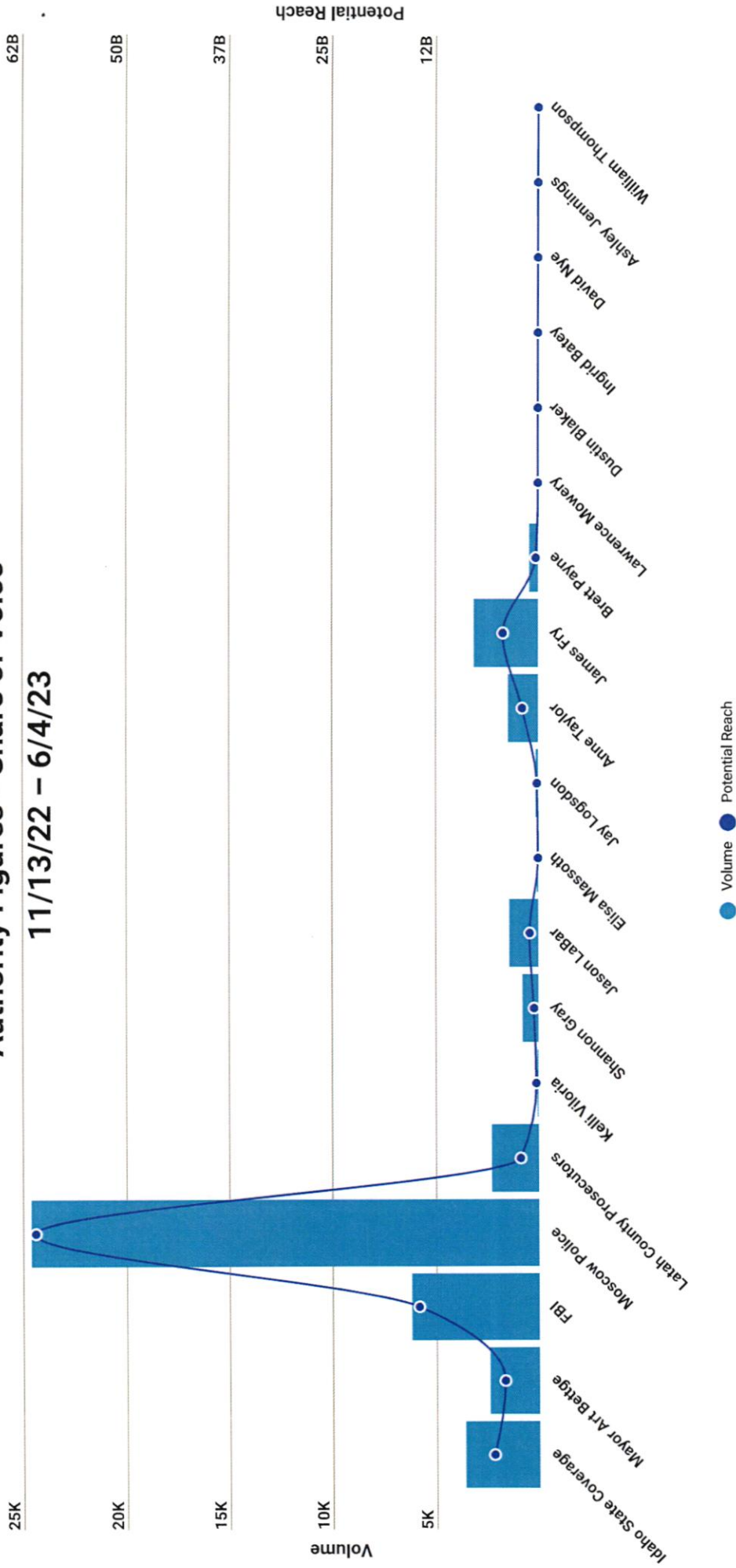
7 Media Types

between 13th November 2022 to 6th June 2023



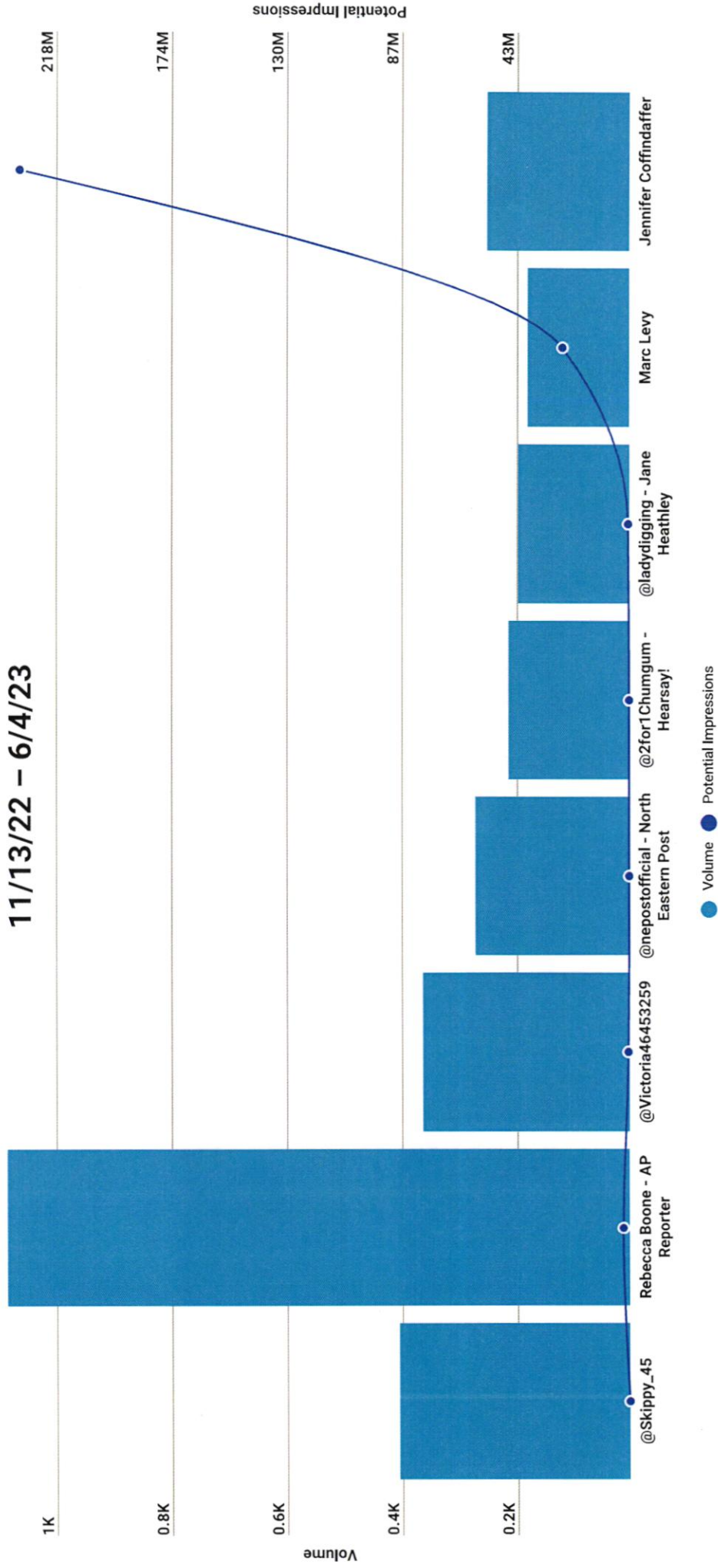
Authority Figures - Share of Voice

11/13/22 - 6/4/23



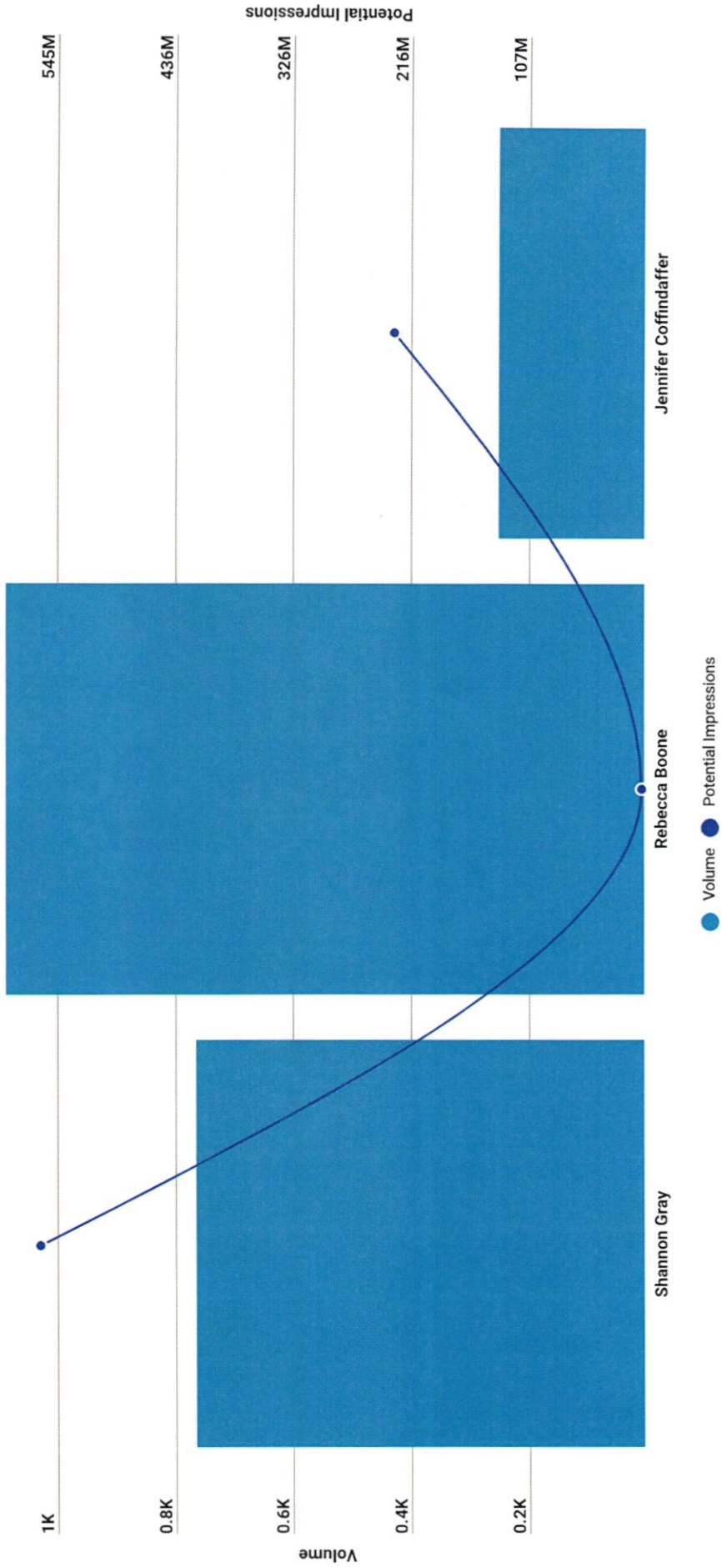
The Moscow Police have the highest volume in the data set with 24,585 stories and the largest potential reach at 61,025,733,269 impressions.

Non-Authority Figures - Share of Voice 11/13/22 - 6/4/23



Though Rebecca Boone had 1,086 stories in the data set, Jennifer Coffindaffer's stories had the highest potential reach at 231,871,029 impressions.

Share of Voice - Media Coverage 11/13/22 - 6/4/23



Though Rebecca Boone had 1,086 stories in the data set, Shannon Gray's stories had the highest potential reach at 561,112,573 impressions.

KEY TERMS DEFINED

Authority versus Non-Authority figures

Authority figures are experts who are currently working on the case.

Non-authority figures are experts who currently work in or formerly worked in the field of law enforcement (police or FBI), law (such as lawyers or other court-related personnel), but who are not working on this case.

Data Collection

Data presented was collected over the specified time period across mainstream media, including newspapers, television stations, radio stations and websites. Additionally, social media content was collected from Twitter and Facebook.

Impressions

Circulation/Impressions should be considered as "opportunities to see" a story and not the actual number of individuals who read or view a story. One person can have many opportunities to see a story and be influenced from several different mediums (TV, radio, print, web, social).

Volume

Aggregate totals of stories as seen across all media types (TV, radio, print, web and social).

Measurement Methodology

All media measurement is designed based on agreed upon objectives from the client. Our methodology adheres to the Barcelona Principles 3.0, as advised by the International Association for Measurement and Evaluation of Communication (AMEC). Metrics used are either provided by industry standard services, or are proprietary and have been developed according to their statistical significance and are replicable. Full data of all found stories and calculations are available to you as measurement transparency is crucial to reliable and valid data. Narrative explains what the data represents or provides inferences taken from the data.

EXHIBIT B

Truescope Media Monitoring and Measurement - Process and Methodology

Prepared for: The Law Office of the Public Defender of Kootenai County

Date: June 6, 2023

Truescope Corporate

In 2019, Australian based industry leaders, John Croll and Michael Bade realized the opportunity to create an offering that reflects today's media scene and communications needs. Launched in 2020, Truescope aims to be the first smart media intelligence platform, with a commitment to real-time, real information.

While new tech determines how we can deliver insights to our clients, it's our people that are critical to developing our products and services. Truescope is building a team of the best developers, product designers, data analysts, and media intelligence experts to enhance our clients' experience and deliver the next generation of media intelligence solutions.

In 2023, Truescope acquired Universal Information Services, a leading media monitoring and measurement firm based in Omaha Nebraska and became known as Truescope North America.

Content/Data

From TikTok, Youtube, Twitter, Reddit, Facebook, Instagram and social platforms to online news, radio, TV, newspapers, and magazines across the world, Truescope monitors millions of mainstream and social media sources. We constantly add new data sources so that our clients receive comprehensive coverage they need to be fully informed.

Truescope obtains licensed data from sources such as Burrelles, Lexis-Nexis, TV Eyes, and Opoint. Content is pulled into the Truescope Reports and workspace platform in near real-time, based on Boolean search strategy. Specific parameters, keywords and search terms are set up by Truescope search strategists to ensure relevant and useful results. In this case, Truescope exported content from the Truescope workspace and sent the data to the Truescope analysis team for complete measurement and charting.

Measurement Methodology and Content Analysis

Truescope designs media measurement based upon objectives provided by the client. Our methodology adheres to the Barcelona Principles 3.0, as advised by the International Association for Measurement and Evaluation of Communication (AMEC). Metrics used are either provided by industry standard services or are proprietary and have been developed according to their statistical significance and are replicable. Full data of all found stories and calculations are available to the client as measurement transparency is crucial to reliable and valid data. Truescope then provides narrative insight to summarize the data.

Authority versus Non-Authority figures

Authority figures are experts who are currently working on the case.

