

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 The charging document alleges that the Defendant committed the following offenses: 664
4 187(a) PC/F. The Complaint also alleges sentencing pursuant to Penal Code sections 12022(b)(1)
5 PC (knife), 12022.7(a) (great bodily injury) as well as 667 (d), (e) and (a) ("strike"). Defendant has
6 sustained the following prior convictions: 451(b) PC/F (arson, San Mateo County, 2020).

7 **STATEMENT OF THE FACTS**

8 *San Francisco Incident #260126800 – Thursday, March 5, 2006, at 1:06 p.m., Stockton and*
9 *Sacramento Streets*

10 SFPD noted a pool of blood was spotted on the southwest corner of Stockton and
11 Sacramento Streets. Officer Majeski #2105 (SFPD) stated that as he arrived at the intersection of
12 Stockton and Sacramento Streets, he observed Victim on the ground with a three-to-four-inch gash
13 in his lower back seeping significant quantities of blood. Witness chronicled that he watched as
14 Defendant approached a defenseless Victim from behind a plunge an object into his back. No
15 words spoken, no threat posed. Defendant ambled off toward the Stockton Street Tunnel, carrying
16 bag. Witness described the assailant as an Asian male, 20 to 30 years of age, 5'9" tall, slim build,
17 with a beard wearing a black top and carrying a plastic bag. Minutes later, San Francisco Sheriff's
18 Deputies spotted Defendant, matching the description provided, walking near Fella Place (Powell
19 and Bush Streets). As deputies approached, Deputy Tillery #2448, watched as Defendant threw a
20 plastic bag into a nearby potted plant. The bag was immediately retrieved. The bag contained a
21 kitchen knife with a brown handle with a forged steel 8-inch handle covered in fresh blood.
22 Witness identified Defendant narrating "Yup, that's him. Face, facial, the pants. And he had a
23 hoodie. In the video he has the exact same shoes and socks." Witness also noted the bag discarded
24 by the Defendant was in fact the same bag he was observed carrying earlier. Additionally, Officer
25 Majeski watched a surveillance video from merchant located at 805 Stockton Street, noting that
26 Defendant seemingly approached without warning or provocation, pulling a large knife from his
27 bag and plunging into the lower back of Victim standing at the intersection. Defendant walked
28 away. Defendant acted without mercy and with the specific intent to kill Victim. Victim is in a
medically induced coma after the first of many surgeries to repair his internal organs, including but
not limited to the evisceration of his intestines. Medical personnel noted that the Defendant's blade
narrowly missed nicking or severing Victim's aorta.