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<p>4DISTRICT COURT, EL PASO COUNTY, COLORADO</p> <p>270 South Tejon Street Colorado Springs, Colorado 80112</p>		DATE FILED: July 15, 2016 10:01 AM
<p>PEOPLE OF THE STATE OF COLORADO,</p> <p>v.</p> <p>ROBERT LEWIS DEAR,</p> <p>Defendant.</p>		
<p>CYNTHIA H. COFFMAN, Attorney General ELIZABETH J. MCCARTHY, Senior Assistant Attorney General* 1300 Broadway, 6th Floor Denver, CO 80203 Phone: (720) 508-6139 Fax: (720) 508-6041 libbie.mccarthy@coag.gov Registration Number: 37799 *Counsel of Record</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No.: 15CR5795</p> <p>Division: 10</p>	
<p>COLORADO DEPARTMENT OF HUMAN SERVICES' RESPONSE TO DEFENSE MOTION FOR COURT ORDER REQUIRING REASONABLE NOTICE OF HEARING REGARDING INVOLUNTARY MEDICATION</p>		

The Colorado Department of Human Services (the "Department"), through the Office of the Attorney General, respectfully responds to Mr. Dear's Motion for Court Order Requiring the Department of Human Services to Provide Reasonable Notice to Undersigned Counsel of any Hearing on a Petition to Involuntarily Medicate Mr. Dear, and hereby states:

1. The defense filed Motion D-025 seeking a court order requiring the Department to provide a minimum of 30 days' notice to defense counsel before any hearing on a petition for a court order requiring involuntary medication.

2. The Department will comply with its statutory duty to, "prior to the hearing on the petition, deliver a copy of the petition to the court that committed the

defendant to the custody of the department, the prosecuting attorney, and the defendant's legal representation in the criminal case, if such representation exists, and to the defendant directly if he or she does not have legal representation." C.R.S. § 16-8.5-112(1) (2015).

3. However, neither the Department nor its counsel drafts the petition, files the petition, sets the hearing, or conducts the involuntary medication hearing. The Department submits an affidavit to the Pueblo County Attorney, and the Pueblo County Attorney or an attorney acting for the Pueblo County Attorney files the petition and conducts the hearing. The Department has no control over when the petition is filed, nor does it have control over when the hearing is set by the Pueblo District Court.

4. The Department, upon notification that a petition has been filed, agrees to promptly deliver a copy of such petition to defense counsel. However, the Department has no control over when the hearing is set by the Pueblo District Court. Therefore, the Department cannot comply with an order requiring it to give 30 days' notice to defense counsel before any involuntary medication hearing.

WHEREFORE, the Colorado Department of Human Services respectfully requests that this Court deny Mr. Dear's motion.

Respectfully submitted this 15th day of July, 2016.

CYNTHIA H. COFFMAN
Attorney General

/s/ Elizabeth J. McCarthy
ELIZABETH J. MCCARTHY, 37799*
Senior Assistant Attorney General
Human Services Unit
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Human Services

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **COLORADO DEPARTMENT OF HUMAN SERVICES' RESPONSE TO DEFENSE MOTION FOR COURT ORDER REQUIRING REASONABLE NOTICE OF HEARING REGARDING INVOLUNTARY MEDICATION** upon all parties herein by email transmission, this 15th day of July, 2016 addressed as follows:

Dan May
Donna Billek
Jeff Lindsey

Daniel King
Rosalie Roy
Kristen Nelson

Office of the District Attorney
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Colorado State Public Defender's Office
1300 Broadway
Denver, CO 80203

Via email transmission

Via email transmission

/s/Sandra Martinez