Non-authority figures are experts who currently work in or formerly worked in the field of law enforcement (e.g., police or FBI), law (e.g., such as lawyers or other court-related personnel), but who are not working on this case.

Data Collection

Data presented was collected over the specified time period across mainstream media, including local and national newspapers, television stations, radio stations and websites. Additionally, social media content was collected from platforms such as Twitter and Facebook.

Impressions

Circulation/Impressions should be considered as "opportunities to see" a story and not the actual number of individuals who read or viewed a story. Any one person can have many opportunities to see a story and be influenced by several different mediums (TV, radio, print, web, social). This is an accepted and standard metric in the media monitoring and measurement industry.

Volume

Aggregate totals of stories as seen across all media types (TV, radio, print, web and social).

Raw Data Margin of Error

The error rate on the broadcast content is 0% because of all that we deliver, it is using the closed captioning text created by the station. For radio content, the confidence level is around 97% due to voice to text anomalies.

Print media averages around 99%, with the error rate coming from scanned publications with poor print quality. In those cases, the OCR text may have a slight error rate.

It can happen that keywords are found within the marketing of other stories, or in the margin of a webpage, but that is rare. Social media is accurate unless a profile post uses a hashtag or profile name that is incorrect. Overall, the error margin is very low.

Curated Analysis Margin of Error

Analysts at Truescope North America are not analyzing each story individually, but instead provide insights that represent the entire data set. Media coverage is analyzed at a 95% confidence level with a +/- 5% margin of error.

Data Pipeline & Storage

The Truescope data pipeline is designed to ingest extremely large volumes of Print, Broadcast, Online, Social Media and Forum content within minutes of being published or being released from embargo. The pipeline implements a series of queues and processes to transform (format), keyword match, enrich and index the data, as shown in the top half of the system architecture diagram at the end of this document. As items pass through the various stages of the pipeline they land in queues, which immediately and automatically trigger a relevant Lambda process for each stage. Batch processing and concurrent executions have been implemented through each stage to efficiently handle large volumes of content being consumed in a short period of time. The end-to-end process takes between 10 to 60 seconds from the time an item is first collected to it being processed and ready to view on the client applications or be sent on an alert or report.

Keyword Matching

Truescope applies novel machine learning approaches and inverted search implementations to provide highly granular and efficient relevance matching. As items flow through the Truescope platform each is matched to Truescope scopes, user queries and reports, all within seconds. This process is designed to handle thousands of documents in parallel and be matched against tens of thousands of user queries, scopes, and report content rules.

EXHIBIT C

Jean R. Saucier, Senior Vice President, Client Success
Truescope North America

Jean.saucier@truescope.com

Cell - 312-485-7695

Office – 402-342-3178

EXPERIENCE

Truescope North America, (via acquisition) January 2023 – Present
Senior Vice President, Client Success

- Develop and Manage Client Onboarding, Training, Retention & Renewal
- Manage media & monitoring services for clients nationwide
- Conduct and supervise client trainings
- Secure additional revenue from current client base
- Manage curated report production team
- Manage media insights team

Universal Information Services, Inc., September 2015 – January 2022

Senior Vice President – January 2022 – January 2023

Client Solutions Manager – May 2017 – January 2022

Business Development Executive – September 2015 – May 2017

- Managed ongoing client outreach for retention and renewal
- Secured over \$40,000 new and retention revenue in first year
- Managed partner relationships
- Conducted client platform training
- Developed new prospects through various channels and industries
- Sold new accounts

BurrellesLuce, Inc.,
PRtrak Product Manager

April 2012 – August 2015

PRtrak is a web-based publicity measurement service providing metrics for broadcast, print and internet. Formerly owned by VMS

- Managed PRtrak platform, new revenue and renewals; \$650,000 + annual revenue
- Sold PRtrak to agencies and corporations of varying size, type and industry
- Conducted PRtrak Product Demos for new and existing accounts
- Managed analysts for full-service accounts
- Supervised monthly revenue billing
- Resolved technical and data issues for clients
- Trained clients and staff on product features and functionality

Independent Contractor,

Media Strategy & research, publicity analyst, etc.

