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FILED IN THE DISTRICT AND
COUNTY COURTS OF

EL PASO COUNTY, COLORADO

S.F. DEC 08 2015

DR. LYNETTE CORNELIUS
CLERK OF COURT

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Case #: 15CR5795

Division #: 10

Courtroom #: W570

DISTRICT COURT, El Paso County, Colorado
Court Address: 270 S. Tejon
Colorado Springs, Colorado 80903

People of the State of Colorado
vs.
Defendant: ROBERT LEWIS DEAR, JR.

Chief Deputy District Attorney: Jeffrey Lindsey
Address: 105 E. Vermijo, Colorado Springs, CO. 80903
Phone Number: 719-520-6000
Attorney Registration #: 24664
District Attorney: Daniel H. May, #11379

D-002

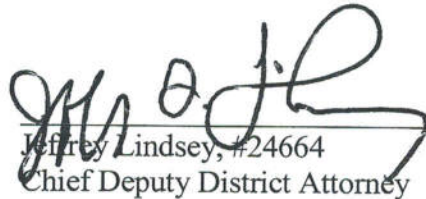
**PEOPLE’S RESPONSE TO DEFENDANT’S NOTICE OF INVOCATION OF ALL
STATUTORY, CASE LAW, AND CONSTITUTIONAL PRIVILEGES AND
REVOCAION OF ANY AND ALL PREVIOUSLY GIVEN WAIVERS OF
PRIVILEGES**

Comes now, by and through the People of the State of Colorado, Jeffrey Lindsey, Chief Deputy District Attorney and hereby submit the following Response. As grounds therefore, the People state as follows:

1. The People acknowledge the notice filed by the Office of the Public Defender regarding statutory, case law, and constitutional privileges.
2. The Defendant has the authority to invoke his medical privilege for “all medical and psychiatric, including drug or alcohol treatment privileges.”
3. However, it is the People’s position that the Defendant does not have the right or authority to invoke “all privileges in school, military, probation, prison, social services, or other records Defendant has a confidentiality expectation.”
4. The Criminal Justice Records Act applies to some of these records pursuant to C.R.S. §24-72-301 and §24-72-304(1) which specifically provides that these records “may be open to inspection to any person at reasonable time except as otherwise provided by law.” Further C.R.S. §19-1-307, C.R.S. §22-1-123, and 20 USC Section 1232(g) addresses the accessibility of social service records and school records. Any military records are similarly subject to open records request under the Freedom of Information Act.
5. The People have the power to request records under the Criminal Justice Records Act as well as pursuant to the subpoena power under the Colorado Rules of Criminal Procedure Rule 17.

6. The Defendant's motion seeks a court order limiting any and all attempts by law enforcement to obtain any privileged records. The Defendant's request is broad and exceeds the provisions afforded by C.R.S. §13-90-107 and R. Crim. P. 17(c). The Defendant's request infringes on the prosecution's duty and responsibility to prepare this case for trial. The Defendant's request is also unnecessary given the statutory protections already in place and the motion should be denied.
7. Additionally, the Defendant's motion claims that he does not authorize any person to waive his privilege. Such a broad claim or invocation is without authority and may be impliedly or implicitly waived by his attorneys or investigators working on the Defendant's case. Such a "catch-all" phrase should be stricken or found to hold no legal enforceability.

Respectfully submitted this 8th day of December, 2015.


Jeffrey Lindsey, #24664
Chief Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PEOPLE'S RESPONSE TO DEFENDANT'S NOTICE OF INVOCATION OF ALL STATUTORY, CASE LAW, AND CONSTITUTIONAL PRIVILEGES AND REVOCATION OF ANY AND ALL PREVIOUSLY GIVEN WAIVERS OF PRIVILEGES (D-002)** has been forwarded to the Public Defender's Office by placing it into the Public Defender's box for pickup:

12/8/15

Hina Jacques