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#### FOR PUBLICATION



#### E-FILED **CNMI SUPERIOR COURT**

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## IN THE SUPERIOR COURT FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE	) CRIMINAL CASE NO. 20-0126
NORTHERN MARIANA ISLANDS,	)
	)
Plaintiff,	) ORDER FINDING THAT BECAUSE A
	) DEFENDANT HAS THE RIGHT UNDER
v.	) 6 CMC § 6303(c) TO CROSS-EXAMINE
	) ADVERSE WITNESSES AT A
VICENTE SABLAN BASA,	) PRELIMINARY EXAMINATION
	) HEARING TO WEED OUT
Defendant.	) GROUNDLESS CLAIMS, THE
	) DEFENDANT IS ENTITLED TO THE
	) TANGIBLE MATERIALS, IF ANY, USED
	) BY LAW ENFORCEMENT TO
	) ESTABLISH PROBABLE CAUSE SO
	) THAT DEFENDANT CAN FULLY AND
	) PROPERLY CROSS-EXAMINE THE
	) GOVERNMENT'S WITNESS
	)
	, )

#### I. INTRODUCTION

**THIS MATTER** came before the Court on September 9, 2020 at 10:00 a.m. at the Supreme Court courtroom. The Commonwealth of the Northern Mariana Islands ("Commonwealth") was represented by Assistant Attorney General Steven Kessell. Defendant Vicente Sablan Basa ("Defendant" or "Basa") appeared in custody and was represented by Assistant Public Defender Vina Seelam. At issue is Basa's motion to obtain the tangible materials currently in the Commonwealth's possession that formed the basis of its probable cause determination.

On August 17, 2020, Defendant filed Defendant's Notice of Motion and Motion Requesting All Tangible Materials Used to Establish Probable Cause at Preliminary Hearing. On August 24,

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2020, the Commonwealth filed its Response to Defendant's Notice of Motion and Motion Requesting All Tangible Materials Used to Establish Probable Cause at Preliminary Hearing. On August 25, 2020, the Commonwealth filed its Amended Response to Defendant's Notice of Motion and Motion Requesting All Tangible Materials Used to Establish Probable Cause at Preliminary Hearing. On August 31, 2020, Defendant filed Defendant's Reply Brief in Support of Motion Requesting All Tangible Materials Used to Establish Probable Cause at Preliminary Hearing.

Based on the filings, the testimony of the Commonwealth's witness at the preliminary examination hearing, the applicable laws, and arguments of counsels, the Court hereby issues the following Order.

#### II. BACKGROUND

#### A. The Affidavit of Probable Cause

On or about August 04, 2020, Department of Public Safety Detective Daniel K. Kaipat ("Detective Kaipat") swore out a Complaint and Supporting Affidavit of Probable Cause ("Affidavit") pursuant to Rule 5.<sup>1</sup> The Affidavit alleged the following:

- 1. On Monday, August 3, 2020, at approximately 5:15 pm, DPS Central received a call about three male individuals fighting in Kagman 3 along Lalangha Avenue. Dispatch then informed responding units that the operator of a blue sedan bearing license plate number ACT 219 was trying to hit some people. This incident was logged in as DPS Case No. 20-004881.
- 2. At approximately 6:30 pm, Officer Christopher Mendiola arrived at Lalangha Avenue and was flagged down by a male individual named Richard Basa ("Richard"). Richard stated that his wife called the police because there was a male individual hitting Richard's car. Officer Mendiola then met with Xing Henry Xiong ("Xing") who stated that a male individual came to his residence in As Lito and rented a vehicle without a driver's license. He followed the male individual to Kagman 3 Lalangha Avenue and informed him that he could not drive without his driver's license. The male individual got angry and attempted to punch Xing who blocked it. The male individual then got into the Blue Matrix and tried to run Xing over.

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<sup>&</sup>lt;sup>1</sup> "Rule 5" here refers to Rule 5 of the Commonwealth Rules of Criminal Procedure.