September 2011 – Present

- Carson Stoga Communications, LLC – Media Relations, Writing, Client Event Management
- StrategyOne - Media Analysis
- MeasurementMatch.com - Research, Business Development

Video Monitoring Service,

Sales Manager, National Accounts

September 2005 – June 2011

*PRtrak is a web-based publicity measurement service providing metrics for broadcast, print and internet.
InSight is a web-based publicity monitoring tool for all media types*

- Integral part of a 2 person sales team, increasing annual revenue from \$400,000 to over \$1mil in 3 years. Average monthly sales closings - \$25,000
- Grew national client base of agencies, corporate and nonprofit organizations
- Managed ongoing client retention – over 80% customer base retained
- New Business prospecting and acquisition
- Served as internal contact for measurement and data questions/concerns
- Conducted PRtrak training meetings for all staff
- Developed training and reference materials
- Solved billing issues for colleagues and clients
- Conducted product demos and set up trial accounts
- Managed analyst team producing PRtrak reports for full service clients
- Sold VMS' monitoring product, Insight, beginning October 2010

Surveillance Data Inc.,

Measurement Consultant/Account Manager – PRtrak

June 2004 – September 2005

PRtrak was purchased by VMS in September 2005

- Demonstrated measurement tools using web-based sharing application; PRtrak and customized reports called Share of Discussion
- Renewed and up-sold existing accounts
- Addressed and resolved account and client issues
- Conducted client training and customer support

PR Newswire,

Online MEDIAAtlas Product Specialist PR Newswire, Chicago, IL

December 2001 – June 2004

Media Product Specialist, April 2003 – June 2004

Online MEDIAAtlas was PR Newswire's first web-based media database tool launched in 2001. Online MEDIAAtlas included a contacts database, media list creation capabilities and numerous distribution portals.

- Sold media database to public relations agencies, corporate public relations departments, government agencies and school clients
- Instructed account teams on features and functionality of OnlineMEDIA Database
- Conducted online product demonstrations for corporate and agency account teams
- Conducted product training for account managers

Trade Show Specialist (December 2001 –April 2003)

- Drafted sponsorship barter agreements with major event organizers
- Processed contracts to ensure fulfillment of deliverable products
- Processed contracts to ensure fulfillment of deliverable products
- Coordinated development of Online News Centers, press kits and event sites with internal teams and clients
- Communicated special offers to internal account managers and customers
- Wrote marketing materials for various company events

- Attended trade shows providing onsite assistance to customers and partners

Scanlon Corp. Communications, Chicago, IL

Nov. 2000 – March 2001

Media and Resource Manager

- Supervised account teams, client management, and day to day operations
- Implemented new processes and procedures for internal communications, resources management and reporting structure
- Developed internal training programs and conducted monthly training sessions
- Developed new business, drafted proposals and facilitated client meetings
- Managed press kit and clip book development for existing and new clients
- Increased staff efficiency with new research and resource management tools

Porter Novelli (formerly EBS Public Relations) Chicago, IL

Mar 1997 – Nov. 2000

- Developed and conducted Media Relations Training Seminars
- Managed proactive Media Relations campaigns for numerous accounts; developed strong relationships with local and national media contacts
- Drafted new business proposals and participated in client meetings
- Managed national trade show onsite operations
- Interviewed, trained and managed new hires; Managed internal operations

P.R. Unlimited, Inc., Buffalo Grove, IL January 1995 – March 1997
Account Supervisor

fX Cable Networks, Chicago, IL March 1994 – January 1995
Sales and Marketing Coordinator

S & S Public Relations, Northbrook, IL June 1993 – November 1993
Assistant Account Executive

EDUCATION University of Illinois at Urbana-Champaign
Bachelor of Science in Media Studies, with Honors, May 1993
Dean's List, 1992, 1993

Awards: Publicity Club of Chicago, Silver Trumpet, 1997

EXHIBIT D



Amani El-Alayli, Ph.D.
amani.elalayli@yahoo.com
Social Psychologist
Social Cognition Researcher

June 5, 2023

Jay Logsdon, Chief Deputy Litigation
The Law Office of the Public Defender of Kootenai County

1450 NW Blvd, Suite 301 (83814)
P.O. Box 9000
Coeur d'Alene, ID 83816

Re: State vs. Bryan Kohberger Case Non-dissemination order: Scientific Report of the Effects of Media Coverage on Prospective Jurors

Dear Mr. Logsdon,

This report is in regard to the Bryan Kohberger case, and the potential psychological effects of media coverage of the case on prospective jurors. Given my expertise in social psychology and the peer-reviewed research relevant to this issue, I believe that vacating the non-dissemination order would increase the potential for bias among prospective jurors, both initially and throughout the trial.

My conclusion is based on my review of research illustrating that anti-defendant pretrial publicity increases the probability of guilty verdicts, and that this bias persists despite the receipt of trial arguments/evidence, admonitions to disregard the publicity information, and jury deliberation. I discuss this research in my report, along with research explaining why commentary by individuals with status/expertise (e.g., police, attorneys, and judges) in media coverage create more potential for biased jurors.

My background and qualifications. I have a doctoral degree in Social and Personality Psychology from Michigan State University in 2002. My focus is social psychology, which is the scientific study of how social factors influence people's judgments, perceptions, attitudes, decisions, and behaviors. Currently, I am a tenured full professor, and have taught courses in social psychology, social influence, self-perception biases, prejudice & stereotyping, research methods, statistics, and general psychology. Most of these courses cover scientific research that illustrates people's perceptual biases and the factors that may influence such biases. I have also conducted workshops on bias.

Much of my research has focused on biased cognition as well. I have a number of peer-reviewed research publications and have given many formal peer-reviewed research presentations at local, regional, and national conventions in the field. Although my research interests within social psychology are varied, my main focus has been on social cognition, with a particular emphasis on bias, especially biases in self-perceptions, perceptions of groups (i.e., stereotyping), and impressions of specific individuals (e.g., relationship partners, strangers, friends, or acquaintances). My knowledge of distorted perceptions of self and others allows me to understand many of the factors that could bias individuals who make judgments of others, as in criminal cases.

My report. As a social psychologist, I can identify a number of ways in which media exposure regarding the Kohberger case or the parties involved would likely bias the opinions held by the public, and thus prospective jurors in ways that cannot be mitigated easily or at all. I describe them in this report. In doing so, I provide only explanations that are founded in peer-reviewed scientific research, and provide endnotes to specify the references that were used.

The field of psychology sets high standards for methodological procedures and statistical analyses. As such, the peer-review process is quite rigorous, resulting in primarily high-quality scientific research. Moreover, psychologists use strict cutoffs for statistical significance, so the probability of not detecting a true effect in the literature is generally much higher than the probability of a false finding existing in the literature.

I. PRETRIAL PUBLICITY AFFECTS GUILT JUDGMENTS

Several decades of research have established that anti-defendant pretrial publicity can negatively influence how potential jurors perceive a defendant's criminality and guilt. A 2011 chapter in the *Handbook of Trial Consulting* provides a review of this research.¹ A meta-analysis conducted in 1999,² which statistically combined the effects of 44 such studies (and a total of 5,755 participants), confirmed that guilt judgments of a defendant were (statistically) significantly more likely to occur by people who had been exposed to such pretrial publicity. Meta-analyses particularly relevant because they are designed to determine the overall effect of a composite of all (or most) studies on a specific topic in order to make a general conclusion from the established literature.

A similar 2022 meta-analysis³ published in *Law and Human Behavior*, combined 45 studies (a combination of published and unpublished studies, 8 of which were also included in the 1999 meta-analysis), and yielded the same result. The overall finding was a significant effect of pretrial publicity on guilt judgments, both across the entire set of studies, and for each of the two batches of studies (published and unpublished) separately. Most of the studies included in the 2022 meta-analysis had cases involving a violent crime, and the pretrial publicity effect existed for both student participants and community participants recruited to better resemble actual jurors.

The studies included in the 2022 meta-analysis all involved experimentally manipulating exposure to pretrial publicity. In other words, participants were assigned (typically using random assignment) to be exposed to specific pretrial publicity or not, and then asked to review trial materials via summaries, transcripts, videotaped mock trials, or recordings of real trials. Although they cannot be used on real jurors, the big advantage of experimental manipulations is that researchers can make stronger conclusions about cause and effect, given that participants are treated the exact same way and provided the exact same materials and instructions (other than what was manipulated – the pretrial publicity information). Thus, different guilt judgments between groups can be attributed to the pretrial publicity information.

The 2022 meta-analysis found that anti-defendant pretrial publicity led to a significant increase in guilty judgments by individuals and guilty verdicts by groups (mock juries). Regarding individual judgments, most of the thousands of mock jurors exposed to negative pretrial publicity voted guilty (55.4%), whereas fewer than half of the thousands who were not exposed to such publicity voted guilty (45.1%). The anti-defendant pretrial publicity effect was over twice as strong when examining group verdicts. Among the 292 mock juries included in the analysis, about half (49.7%) of those exposed to anti-defendant pretrial publicity voted guilty, whereas only a quarter (25.2%) of those not exposed voted guilty.

