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DISTRICT COURT, El Paso County, Colorado Court Address: 270 S. Tejon Colorado Springs, Colorado 80903	FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO S.K. DEC 08 2015 DR. LYNETTE CORNELIUS CLERK OF COURT ▲ COURT USE ONLY ▲
People of the State of Colorado vs. Defendant: ROBERT LEWIS DEAR, JR.	Case #: 15CR5795 Division #: 10 Courtroom #: W570
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-003	
PEOPLE'S RESPONSE TO DEFENDANT'S MOTION FOR PRESERVATION OF PHYSICAL EVIDENCE	

The People of the State of Colorado by Daniel H. May, District Attorney, by and through his duly appointed Chief Deputy District Attorney Jeffrey Lindsey, respond to Defendant's Motion for Preservation of Physical Evidence.

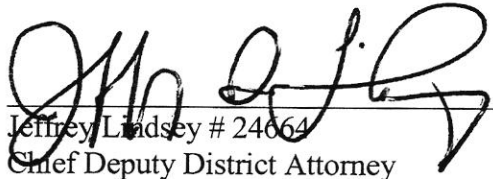
1. The People would have no objection to the preservation of all physical evidence collected to date in this case.
2. However, the People would object to the Court setting a hearing prior to the submission of all physical evidence for testing. Defendant cites no case law for this request. The motion filed by the Defendant is a stock motion filed by the Office of the Public Defender. The motion has been filed prior to the filing of charges in this case and prior to the release of any discovery of reports to the Defendant. The Defendant is unaware of whether "this evidence is material, potentially exculpatory evidence" contrary to their conclusion of paragraph 4 of the defense motion.
3. It is the People's position that it is improper for the Court to order a hearing prior to the testing of all physical evidence.
4. Further, substantial delay in testing conclusions will result by requiring a hearing prior to testing.
5. The People are aware of the requirements of C.R.S. §16-3-309, and holdings in a variety of Colorado Supreme Court decisions. See: People v. Greathouse, 742 P.2d 334 (Colo.

1987); People v. District Court, 793 P.2d 163 (Colo. 1990); and People v. Wartena, 156 P.3d 469 (Colo. 2007).

6. The People are aware we are prohibited from conducting consumptive or destructive testing without notice to the Defense.
7. Prior to any testing that would be consumptive or destructive, the People would seek prior court approval.
8. If the Court is considering granting the Defense request of a "hearing prior to the submission of any physical evidence for testing by the police or prosecution", the People would request a full hearing with testimony from the appropriate forensic experts at a future date.

WHEREFORE, the People request that the Court deny the Defendant's Motion for Preservation of Physical Evidence as outlined above.

Respectfully submitted this 8th day of December, 2015.



Jeffrey Lindsey # 24664
Chief Deputy District Attorney