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- 3. On Tuesday August 4, 2020, at approximately 4:30 pm, Detective Kaipat arrived at Xing's residence in As Lito for an interview. There, Detective Kaipat learned from Xing that on August 3, 2020, at approximately 4:30 pm, Defendant came to his rental place in As Lito to rent a vehicle. Xing gave Defendant a rental form for a 2005 Blue Toyota Matrix bearing license plate number ACT 219. Defendant signed the rental form but Xing asked Defendant for his driver's license. Defendant told Xing that there is a record of his driver's license. Xing went to check for any record of Defendant's license but could not find any. When Xing came out to tell Defendant that there was no record, Defendant had already left the area. Xing and his brother Cheng Paul Xion ("Cheng") then followed Defendant in their own vehicle.
- 4. Xing and Cheng followed Defendant to Kagman 3 Lalangha Avenue where Defendant stopped in the middle of the road. Xing approached Defendant who was still in the vehicle and asked him for his driver's license. Defendant told Xing that he will borrow someone else's driver's license. Xing refused and told Defendant that he will refund his money and take the vehicle back. Defendant then got mad and got out of the vehicle. Defendant asked Xing, "what's your problem?" and if he wanted to fight. Defendant then swung once with a closed fist towards Xing's head, but Xing used his arm to block it. Cheng then got down from the vehicle and approached Defendant and Xing. Defendant then approached Cheng and swung towards his head to which Cheng also blocked with his arm. Defendant then got mad and got into the Blue Matrix and drove towards Xing. Xing stated that he was able to jump out of the way of the vehicle which missed him by an inch. Xing and Cheng then ran into a nearby gated residence for safety. Defendant then backed his vehicle and drove towards a sedan that was parked outside the gated residence. Defendant kept backing up and driving forward hitting the sedan multiple times. Defendant then left the scene.
- 5. At approximately 7:42 pm, Defendant was arrested for Disturbing the Peace, Assault and Battery, Assault with a Dangerous Weapon, and Criminal Mischief.

On August 4, 2020, Associate Judge Teresa Kim-Tenorio reviewed the Complaint and Supporting Affidavit of Probable Cause and found probable cause with respect to the four charges and the arrest of Defendant Basa.<sup>2</sup>

<sup>&</sup>lt;sup>2</sup> When a judge reviews warrants, complaints, and affidavits pursuant to a Rule 4 or Rule 5 of the Commonwealth Rules of Criminal Procedure and makes a determination of probable cause it is a "one-sided story," meaning that the judge only hears the side of the law enforcement officer (often times with a review by the Office of the Attorney General). At the Preliminary Examination Hearing, the review by the judge of the probable cause is now a "two-sided story," meaning that the defendant now has the assistance of an attorney who can cross-examine the testifying law enforcement officer.

#### **B.** Initial Appearance

On August 5, 2020, Defendant was brought to the Superior Court of the Commonwealth of the Northern Mariana Islands ("Superior Court") for his initial appearance and bail hearing. The Court found Defendant indigent and appointed the Office of the Public Defender to represent Defendant.

#### C. Filing of Information

On August 11 2020, the Commonwealth filed an Information. The Information charged Defendant with Assault with a Dangerous Weapon in violation of section 1204(a), Title 6 of the Commonwealth Code; two counts of Assault in violation of section 1201(a), Title 6 of the Commonwealth Code; two counts of Vandalism in violation of section 1805(a), Title 6 of the Commonwealth Code; Disturbing the Peace in violation of section 3101(a), Title 6 of the Commonwealth Code; Driving Without a License in violation of section 2202(a), Title 9 of the Commonwealth Code; Reckless Driving in violation of section 7104(a), Title 9 of the Commonwealth Code; and Theft of Vehicle in violation of section 7102(b), Title 9 of the Commonwealth Code.<sup>3</sup>

#### D. The Preliminary Examination Hearing

On August 13, 2020, a preliminary examination hearing (also referred to as a preliminary hearing) was held to determine whether there is probable cause to charge Defendant Basa with the crimes listed in the Information, the charging document. The Commonwealth was represented by Assistant Attorney General Steven Kessell. The Defendant appeared under the custody of the Department of Corrections and was represented by Assistant Public Defender Vina Seelam. The

<sup>&</sup>lt;sup>3</sup> On August 11 2020, the Commonwealth filed an Information that charged Defendant with crimes other than ones brought before Judge Teresa Kim-Tenorio for the Rule 5 probable cause determination. It is worth noting that this is common. Here, Detective Kaipat's Affidavit presented to Judge Kim-Tenorio for review listed four charges. However, after the Office of the Attorney General had reviewed the reports/statements, video, etc, the Office of the Attorney General decided to add additional charges prior to the preliminary examination hearing.

only document that the Office of the Attorney General provided to Defendant was the Complaint and Supporting Affidavit of Probable Cause.<sup>4</sup>

The Commonwealth called its witness, Detective Daniel Kaipat to the stand. Detective Kaipat stated that he personally interviewed the following witnesses: (1) Xing, (2) Xing's brother Cheng, (3) Maria Basa, (4) Ricardo Basa, (5) Joseph Lizama, and (6) Keith Lizama. According to Detective Kaipat, he wrote notes and/or reports documenting each of these interviews and provided the notes and reports to the Office of the Attorney General. Detective Kaipat stated that he relied on the information he learned during these interviews while testifying at the preliminary examination hearing.