The 2022 meta-analysis also found that *pro-defendant* pretrial publicity significantly biases participants (towards not guilty verdicts). Thus, bias can occur in either direction when prospective jurors are exposed to media reports regarding a criminal case. Oftentimes, however, there is much more anti-defendant than pro-defendant media coverage, resulting in an overall prosecutorial slant. For example, in a study examining pretrial publicity for 20 capital cases, 75% of the media articles included some type of anti-defendant information.⁴ Arguably, even if the media presented equal amounts of pro-prosecution and pro-defense information, an anti-defendant bias might still emerge given that people have been shown to exhibit a “negativity bias,” paying more attention to negative information about people than positive information.⁵

Based on their findings, the authors of the 2022 meta-analysis concluded that, “judges, attorneys, and policy makers should consider this [pretrial publicity] effect and the circumstances surrounding pretrial publicity when evaluating how to best protect criminal defendants’ right to a fair trial and when creating procedural safeguards...” [p. 121]

II. POTENTIAL REASONS FOR PRETRIAL PUBLICITY EFFECTS

Although there are numerous potential reasons for why jurors might have a greater likelihood of reaching a guilty verdict after exposure to pretrial publicity, I focus on those that would be most relevant to non-dissemination orders, given the issue at hand.

A. Authority Influence

Pretrial publicity of criminal cases may be impactful partly because a large proportion of the coverage includes information sources who are authority figures (e.g., police or attorneys), who likely exert a greater influence on the public.

1. Large prevalence of stories including authority figures: Media reports in criminal cases often include commentary by people considered to have status or relevant expertise, such as criminal investigators, the Chief of Police, or attorneys involved in a case. For example, one study (examining 20 capital cases found that over half of the news stories cited law enforcement and/or the prosecution, and that these sources were cited far more often than other sources, and “served as the primary bases for much of the pretrial publicity.”⁶ A study examining 26 capital cases similarly found that news articles primarily cited these sources, and did so in a way that depicted law enforcement commentary as objective facts, rather than details which might be disputed in court.⁷

2. Greater persuasion by authority figures: Because people are generally raised to respect and believe authorities/experts, these types of sources would likely have a particularly strong influence on prospective jurors’ pretrial opinions. Social psychologists have long discussed how people are more influenced by authority and status,⁸ sometimes even doing things that make no sense or that they believe are morally wrong because they have faith in the authority figure who is directing them.⁹ Research has shown that titles,¹⁰ uniforms,¹¹ high status occupations,¹² and other indicators of authority/status (such as affluence or even tall height) can influence people, even on matters irrelevant to the authority’s specific expertise/status. Because of this, I believe that upon initial consumption of media stories, people would typically believe information more when presented by law enforcement or others with apparent status/authority/expertise.

3. Authority status as a quick decision shortcut: Another reason that authority/status may exert greater influence is because it provides a quick decision shortcut for people to use when evaluating information. People tend to be cognitive misers, and thus do not always choose to think deeply and carefully about matters. The Elaboration Likelihood Model,¹³ a widely-accepted and supported theory of persuasion, suggests that sometimes people are persuaded via deep information processing, but sometimes they are persuaded via “peripheral route processing,” which involves using quick decision shortcuts (i.e., heuristics). One heuristic that can be used when coming across media stories is the notion that if someone is an expert or authority figure, then we can simply trust that what they are saying is correct. We are more likely to rely on source cues like this when we are processing peripherally, which happens when we are distracted, tired, busy, unmotivated, etc. Although jurors should have more motivation, time, and cognitive resources during trial than people perusing news stories, they may already have formed an opinion about the relevant case before any trial information is presented.

4. Authority figures presenting more anti-defendant information: The information presented by the media may also have a stronger prosecutorial slant when it includes commentary by law enforcement and prosecution. One study evaluating news stories about

crime and criminal defendants found the source of anti-defendant content in news stories was most often law enforcement officers and prosecution.¹⁴ Because jurors' judgments have been shown to be affected by the specific slant of the pretrial publicity, limiting the information presented by law enforcement and prosecution could reduce the amount of anti-defendant bias among future jurors. In other words, a non-dissemination order could reduce not only information from more influential sources (those with authority/expertise/status), but also the quantity of anti-defendant information presented in the media, which is the type that increases guilty verdicts among potential/mock jurors.

5. Authority figures' biased selection and presentation of information: Some research finds that law enforcement officers may view evidence as more reliable if it is consistent with their preconceived notions about a suspect.¹⁵ If this influences which details law enforcement officers/agencies provide to the media or causes them to present details with more confidence than is warranted at the time, this could sway prospective jurors in the wrong direction. Law enforcement officers are subject to the same human biases that others have, but at the same time, are likely trusted more by the public because of their status. Prospective jurors are likely influenced by the valence of evidence/information provided, the status of those providing it, and also the confidence with which it is presented (given research showing that people are more influenced by those who sound confident).¹⁶

B. Confirmation Bias as a Filter for New Information

If media stories (including commentary from police, attorneys, etc.) cause people to form an expectation about Mr. Kohberger's guilt, that belief will likely serve as an unconscious filter for new incoming information about the case. People tend to exhibit a "confirmation bias," which involves the unconscious tendency to seek out and favor evidence that supports their initial opinions. Aside from directing their attention towards belief-consistent information, this bias also causes people to interpret ambiguous information as more supportive of their expectations than it actually is, and to dismiss or forget information that disconfirms their expectations.

As such news stories inferring that Mr. Kohberger is guilty, or providing evidence or commentary to that effect, would likely create an initial expectation of his guilt, resulting in confirmation biases as people become jurors in the case. Confirmation bias leads to the problem of "pre-trial/pre-decisional distortion," which has been discussed and tested as a reason for why pretrial publicity can bias potential jurors.¹⁷ Specifically, early judgments about the accused or the case (stemming from exposure to pretrial publicity) causes distortion of new information learned about the case (e.g., during trial).

For example, in one 2004 study,¹⁸ some participants were given a short news article about a defendant, describing that he had been arrested following a shooting incident. The only negative information provided about him (aside from his arrest) was that neighbors described him as a "bully." This news story alone caused participants to be significantly more likely (than those in a control group) to view the defendant as having a criminal history, resulting in "pre-

decisional distortion.” After later reading a trial transcript (with various testimonies) in which the defendant was charged with murder, the participants who had previously been exposed to the news article about the arrest were more likely to return a guilty verdict than those who instead had read an article on an unrelated subject. The authors specifically found that pretrial distortion from the article led participants to view new evidence regarding the case through their own filtered expectations, causing them to favor new testimony that aligned with their current leading theory regarding the accused instead of evaluating new evidence objectively.

Certainly, jurors’ viewpoints regarding a criminal case should change after becoming fully informed and presented with all of the evidence regarding the case, but it is less likely that jurors would reach a conclusion diametrically opposed to their initial leanings (which may have arisen from exposure to media stories of the event).¹⁹ In other words, they would be less likely to conclude innocence if they had even a slight leaning towards assuming guilt because they are anchored by their initial judgments. It is noteworthy that pre-decisional distortion effects in both civil and criminal mock trials have been observed even when participants received formal instructions to suspend judgment until after all of the evidence was presented.²⁰

C. Belief Perseverance Resulting in More Pre-decisional Distortion of Information

If potential jurors have more than just a mild suspicion or expectation, and have formed a strong opinion about Mr. Kohberger, their perceptual biases can become even stronger. “Belief perseverance” is a phenomenon illustrating that people’s beliefs often persist even when presented with information that completely discredits those beliefs.²¹ The more confident people are in their initial prejudgments, the more pre-decisional distortion will result when interpreting subsequent information.²² For this reason, media coverage that presents stronger suggestions of a defendant’s guilt (e.g., evidence/commentary by authority figures) would be expected to carry more weight.

Because of confirmation bias and belief perseverance, it is not surprising that the effects of pretrial publicity can persist throughout the course of an entire trial, and still influence guilty verdicts after all trial arguments and evidence are presented. One way in which this was demonstrated was by using a shadow jury paradigm, in which researchers exposed mock jurors (recruited from jury-eligible community members) to ongoing trial information as though they were active jurors during a 10-week time period.²³ One sample of mock jurors was naturally exposed to pretrial publicity. The other sample was recruited from a different region so that exposure to pretrial publicity could be experimentally manipulated. Guilt ratings were assessed at several points in time during the trial. Despite admonitions to refrain from using pretrial publicity information in their decision-making (similar to instructions given to actual jurors), mock jurors continued to be influenced by pretrial publicity all the way through to their post-trial verdicts. Their initial impression likely served as a filter for how they received subsequent trial evidence and arguments, consistent with confirmation bias and belief perseverance tendencies, causing their bias to persist even after all evidence was presented.

III. ATTEMPTS TO MITIGATE JUROR BIAS

Research has yet to determine a reliable method for eliminating pretrial publicity bias effects after exposure has occurred, suggesting that limiting potential jurors' exposure in the first place would be the best avenue in the pursuit of a fair trial. This is why change of venue and non-dissemination orders have such importance.