Detective Kaipat also offered testimony based on his observations of a cell phone video of the incident, which was taken by Keith Lizama. According to Detective Kaipat, Keith Lizama provided a copy of the video to him, and then Detective Kaipat in turn provided a copy of this video to the Office of the Attorney General.

Other than the Complaint and Supporting Affidavit of Probable Cause, none of the aforementioned materials were provided to Defendant Basa prior to the preliminary hearing. Defense counsel requested that the Court order the Office of the Attorney General to provide all relevant notes, police reports, and videos to Defendant. The preliminary examination hearing was

<sup>&</sup>lt;sup>4</sup> The Complaint and Supporting Affidavit of Probable Cause is a summary of Detective Kaipat's investigation. The list of criminal offenses for which probable cause was found by Judge Kim-Tenorio is not the exact list of criminal offenses in the charging document, which is referred to as the Information. *See Commonwealth v. Gregory Frank Taitano Castro*, Tr. No. 17-00814 (NMI Super. Ct. Aug. 25, 2017) (Order Granting Defendant's Motion To Dismiss As A Traffic Citation Designed For Traffic Violations, Which Does Not List The Elements Of Ethics Violations, Is Insufficient To Put The Defendant On Notice Of The Charges In Violation Of Defendant's Constitutional Due Process Rights at 4) (stating that a citation, information, and indictment are different types of charging documents). Generally, citations are issued by law enforcement officers, informations are filed by the Office of the Attorney General, and Indictments are issued by a grand jury. The Commonwealth of the Northern Mariana Islands does not have a grand jury system. *See id.*; NMI R. CRIM. P. 7(c)(1) ("The information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the attorney for the government. [...] The information shall state for each count the citation of the statute, rule, regulation or other provision of law which the defendant is alleged to have violated.").

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suspended and continued to September 9, 2020, to allow for briefing and argument related to this request for materials relevant to the preliminary examination hearing.

#### E. The Request for Tangible Materials

On August 17, 2020, Defendant Basa filed his request for the following materials:

- Officer Christopher Mendiola's notes and police reports pertaining to any observations and witness statements he shared with Detective Kaipat prior to the preliminary hearing;
- Video taken by Keith Lizama purporting to show a portion of the incident at issue in this case;
- Detective Kaipat's notes and report pertaining to his interview with Xing Henry Xiong;
- Detective Kaipat's notes and report pertaining to his interview with Cheng Paul Xion:
- Detective Kaipat's notes and report pertaining to his interview with Maria Basa;
- Detective Kaipat's notes and report pertaining to his interview with Ricardo Basa;
- Detective Kaipat's notes and report pertaining to his interview with Joseph Lizama; and
- Detective Kaipat's notes and report pertaining to his interview with Keith Lizama.

#### III. **DISCUSSION**

## A. The Scope 6 CMC § 6303(c) – The Defendant's Right to Cross Examine

A defendant's statutory right under 6 CMC § 6303(c) to cross-examine adverse witnesses at a Rule 5.1 preliminary examination hearing gives defendants the right to receive the tangible materials, if any, used by law enforcement officers to establish probable cause for the defendant's arrest. 6 CMC § 6303(c) ("The arrested person may cross-examine adverse witnesses and may

introduce evidence in his or her own behalf."); see Commonwealth v. Saimon, Crim. No. 18-0020 (NMI Super. Ct. Sept. 13, 2019) (Order Finding That Because a Defendant Has the Right under 6 CMC § 6303(c) to Cross examination at a Preliminary Examination Hearing to Weed Out Groundless Claims, the Defendant Is Entitled to Tangible Materials, If Any, Used by Law Enforcement to Establish Probable Cause for His Arrest to Fully and Properly Cross Examine the Government's Witness at 8) ("For cross-examination at a preliminary examination hearing to be effective, it is necessary for the party conducting the cross-examination to be privy to the documents that formed the basis of the opposing party's testimony."). The right to receive the tangible materials used by law enforcement officers to determine probable cause allows for effective cross-examination and the ability of the trial court at a preliminary examination hearing to make a proper determination of probable cause.

The Court's role at a preliminary examination hearing "is not simply to rubber stamp the prosecution's complaint," *In re Commonwealth of the N Mar. I.*, 2018 MP 8 ¶ 17, but rather "to determine whether there is probable cause to believe that a crime has been committed and that the accused committed it." *Babauta v. Superior Court of N. Mar. I.*, 4 NMI 309, 311 (1995); *see also* 6 CMC § 6303(f) ("If [...] it does not appear to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall discharge the arrested person.").<sup>5</sup>

To facilitate the Court's role in determining whether there is probable cause to proceed to trial, the Commonwealth Legislature provided defendants with the right to cross-examine adverse witnesses at the preliminary examination hearing. 6 CMC § 6303(c). This is because cross-

<sup>&</sup>lt;sup>5</sup> At a preliminary examination hearing, Courts must "weed out groundless claims and thereby avoid ... the imposition and expense of an unnecessary criminal trial[.]" *In re Commonwealth of the N Mar. I.*, 2018 MP 8 ¶ 16 (citation omitted).

examination is "the greatest legal engine ever invented for the discovery of truth[.]" *California v. Green*, 399 U.S. 149, 158 (1970) (citation omitted). Cross-examination gives the Court the opportunity to place the testimony of the witness in its proper context and weigh the strength and credibility of the witness' testimony. Without a full and proper cross-examination, the Court would be unable to accurately evaluate and weigh the witness' testimony.

For a defendant's cross-examination at a preliminary examination hearing to be effective, it is necessary for the defendant to be privy to the tangible materials such as documents, photographs, video, etc that formed the basis of the opposing party's testimony. *See Brandon v. Mare-Bear, Inc.*, No. 99-15312, 2000 U.S. App. LEXIS 12585, at \*11 (9th Cir. June 5, 2000) (finding that one of the primary goals of discovery is to prevent trial by ambush and surprise). This is because without access to the tangible materials, if any, used by the Commonwealth to determine probable cause, the defendant would not know what types of questions to ask, and, therefore, a defendant would be unable to fully and properly exercise his or her statutory right to cross-examine adverse witnesses at a preliminary examination hearing under 6 CMC § 6303(c). Without a full and proper cross-examination at a preliminary examination hearing stage, the Court would not be able to perform its duty to determine whether there is probable cause to believe that a crime has been committed and that the defendant is the person who committed that crime.<sup>6</sup>

<sup>6</sup> A defendant's right to the tangible materials prior to a preliminary examination hearing comes from a defendant's right to cross-examine under 6 CMC § 6303(c). A defendant's rights under 6 CMC § 6303(c) *is separate and distinct* from a defendant's rights under the Confrontation Clauses of the Sixth Amendment of the United States Constitution

and Article I, Section 4(b) of the NMI Constitution because the Sixth Amendment and Article I, Section 4(b) apply at trial whereas 6 CMC § 6303(c) applies at preliminary examination hearings. *See Commonwealth of the N. Mar. I. v. Namauleg*, 2009 MP 13 ¶ 8 (finding that a defendant's constitutional right to confront adverse witnesses is a trial right);

Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands 14 (1976) (stating that Article I, Section 4(b) of the NMI Constitution "applies at time of trial"); see also United States v. Mitchell-Hunter, 663 F.3d 45,

<sup>51-52 (1</sup>st Cir. 2011); *Peterson v. California*, 604 F.3d 1166, 1170 n.3 (9th Cir. 2010) (finding that because defendants do not have a Sixth Amendment right to cross-examine adverse witnesses at preliminary examination hearings, an effective assistance of counsel argument based on a failed Confrontation Clause argument must also fail); *United States v. Andrus*, 775 F.2d 825, 836 (7th Cir. 1985) (finding that "the Sixth Amendment does not provide a confrontation right at a preliminary hearing"); *United States v. Harris*, 458 F.2d 670, 677-78 (5th Cir. 1972) ("There is no Sixth

#### B. The Federal Rules of Criminal Procedure – Persuasive Authority

It is worth mentioning that the current Federal Rules of Criminal Procedure have moved in the direction of this Court's decision. FED. R. CRIM. P. 26.2(a) ("After a witness other than the defendant has testified on direct examination, the court, on motion of a party who did not call the witness, must order an attorney for the government or the defendant and the defendant's attorney to produce, for the examination and use of the moving party, any statement of the witness that is in their possession and that relates to the subject matter of the witness's testimony."); FED. R. CRIM. P. 26.2(g)(1) (stating that Rule 26.2(a) applies to Rule 5.1 preliminary hearings).