A. Screening, Questioning, and Instructing Jurors:

Although this research is limited, some work finds that even extended voir dire by seasoned attorneys does not specifically mitigate pretrial publicity effects, despite its other potential benefits.²⁴

1. Selecting Jurors Based on Prior Exposure: Psychological research would point to at least two problems which limit the ability to select jurors who were not exposed to pretrial publicity. First, prospective jurors may not consciously recollect their exposure. Some of our memories are unconscious (we do not know the memories are there), but can still affect us. For example, someone may not remember that they learned something negative about someone, but they still have a negative impression of that person, at a conscious or unconscious level. Several decades of research have shown that our judgments can be influenced by information in our unconscious mind.

Hidden memories may also become conscious if something triggers them during trial. Thus, a juror may report not having been exposed to pretrial publicity, but then later remember some specific publicity exposure after something during trial reminds them of the memory. This process is called "**priming**." A second problem is that prospective jurors may not be honest about their exposure, perhaps due to social desirability concerns (wanting to appear favorable) or conformity pressure (going along with real or imagined social pressure).

2. Selecting Jurors Based on Ability to Remain Impartial: One problem with the approach of asking jurors if they are able to remain unbiased is that, although they may take due process seriously, people may be unaware of their biases and thus unable to correct for them. Most, if not all, of the effects discussed in this report occur automatically and beyond people's level of awareness. For example, when people's opinions are biased by pretrial publicity information, they tend to deny any such influence.²⁵ At a minimum, awareness of one's own bias and the motivation to overcome it are prerequisites for controlling bias effects.²⁶ However, even when warned about the potential for bias, jurors are often incapable of ignoring any prior judgments or preconceptions when evaluating evidence from a trial.²⁷

Additionally, some people may think they are incapable of unfair biases. There is a tendency to recognize bias more in others than in oneself, which is known as the "**bias blind spot**."²⁸ This is unsurprising given that people generally tend to overestimate their abilities and underestimate their weaknesses. This "**self-enhancement bias**" has been documented time and time again in peer-reviewed research.²⁹ Because people tend to view themselves as less biased and less prejudiced than others, they may feel it unnecessary to be attuned to (and

correct for) the potential flaws in their judgments. People also have an “**overconfidence bias**,” wherein they overestimate their confidence regarding their judgments, perceptions, and decisions. For example, one study found that when people say they are 100% certain of something, they are incorrect, on average, 20% of the time.³⁰

These areas of research suggest that one cannot simply ask jurors if they are capable of being bias-free when evaluating a case, and then choose those who say “yes.” In fact, that may result in a group of jurors with even more inflated self-perceptions and even less awareness of their capability of being biased (i.e., a more biased jury). This is consistent with research showing that people who have the highest level of sexism/racism also have the most (favorable) distortion regarding their egalitarian tendencies.³¹ Thus, people are typically unable to make determinations regarding their current level of bias, their inclination to be biased when evaluating new information, and their ability to control their biases in cognitive tasks.

3. Judicial Instructions to Disregard Information: Several decades of research have investigated whether instructions to disregard evidence are successful, finding that such instructions typically do not work and can even backfire. A 2006 meta-analysis examined the effects of instructions given to jurors to disregard inadmissible evidence across 48 studies, concluding that when evidence is presented, verdicts become more aligned with that evidence even when jurors are asked to disregard it.³² This was also true when examining, as a whole, the subset of studies which specifically involved instructions to disregard pretrial publicity information. Other research found such instructions to be ineffective in offsetting the influence of both factual pretrial publicity (incriminating evidence) and emotional pretrial publicity that was not evidence-based.³³ Studies have shown that getting jurors to pledge impartiality and agree to refrain from using prior knowledge does not eliminate bias from pretrial publicity.^{34 35 36}

Because law-enforcement may have a lot of detail regarding a case, they could inadvertently supply the media with information or evidence that is later deemed inadmissible in court. Unfortunately, the most reliable solution for preventing bias among jurors is the prevention of exposure to this information in the first place.

4. Jury Deliberation: Just as the presentation of trial evidence and arguments does not eliminate pretrial publicity effects, neither does jury deliberation, as observed in mock trial studies. In fact, deliberation may increase the effect of pretrial publicity.³⁷ Recall from the 2022 meta-analysis that the effects of pretrial publicity were stronger when examining group verdicts versus individual verdicts.³⁸ Although most studies examining post-deliberation effects in groups have typically exposed *all* jurors to the negative pretrial publicity information in the experimental condition, which might be a rare occurrence in real-world situations, some have examined mixed juries (where only some members were exposed).

A 2017 mock jury study showed that in mixed juries, the biases among those exposed to pretrial publicity can spread to other jurors during deliberation.³⁹ Subsequent experimental

research in 2021 yielded the same result, showing that if some jurors are exposed to pretrial publicity information, that information can steer the discussion in the same direction (e.g., anti-defendant) during jury deliberation with jurors who had not been exposed, ultimately affecting post-deliberation guilt judgments.⁴⁰ Thus, deliberation is not seen as method for eliminating pretrial publicity exposure effects, and can even worsen them because it provides a means to spread information to jurors who had not yet been exposed.

Moreover, group discussion tends to cause a group's initial leanings become stronger (more polarized) after group discussion, a widely-researched phenomenon known as "**group polarization**."⁴¹ Thus, if some jurors have initial leanings that are anti-defendant, that could be enough to influence the overall group's initial leaning, ultimately resulting in even more anti-defendant views post-deliberation. Group polarization effects have been confirmed to exist in mock juries.⁴²

IV. CONCLUSIONS

My conclusion from the review of the research is that pretrial publicity effects on judgments tend to affect judgments of guilt, and are pervasive (lasting through trial), and hard to reduce. As such, the best way to prevent them (based on our current knowledge base) would be to utilize jurors who have not be exposed to such coverage. Because of the difficulties with asking jurors about their exposure, a better approach would be to limit the information presented to prospective jurors until a fair trial is held.

Although a non-dissemination order does not prevent all exposure to pretrial publicity, it should limit both the quantity and type of information in ways that should result in less bias among prospective jurors, increasing the probability of a fair trial. For all of the reasons noted in this report, I recommend limiting the amount of pretrial publicity presented to prospective jurors, particularly the types that might carry more weight or be distributed more widely and repeated more frequently.

Respectfully,

A handwritten signature in black ink, appearing to read "Amani El-Alayli".

Amani El-Alayli, Ph.D.

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EXHIBIT E

CURRICULUM VITAE

Amani El-Alayli, Ph.D.

May, 2023

Office Address: 135 Martin Hall, Department of Psychology, Eastern Washington University

E-mail: amani@ewu.edu

ACADEMIC EMPLOYMENT:

- (2013 – Present) Full Professor, Eastern Washington University, Psychology.
- (2009 – 2013) Associate Professor, Eastern Washington University, Psychology.
- (2003 – 2009) Assistant Professor, Eastern Washington University, Psychology.
- (2002 – 2003) Visiting Assistant Professor, University of Florida, Social Psychology.

EDUCATION:

- (2002) Ph.D. in Social & Personality Psychology, Michigan State University
- (2000) M.A. in Social & Personality Psychology, Michigan State University
- (1996) B.A. in Psychology with Spanish minor, University of Michigan—Dearborn

PRIMARY RESEARCH INTEREST:

- Social cognition, with a focus on stereotyping, impression formation, and self-perception biases.

HONORS, AWARDS, & GRANTS:

- (2019) Chosen by Acea Sands, recipient of the Jeffers Chertok Student Award, for the Influential Faculty Award.
- (2016) Chosen by Amy Frers, recipient of the Jeffers Chertok, as one of her two most influential faculty.
- (2014) Chosen by Nicole Sestrap, recipient of the Jeffers Chertok Student Award, for the Influential Faculty Award.
- (2013-2014 academic year) Professional Leave for Research/Writing on Several Projects.
- (2010) Chosen by Lisa Zawacki, recipient of the Frances B. Huston award, for the Influential Faculty Award.
- (2010) Eastern Washington University \$5000 Faculty Summer Research Grant to support research on: *Residual Housing Discrimination in Regions that are Regularly Tested for Discrimination*.
- (2008) Eastern Washington University \$5000 Faculty Summer Research Grant to support research on: *Self-perception biases in romantic relationships: Who do we favor more, ourselves or our relationship partner?*
- (2007) Chosen by Ursula Heflick, recipient of the Frances B. Huston Student Award, for the Influential Faculty Award.
- (2005) Eastern Washington University \$5000 Faculty Summer Research Grant to support research on: *The Effects of Disclaimers on Person Perception*.
- (2004) Eastern Washington University \$5000 Faculty Summer Research Grant to support research on: *The Interactive Effects of Self-Theories and Motivational Climate on Reactions to Failure*.
- (2005) Jeffers Chertok Dean's Honor Faculty Award & Chosen by Sara Adams, recipient of Jeffers Chertok Student Award, for the Influential Faculty Award.
- (2002) Michigan State University \$2000 Graduate Office Scholarship
- (2000) Michigan State University \$1200 Graduate Office Scholarship
- (1996) Michigan State University \$500 Graduate Office Scholarship

PUBLICATIONS (*Students' names are italicized*):