"Because the Commonwealth Rules of Criminal Procedure are patterned after the Federal Rules of Criminal Procedure, [Commonwealth Courts have] long held that it is appropriate to consult . . . the federal rules when interpreting the Commonwealth Rules of Criminal Procedure." *Commonwealth v. Laniyo*, 2012 MP 1 ¶ 6 (quoting *Commonwealth v. Attao*, 2005 MP 8 ¶ 9 n.7).

# C. The Tangible Materials, If Any, A Defendant is Entitled to is Limited to the Preliminary Examination Hearing and Probable Cause Pursuant to 6 CMC § 6303(c)

Because Defendant's right to access tangible materials, if any, at a preliminary examination hearing flows from the defendant's right to cross-examine adverse witnesses under 6 CMC §

Amendment requirement that [defendants] . . . be allowed to confront [witnesses] at a preliminary hearing prior to trial.").

Additionally, a defendant's right to receive discovery under the Due Process Clause of the Fourteenth Amendment of

the United States Constitution is also inapplicable here because a defendant's discovery rights under the Due Process Clause mandates "that the government produce exculpatory material in time for the defendant's effective use of those materials at trial" — not a preliminary examination hearing. Commonwealth v. Campbell, 4 NMI 11, 16 (1993) (emphasis added); see also Commonwealth v. Hong, 2013 MP 19 ¶¶ 12-13 (finding no due process violation when the Commonwealth turned over exculpatory material to the defendant twenty-nine (29) days before trial, even though the Commonwealth received the letters seven (7) months earlier, because the defendant did not demonstrate how the disclosure unfairly prejudiced him in his preparation for trial "a Brady claim is meritless where disclosure of material evidence is not produced too late to deprive the defendant of a fair trial" (internal citation omitted)); Commonwealth v. Adlaon, 4 NMI 171, 175 (1994) ("[A]n accused does not suffer a due process violation until he or she has been tried and convicted."); United States v. Davenport, 753 F.2d 1460, 1462 (9th Cir. 1985).

6303(c), a defendant is only entitled to receive the tangible materials, if any, used by the Commonwealth to formulate their finding of probable cause.<sup>7</sup>

For example, though a knife, or at least a photo of the knife, used in an alleged stabbing case may be turned over to the defendant for purposes of the preliminary examination hearing, the defendant would not be entitled to the lab results from the DNA test of any blood stains on the knife if the lab results have not been received by the Commonwealth when they made their probable cause determination.

The types of materials a defendant is entitled to at the preliminary examination hearing is different from the information that is discoverable by a defendant to show reasonable doubt at trial – which would include the information discoverable under Rule 16, Rules 26.2, and the due process clause of the NMI and U.S. Constitutions.<sup>8</sup>

### D. Preliminary Examination Hearings are **NOT** the same as Criminal Trials

To be clear, the Court is not suggesting that the Court hold a "mini-trial" at a Rule 5.1 preliminary examination hearing.

The Court notes that at a preliminary examination hearing:

- 1. the Rules of Evidence do not apply,<sup>9</sup>
- 2. hearsay testimony is allowed,

<sup>7</sup> Here, Defendant made his motion for the tangible materials after the Commonwealth completed its direct examination of its first witness. Therefore, because the issue of *when* the Commonwealth should provide the tangible materials is not presently before the Court, the Court makes no findings at this time concerning whether the tangible materials should be disclosed prior to the preliminary examination hearing or at the preliminary examination hearing after the Commonwealth's direct examination.

<sup>&</sup>lt;sup>8</sup> Rule 16, Rule 26.2, and *Brady* are only trial rights. *See Commonwealth v. Jian Huang*, No. 03-0350 (CNMI Super. Ct. November 28, 2003) (finding that Rule 16 is a trial right); 1993 Advisory Committee Note to Rule 26.2 ("As noted in the 1983 Advisory Committee Note to Rule 12(i), the courts have generally declined to extend the Jencks Act, 18 U.S.C. § 3500, beyond the confines of actual trial testimony. That result will be obviated by the addition of Rule 26.2(g)"); *Commonwealth v. Campbell*, 4 NMI 11, 16 (1993) (finding that due process only requires "that the government produce exculpatory material in time for the defendant's effective use of those materials *at trial*" (emphasis added)). As noted above, a defendant's rights under 6 CMC § 6303(c) *is separate and distinct* from a defendant's rights under the United States Constitution and the NMI Constitution.