- El-Alayli, A., Hansen-Brown, A., & Ceynar, M. (2018). Dancing Backwards in High Heels: Female Professors Experience More Work Demands and Special Favor Requests, Particularly from Academically Entitled Students. *Sex Roles*, 79, 136-150.
- Mozafari, A., El-Alayli, A., & Kunemond, A. (2017). Impressions of businesses with language errors in print advertising: Do spelling and grammar influence the inclination to use a business? *Current Psychology*.
<https://doi.org/10.1007/s12144-017-9735-0>
- Selle, K., El-Alayli, A., Brown, A. A., & Ewert, S. (2017). Grandiose narcissists' public versus private attributions

- for a collaborative success. *Current Directions in Psychology*. <https://doi.org/10.1007/s12144-017-9628-2>
- Kerbs, A.F., & El-Alayli, A. (2016). Parenting dynamics in childhood as they relate to body dissatisfaction in adult women: An exploration of parental attachment, acceptance, teasing, and body-related comments. *Journal of Integrated Social Sciences*, 6, 75-103.
- El-Alayli, A., & Wynne, M. (2015). Who has the better personality, me or my partner? Self-enhancement bias in relationships and its potential consequences. *Personal Relationships*, 22, 550-571.
- Colver, M., & El-Alayli, A. (2015). Getting aesthetic chills from music: The connection between openness to experience and frisson. *Psychology of Music*, 43, 1-15.
- Mofidi, T., El-Alayli, A., & Brown, A. (2014). Trait gratitude and grateful coping as they relate to college student persistence, success, and integration in school. *Journal of College Student Retention: Research, Theory, and Practice*, 16, 325-349.
- Neal, K., & El-Alayli, A. (2014). "You throw like a girl!" The effect of stereotype threat on women's athletic performance and gender stereotypes. *Psychology of Sport and Exercise*, 15, 48-55.
- Kent, E., & El-Alayli, A. (2011). Public and private affection differences between women in same-sex and different-sex relationships: The role of perceived marginalization. *Interpersona: An International Journal on Personal Relationships*. <http://interpersona.org/issues/interpersona-5-2-december-2011/>
- El-Alayli, A., Myers, C., Peterson, T., & Lystad, A. (2008). "I don't mean to sound arrogant, but..." The effects of disclaimers on person perception. *Personality and Social Psychology Bulletin*, 34, 130-143.
- El-Alayli, A., & Gabriel, S. (2007). To prove or to improve? Which motive distorts perceptions of personality controllability? *Personality and Social Psychology Bulletin*, 33, 1572-1586.
- El-Alayli, A. (2006). Matching achievement contexts with implicit theories to maximize motivation after failure: A congruence model. *Personality and Social Psychology Bulletin*, 32, 1690-1702.
- El-Alayli, A., Lystad, A., Webb, S., Hollingsworth, S., & Ciolli, J. (2006). Reigning cats and dogs: A pet-enhancement bias and its link to pet attachment, pet-self similarity, self-enhancement, and well-being. *Basic and Applied Social Psychology*, 28, 131-143.
- Hammermeister, J., Flint, M., El-Alayli, A., Ridnour, H., & Peterson, M. (2005). Gender differences in spiritual well-being: Are females more spiritually well than males? *American Journal of Health Studies*, 20.
- El-Alayli, A., & Messé, L. A. (2003). Reactions toward an unexpected or counternormative favor-giver: Does it matter if we think we can reciprocate? *Journal of Experimental Social Psychology*, 40, 633-641.
- El-Alayli, A., & Baumgardner, A. (2003). If at first you don't succeed, what makes you try, try again? Effects of implicit theories and ability feedback in a performance-oriented climate. *Self and Identity*, 2, 119-135.
- El-Alayli, A., Park, E. S., Messé, L. A., & Kerr, N. L. (2002). Having to take a stand: The interactive effects of task framing and source status on attitudes. *Group Processes and Intergroup Relations*, 5, 233-248.
- McConnell, A., Niedermeier, K., Leibold, J., El-Alayli, A., Chin, P., & Kuiper, N. (2000). What if I find it cheaper someplace else? The role of counterfactual thinking and anticipated regret in consumer buying decisions. *Psychology and Marketing*, 17, 281-298.

MANUSCRIPTS SUBMITTED FOR PUBLICATION (*Students' names are italicized*):

- El-Alayli, A., Grudic, A., McCall, A., Abou-Ammo, R., Johansen, M., & Rudmann, J. Differential treatment of Muslim Americans seeking housing: Subtle and overt discrimination. Manuscript submitted for publication.
- El-Alayli, A., Schriener, L., Santoyo, C., Rosenau, W., & Moline, W. (2014). "Hi, Susie!" Students' Address Term Choices for Female versus Male Professors. Manuscript submitted for publication.

INVITED RESEARCH PRESENTATIONS (*Students' names are italicized*):

- El-Alayli, A., Collins, C., Yotz, J., Sestrap, N., Rudmann, J., & Barham, M. (May, 2022). Early birds get both the worm AND the better stereotypes. Paper presented at the Duck Social Cognition conference, Corolla, NC.
- El-Alayli, A. (June, 2019). *Effects of the American flag on our judgments of others*. Paper presented at the Duck Social Cognition conference, Corolla, NC.
- El-Alayli, A., Ceynar, M., Hansen-Brown, A. (November, 2017). *Dancing backwards in high heels: Do female professors experience more work demands and special favor requests from students?* Eastern Washington University's Women's Studies Center Colloquium, Cheney, WA.
- El-Alayli, A. (May, 2017). *How subtle biases can affect our views of people in meaningful ways*. Keynote address for Eastern Washington University's Student Research and Creative Works Symposium, Cheney, WA.
- El-Alayli, A., Ceynar, M., & Brown, A. (May, 2017). *Effects of gender stereotypes on students' behaviors towards their female professors*. Paper presented at the Duck Social Cognition conference, Corolla, NC.
- El-Alayli, A. (April, 2017). *Self-Perception Biases*. College of Social Sciences All College Spring Meeting, Eastern

Washington University, Cheney, WA.

- El-Alayli, A.,** *Schriner, L., Santoyo, C., Rosenau, W., & Moline, W.* (November, 2011). *Dr. and Mrs. Professor: Why do students use less formal terms of address for female versus male professors?* Pacific Lutheran University Colloquium, Tacoma, WA.
- El-Alayli, A., & Moua, M.** (November, 2008). *Can communication technology impair verbal skills?* Eastern Washington University's Women's Studies Center Colloquium, Cheney, WA.
- El-Alayli, A., Hildebrandt, J., & Stenehjem, K.** (2006). *Stereotype threat: Choking under pressure when one's group is expected to perform poorly.* Eastern Washington University's Women's Studies Center, Contemporary Issues in Feminist Research Colloquium, Cheney, WA.

OTHER RESEARCH PRESENTATIONS (Students' names are italicized). Note: I have advised numerous students presenting our collaborative research at the McNair Scholars National Conference, the National Conference for Undergraduate Research (NCUR), the Spokane Intercollegiate Research Conference (SIRC), and the EWU Research Symposium, but do not list those presentations here.

- Dodson, A., & El-Alayli, A.* (February, 2023). *Effects of the American and Pride Flags on our Judgments of Others.* Poster presented at the annual meeting of the Society for Personality and Social Psychology.
- El-Alayli, A., Collins-Thompson, C., & Dodson, A.* (February, 2023). *Stereotypes of morning and evening people: content, accuracy, and application.* Poster presented at the annual meeting of the Society for Personality and Social Psychology.
- Brooks, O., & El-Alayli, A.* (April, 2019). *Comparing inattentive survey responding across paper and online modalities.* Poster presented at the annual meeting of the Western Psychological Association, Pasadena, CA.
- Billena, D., Rogozynski, M., Douglas, L., Smith, A., & El-Alayli, A.* (April, 2019). *Effects of American and Confederate flag presentations with Facebook profile pictures on first impressions.* Poster presented at the annual meeting of the Western Psychological Association, Pasadena, CA.
- Douglas, L., Smith, A., Billena, D., Rogozynski, M., & El-Alayli, A.* (April, 2019). *Relative believability of misinformation in memes versus plain text.* Poster presented at the annual meeting of the Western Psychological Association, Pasadena, CA.
- Rogozynski, M., Billena, D., Smith, A., Douglas, L., & El-Alayli, A.* (April, 2019). *Influence of self-proclaimed political affiliations and presentation of the American flag on perceptions of an individual's traits and behaviors.* Poster presented at the annual meeting of the Western Psychological Association, Pasadena, CA.
- Rogozynski, M., M., Ross, J., Sands, A., Bresslin-Kessler, K., Nemri, S., Evans, , & El-Alayli, A.* (May, 2018). *Masculine stereotypes of lesbians and masculine-looking women: Potential advantages of assumed agentic qualities in employment.* Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- El-Alayli, A.** (May, 2017). *Self-enhancing biases in relationships.* Poster presented at the annual S.M.A³.R.T. faculty and staff poster session for Eastern Washington University's Student Research and Creative Works Symposium, Cheney, WA.
- El-Alayli, A.,** *Ceynar, M., & Brown, A.* (April, 2017). *Negative student reactions to getting special favor requests denied by female professors.* Paper presented at the annual meeting of the Western Psychological Association, Sacramento, CA.
- Bains, M., Sestrap, N., El-Alayli, A., Fox, K., Bell, J., Pedersen, C., & Erbacher, K.* (April, 2017). *Potential reasons for greater stress in evening people.* Poster presented at the annual meeting of the Western Psychological Association, Sacramento, CA.
- Bains, M., Pedersen, C., Fox, K., Erbacher, K., Bell, J., & El-Alayli, A.* (April, 2017). *Is it Justified? Flag prime effects on perceptions of discrimination.* Poster presented at the annual meeting of the Western Psychological Association, Sacramento, CA.
- Erbacher, K., Bell, J., Pedersen, C., Fox, K., Bains, M., & El-Alayli, A.* (April, 2017). *Priming effects of the American flag on nationalism and over-claiming knowledge.* Poster presented at the annual meeting of the Western Psychological Association, Sacramento, CA.
- Fox, K., Erbacher, K., Bell, J., Bains, M., Pedersen, C., & El-Alayli, A.* (April, 2017). *American flag prime effects on social inclusion of stigmatized groups.* Poster presented at the annual meeting of the Western Psychological Association, Sacramento, CA.
- Pedersen, C., Fox, K., Erbacher, K., Bains, M., Bell, J., El-Alayli, A.* (April, 2017, Pending Acceptance). *Effects of American flag presentation with Facebook profile pictures on first impressions.* Poster presented at the annual meeting of the Western Psychological Association, Sacramento, CA.