<sup>&</sup>lt;sup>9</sup> NMI R. EVID.1101(c)(2).

1	3.	the Commonwealth need not can factual withesses,
2	4.	the trier of fact is the judge,
3	5.	the standard of proof is Probable Cause, <sup>11</sup> and
4	6.	Double Jeopardy does not apply - meaning the Commonwealth can refile charges it
5		additional evidence comes to light.
6	In	contrast, a criminal trial is a totally different proceeding at a different stage of the case.
7	The Court	notes that at a criminal trial:
8	1.	the Rules of Evidence apply,
9	2.	hearsay testimony is not allowed unless there is an exception,
10	3.	only factual witnesses and expert witnesses are allowed to testify,
11	4.	the jury is the trier of fact, 12
12	5.	the standard of proof is Proof Beyond a Reasonable Doubt, 13 and
13	6.	Double Jeopardy applies.
14		IV. CONCLUSION
15	Without the materials relied upon in forming the Commonwealth's witness' testimony at the	
16	preliminary examination hearing, a defendant will be unable to fully and properly exercise his o	
17	her statutory right pursuant to 6 CMC § 6303(c) to cross-examine adverse witnesses.	
18	Because the role of the trial court at a preliminary examination hearing "is not simply to	
19	rubber stamp the prosecution's complaint," but rather to "to weed out groundless claims and	
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21	<sup>10</sup> Generally, the Office of the Attorney General calls the case agent, the officer leading the investigation, as its witnes <sup>11</sup> The probable cause standard is lower than the preponderance of the evidence standard and is satisfied when a arresting officer has sufficient facts and trustworthy information "to warrant a prudent man in believing that the petitioner had committed or was committing an offense." <i>Beck v. Ohio</i> , 379 U.S. 89, 91 (1964).	
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23	<sup>13</sup> "[T]he Di	nal cases with misdemeanor offenses, the judge is the trial of fact.  The Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of the ecessary to constitute the crime with which he is charged." <i>In re Winship</i> , 397 U.S. 358, 364 (1970).
24		monwealth of the N Mar. I., 2018 MP 8 ¶ 17.

thereby avoid ... the imposition and expense of an unnecessary criminal trial,"<sup>15</sup> a defendant's statutory right under to 6 CMC § 6303(c) to cross-examine adverse witnesses gives defendants the right to access the tangible materials, if any, used by the Commonwealth to establish the probable cause that resulted in the defendant's arrest.<sup>16</sup>

Defendant's Motion is hereby **GRANTED** and the Office of the Attorney General is hereby ordered to produce all notes, police reports, and videos relevant to the determination of probable cause at the preliminary hearing – more specifically:<sup>17</sup>

- Officer Christopher Mendiola's notes and police reports pertaining to any observations and witness statements he shared with Detective Kaipat prior to the preliminary hearing;
- Video taken by Keith Lizama purporting to show a portion of the incident at issue
- in this case:
- Detective Kaipat's notes and report pertaining to his interview with Xing Henry Xiong;
- Detective Kaipat's notes and report pertaining to his interview with Cheng Paul Xion;
- Detective Kaipat's notes and report pertaining to his interview with Maria Basa;
- Detective Kaipat's notes and report pertaining to his interview with Ricardo Basa;
- Detective Kaipat's notes and report pertaining to his interview with Joseph Lizama; and

JOSEPH N. CAMACHO, Associate Judge

• Detective Kaipat's notes and report pertaining to his interview with Keith Lizama.

IT IS SO ORDERED this 16<sup>th</sup> day of September, 2020.

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<sup>15</sup> In re Commonwealth of the N Mar. I., 2018 MP 8  $\P$  16.

<sup>&</sup>lt;sup>16</sup> Cross Examination has been called "the greatest legal engine ever invented for the discovery of truth," *California v. Green*, 399 U.S. 149, 158 (1970).

<sup>&</sup>lt;sup>17</sup> Detective Kaipat testified at the preliminary hearing that he has already provided all the materials to the Office of the Attorney General that he relied on to form the probable cause for Defendant Basa's arrest.