- Duncan, A., Mozafari, A., Bell, J., & El-Alayli, A. (April, 2016). *Discrimination against marijuana users: Medical versus recreational*. Poster presented at the annual meeting of the Western Psychological Association, Long Beach, CA.
- Mozafari, A., Duncan, A., Bell, J., & El-Alayli, A. (April, 2016). *Self- versus Partner-Enhancing comparisons and its potential consequences*. Poster presented at the annual meeting of the Western Psychological Association, Long Beach, CA.
- Bell, J., Frers, A., Pedersen, C., & El-Alayli, A. (May, 2016). *Achieving the ideal self: Differences between narcissistic subtypes*. Poster presented at the annual meeting of the Association of Psychological Sciences, Chicago, IL.
- Pedersen, C., Fountain, J., Bell, J., & El-Alayli, A. (May, 2016). *Marijuana use stereotypes may be stronger than racism or sexism in person perception*. Poster presented at the annual meeting of the Association of Psychological Sciences, Chicago, IL.
- Frers, A. & El-Alayli, A. (April, 2015). *Self-enhancement bias in self-partner personality comparisons*. Poster presented at the annual meeting of the Rocky Mountain Psychological Association, Boise, ID.
- Ceynar, M., Konu, S., & El-Alayli, A. (April, 2014). *Gender and student interactions with professors outside the classroom*. Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- Kunemond, A., Conkey, E., & El-Alayli, A. (April, 2014). *Effects of language errors on advertisement persuasiveness*. Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- Sestrap, N., Longsworth, A., Pray, B., Collins, C., & El-Alayli, A. (April, 2014). *Do early birds catch the job? Circadian preference employment discrimination*. Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- Gimbel, B., Ruiz, L., Walsdorf, A., Yotz, J., & El-Alayli, A. (April, 2014). *Discrimination against morning and evening people in activities and relationships*. Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- Conkey, E., Chui, P.H., Kirby, L., Islam-Zwart, K., & El-Alayli, A. (April, 2014). *Gender-bias and its influence on the accuracy of eyewitness identification of perpetrators*.
- Selle, K., El-Alayli, A., & Brown, A. (February, 2014). *Narcissists' public versus private attributions for a collaborative team success*. Poster presented at the annual meeting of the Society for Personality and Social Psychology, Austin, TX.
- Brown, A., & El-Alayli, A. (February, 2014). *The narcissistic teammate: Effects of narcissistic subtypes on self-serving Attributional biases*. Poster presented at the annual meeting of the Society for Personality and Social Psychology, Austin, TX.
- Ceynar, M., & El-Alayli, A. (April, 2013). *Dancing backwards in high heels: The extra burdens of being a female professor*. Poster presented at the annual meeting of the Western Psychological Association, Reno, NV.
- Collins, C., Yotz, J., & El-Alayli, A. (April, 2013). *Owls and larks: An assessment of perceived and real differences in personality traits and behaviors amongst morning and night people*. Poster presented at the annual meeting of the Western Psychological Association, Reno, NV.
- Joyne, C., Sestrap, N., & Higgins, K., Mofidi, T., & El-Alayli, A. (April, 2013). *The effects of gratitude and grateful coping strategies on success in college*. Poster presented at the annual meeting of the Western Psychological Association, Reno, NV.
- Bell, J., Brown, A., Joyne, C., Johansen, M., El-Alayli, A. (April, 2013). *The role of narcissistic subtypes in body perception and motivations*. Poster presented at the annual meeting of the Western Psychological Association, Reno, NV.
- Brown, A., Pattison, S., & El-Alayli, A. (April, 2013). *Individual differences in anti-atheist prejudice*. Paper presented at the annual meeting of the Western Psychological Association, Reno, NV.
- Hickox-Carriere, G., Sestrap, N., Kerbs, A., & El-Alayli, A. (April, 2013). *Effects of childhood family dynamics on body dissatisfaction in adulthood*. Poster presented at the annual meeting of the Western Psychological Association, Reno, NV.
- McCall, A., Finkas, Ty, & El-Alayli, A. (April, 2013). *Discrimination in rental housing: A Muslim perspective*. Poster presented at the annual meeting of the Western Psychological Association, Reno, NV.
- Shiells, S., Sestrap, N., & El-Alayli, A. (April, 2012). *Are individuals more positively biased towards themselves or their relationship partners?* Paper presented at the annual meeting of the Western Psychological Association, San Francisco, CA.
- El-Alayli, A., Grudic, A., & Abbou-Ammo, R. (January, 2012). *Differential treatment of Muslims seeking rental properties: The moderating role of gender*. Poster presented at the annual meeting of the Society for Personality and Social Psychology, San Diego, CA.

- Colver, M., & El-Alayli, A. (April, 2011). *Personality and frisson (aesthetic chills" as a response to music*. Paper presented at the annual meeting of the Western Psychological Association, Los Angeles, CA.
- Schriner, E., & El-Alayli, A. (April, 2011). *Dr. and Mrs. Professor: Why do students use less formal terms of address for female versus male professors?* Paper presented at the annual meeting of the Western Psychological Association, Los Angeles, CA.
- El-Alayli, A., & Moua, M. (May, 2009). "LOL, R U Serious?" *Linking high-technology communication modes with lower verbal skills*. Poster presented at the annual meeting of the Association for Psychological Science, San Francisco, CA.
- Reynolds, C., Wiese, J., Frazier, L., Longley, J., Ripley, T., El-Alayli, A., & Anderson, J. (April, 2009). *The implications of Terror Management Theory for estimated life expectancies*. Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- Abou-Ammo, R., Grudic, A., & El-Alayli, A. (April, 2009). *Are Muslims treated differently by rental agents when seeking housing?* Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- Moua, M., & El-Alayli, A. (April, 2009). *The effects of high-technology communication modes on verbal skills*. Poster presented at the annual meeting of the Western Psychological Association, Portland, OR.
- El-Alayli, A., & Moline, W. (May, 2008). *Terms of address used to refer to male and female faculty*. Poster presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- Guillen, N., & El-Alayli, A. (May, 2008). *The effects of implicit theories, goals, and motivational climate on students' motivation in college courses*. Paper presented at the annual meeting of the American Psychological Society. Chicago, IL.
- Brown, A., Ferrell, S., Anderson, J., & El-Alayli, A. (May, 2008). *Cheating in the back? Classroom seating location and cheating behaviors*. Poster presented at the annual meeting of the American Psychological Society. Chicago, IL.
- El-Alayli, A. (April, 2007). *Self-favoring perceptions of one's relationship partner*. Paper presented at the annual meeting of the Western Psychological Association, Vancouver, BC, Canada.
- El-Alayli, A., Myers, C., & Petersen, T. (May, 2005). "I don't mean to sound arrogant, but..." *The effects of qualifiers on person perception*. Paper presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- El-Alayli, A., Adams, S., Ciolli, J., Hollingsworth, S., & Lystad, A. (May, 2005). *Reigning cats and dogs: A pet-enhancement bias and its correlates*. Paper presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- El-Alayli, A., & Gabriel, S. (January, 2004). *The opposing motivations of self-improvement and self-justification: A bias in perceptions of personality controllability*. Poster presented at the annual meeting of the Society for Personality and Social Psychology, Austin, TX.
- El-Alayli, A., & Gabriel, S. (May, 2002). *Effects of temporal self-focus on self-serving perceptions of personality malleability*. Paper presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- El-Alayli, A., & Gabriel, S. (January, 2002). *Effects of self-goals and temporal self-focus on self-serving perceptions of the controllability of personality attributes*. Poster presented at the annual meeting of the Society for Personality and Social Psychology, Savannah, GA.
- Park, E. S., El-Alayli, A., Kerr, N., & Messé, L. A. (May, 2001). *The effects of source status and task framing on attitudes*. Paper presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- El-Alayli, A., & Messé, L. A. (May, 2001). *Reactions toward a favor-giver who violates a norm and/or expectation*. Paper presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- El-Alayli, A. (May, 2001). *Self-serving perceptions of the malleability of personality attributes*. Paper presented at the annual meeting of the Midwestern Psychological Association, Chicago, IL.
- Messé, L. A., El-Alayli, A., & Chugh, A. (January, 2000). *Source status cue and involvement effects on persuasion and impressions: Some implications for ELM and minority influence*. Poster presented at the first annual meeting of Society for Personality and Social Psychology, Nashville, TN.
- El-Alayli, A., & Baumgardner, A. (1999). *The effects of social comparison and implicit theories of personality on task effort*. Paper presented at the Michigan State University Conference of the Self, East Lansing, MI.
- El-Alayli, A., & Baumgardner, A. (1997). *The effects of perceived control and social comparison on affect and task effort*. Poster presented at the Michigan State University Psychology Department's 50th Anniversary Conference, East Lansing, MI.

PUBLIC INTERVIEWS REGARDING RESEARCH:

- (2019, April): Oral interview for article (regarding recent research) printed in The Easterner on April 24, 2019.
- (2018, February): Written or oral interviews for two college newspapers regarding recent research.
- (2018, January 18): Written interview conducted for article written on *MedicalResearch.com* website regarding research on female professors getting more special favor requests (and expectations) compared to male professors.
- (2018, January 9): Written interview conducted for article written on *Insider Higher Ed* website regarding research on female professors getting more special favor requests (and expectations) compared to male professors. Link: <https://www.insidehighered.com/news/2018/01/10/study-finds-female-professors-experience-more-work-demands-and-special-favor>
- (2018, January 4): Interviewed on CBC Radio (The Early Edition with Rick Cluff) of Vancouver, Canada, regarding research on female professors getting more special favor requests (and expectations) compared to male professors. Link: <http://www.cbc.ca/listen/shows/the-early-edition/segment/15401862>
- (2017, December): Helped to prepare a press release for recently published *Sex Roles* article: *Dancing Backwards in High Heels: Female Professors Experience More Work Demands and Special Favor Requests, Particularly from Academically Entitled Students*. Link: <http://www.cbc.ca/news/canada/british-columbia/female-profs-more-work-1.4473910>

INVITED WORKSHOPS/LECTURES

- El-Alayli, A.** (June, 2019). How subtle biases can affect our judgments of self and others. Keynote address at “EWU in the High School” workshop. Eastern Washington University.
- El-Alayli, A.** (February, 2019). *Gender dynamics in the classroom: Presentation and discussion*. Faculty Commons Workshop Event, Eastern Washington University.
- El-Alayli, A.** (November, 2016). *Responding to comments containing stereotypes and prejudice in order to promote social change*. Workshop, Eastern Washington University.
- El-Alayli, A.** (October, 2015). *Easy Self-Changes*. Guest Lecture for Dr. Pui-Yan Lam’s First Year Experience Course, Eastern Washington University.
- El-Alayli, A.** (2012): Presentation given to EWU Psi-Chi Group on *How to Request Letters of Recommendation from Professors*.

WEBINARS

- February 15, 2018. IECA PIDG Webinar. Title: Unconscious Bias in the Workplace: How hidden biases may be affecting your decisions and what you can do about it. Moderator: Fariha Nawshin. Speakers: Amani El-Alayli, Natalia Verkhovsteva, Sephanie Plante.

COMMUNITY AND PROFESSIONAL SERVICE:

- (2008-2015): Board Member of the Northwest Fair Housing Alliance.
- (2012; 2013; 2014; 2017; 2019): Reviewer of presentation submissions to the Western Psychological Association’s annual convention.
- (2012): Session Chair at the Spokane Intercollegiate Research Conference at Gonzaga University.
- (2010): I compiled a list of potential videos to be shown in a Social Influence course and distributed it on a listserv for Social and Personality Psychologists.
- (2005): I contributed to the Teaching Personality Psychology website by compiling a host of faculty suggestions for preventing student cheating.
- (2004; 2007; 2010): Served as Mentor for the PICI (Practicum in Community Involvement) Program, which involves visiting with high school students and giving them feedback on their research papers and/or giving them general guidance on how to do scientific research.
- (2004-2005): Served as Community Mentor for Harrington High School’s Heather Yirak by assisting her with her senior research project and presentation.

COURSES TAUGHT:

- General Psychology
- Social Psychology
- Personality Psychology
- Prejudice & Stereotyping
- Social Influence

- Self-Perception Biases
- Scientific Principles of Psychology
- Graduate Scientific Methods
- Undergraduate Statistics
- Graduate Statistics

DEPARTMENTAL SERVICE (Psychology Dept., EWU):

- (2017-**Present**): Member, Psychology Department Diversity Committee.
- (2016-2018): Chair, Unit Personnel Committee for the Psychology Department
- (2014-2016): Member, Unit Personnel Committee for the Psychology Department.
- (2013): Chair, Faculty Search Committee.
- (2013-2014): Member, Graduate Admissions Committee.
- (2012-**Present**): System Administrator for the Psychology Department's Sona Software (an online system where students can sign up for and participate in psychological research).
- (2012-2013): Psi Chi Faculty Advisor
- (2011-2012): Organized Judging for Psychology Student Participants in the Annual EWU Student Research and Creative Works Symposium.
- (2011): Wrote a portion of the Self-Study document used as part of the Department's Internal/External Program Review.
- (2010-2012): Assistant Chair, Psychology Department.
- (2007-2008): Member, Psychology Department Diversity Committee.
- (2006-2012): Member, Psychology Department Research Coordinating Committee.
- (2006-2009): Member, Psychology Department Space & Equipment Committee.
- (2006): Chair, Faculty Search Committee.
- (2006): Member, Graduate Admissions Committee.
- (2006): Chair, Committee for Evaluating the Psychology Department's Research Methods Sequence.
- (2005): Member, Dual Faculty Search Committee.
- (2005): Supervisor for Graduate Student Kendra Selle's Teaching of General Psychology.
- (2004; 2004; 2006; 2009; 2011): Supervised Individual Students for Directed Study Independent Research Projects or Independent Coursework
- (2004-2006): Member, Curriculum Assessment Committee
- (2003-**Present**): Former or Current Thesis Chair for various Master's students
- (2003-**Present**): Led Research Teams Consisting of Undergraduate/Graduate Students.

UNIVERSITY SERVICE (EWU):

- (2022-2023): Academic Senator
- (2022): Member of the College Personnel Committee
- (2019): Search Committee Member for Lecturer Position in Communications Department
- (2013; 2014): Interviewed for article in the *Easterner*.
- (2012-2013): Member of the Research and Scholarship Committee.
- (2011-2012): Member of the Counseling and Educational Psychology Department's Personnel Committee.
- (2011): Department Representative at the University's Spotlight Orientation.
- (2010-2013): Department Representative for the Institutional Review Board.
- (2009; 2011): Session Moderator at the Annual EWU Student Research and Creative Works Symposium.
- (2007): Consultant for the Office of Admissions during an admissions meeting about advising prospective psychology majors.
- (2007): Prepared an article promoting the Psychology Department for the university's student recruitment magazine, *Square One*.
- (2006-2015): University Advisor for the Truman Scholarship.
- (2006; 2008; 2008; 2010; 2010; 2022): Faculty Mentor for McNair Scholar summer research project.
- (2006 – 2007): Member of the University Diversity Committee.
- (2006): Volunteer mentor for incoming minority faculty.
- (2006): Discussion Leader for Strategic Plan Initiative Regarding Undergraduate Research at the New Faculty Orientation Workshop.

- (2006): Department Representative at the Admissions Office's first Transfer Talk Day, in which prospective transfer students learn more about their programs/departments of interest.
- (2006): Profiled (photographed and interviewed) for the university's Application Packet.
- (2005): Participated in the Faculty Getting to Know Faculty Program.
- (2005): Member of the Undergraduate Affairs Committee.
- (2004; 2005; 2006; 2007; 2008; 2009; 2010; 2011; 2012): Faculty Mentor in the Annual EWU Student Research and Creative Works Symposium.
- (2004; 2005; 2006): Judge in the Annual EWU Student Research and Creative Works Symposium.

AD-HOC PEER REVIEWER FOR:

- (2023, 2019, 2018, 2014): Journal of Social Psychology
- (2021, 2018): Sex Roles
- (2015; 2016): Journal of Experimental Education
- (2015): Educational Psychology
- (2015): International Journal of Sport Psychology
- (2014): Social Psychological and Personality Sciences
- (2013): Journal of Positive Psychology
- (2011): British Journal of Social Psychology.
- (2010): Journal of Personality and Social Psychology.
- (2010): Journal of Research in Personality
- (2007; 2008): Personality and Social Psychology Bulletin.
- (2009): Motivation and Emotion.
- (2009): International Journal of Psychology.

CURRENT AND FORMER PROFESSIONAL & UNIVERSITY MEMBERSHIPS

- Mosaic (University Faculty/Staff Diversity Group)
- Society for Personality and Social Psychology
- Midwestern Psychological Association
- Western Psychological Association
- American Psychological Association
- Association for Psychological Science.
- Psi Chi