

**REDACTED**

DISTRICT COURT, EL PASO COUNTY, COLORADO  
 270 S. Tejon St.  
 Colorado Springs, CO. 80903

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

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Chief Deputy District Attorney: Jeffrey D. Lindsey  
 Address: 105 E. Vermijo, Colorado Springs, CO. 80903  
 Phone Number: 520-6000  
 Attorney Registration #: 24664  
 District Attorney: Daniel H. May, # 11397

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**D-006**

**SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION TO ALLOW  
 CONFIDENTIAL DEFENSE EXPERTS TO BE PRESENT FOR SCIENTIFIC  
 TESTING OF EVIDENCE**

FILED IN THE DISTRICT COURT  
 COUNTY COURTS OF  
 EL PASO COUNTY, COLORADO

S.K. DEC 22 2015

DR. LYNETTE CORNELIUS  
 CLERK OF COURT

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▲ COURT USE ONLY ▲

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Case #: 15CR5795

Division #: 10

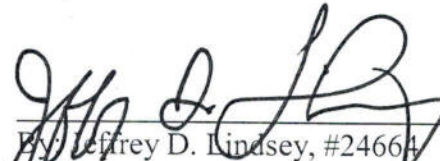
Courtroom #: W570

The District Attorney, by and through his Chief Deputy District Attorney, Jeffrey D. Lindsey, hereby renews his objection in the original response and stands by the pleading filed on or about December 8, 2015. The People further inform the Court the following.

1. The People have spoken to the Colorado Springs Metro Crime Lab, the Colorado Bureau of Investigations, and the Federal Bureau of Investigations. All agencies unequivocally do not allow any observers of the testing processes unless the possibility of destructive testing is apparent at the time of the test. See C.R.S. § 16-3-309(2) (f-g).
2. All agencies have been informed of the above provision and have been informed that if destructive testing is going to occur than the People, the Court and the Defense must be notified prior to any testing being done.
3. In discussing the issues of allowing defense observers during testing, the issues were numerous.
  - a. According to the FBI, access to any federal testing facility would require the highest top secret clearance of anyone who would be present during the testing. It almost goes without saying that top secret clearance will not be given to a defense observer.
  - b. There could possibly be different types of forensic testing which would require movement from one area to another. Each area would effectively have to shut down to allow a defense expert to be present. This would come a tremendous cost to all other cases currently in the laboratories.
  - c. The laboratories have biohazardous testing that could involve all types of exposure to harmful agents.
  - d. The laboratories could expose individuals to allergic or harmful reactions.

- e. The labs are OSHA accredited and could cause liability if strict compliance with OSHA standards are not followed. People in these facilities must wear protective equipment and must follow strict protocols. Each individual goes through extensive safety training prior to entering a laboratory.
  - f. Allowing observers to be present could possibly contaminate other samples thereby damaging the strength of other cases and this case as well.
  - g. If access were to occur it is possible the laboratories would have to completely shut down thus making it impossible for other forensic work to occur and putting other cases behind.
  - h. Allowing access to testing facilities could possibly effect the agencies' accreditation. The accreditation standards do not provide for unauthorized persons to be present during forensic testing.
4. It is important to note that each and every item tested will be documented, photographed and available for release to the defense for their testing if they so choose. Except in the case of destructive testing, none of the agencies referenced in paragraph #1 are aware of this type of access ever being given.

**WHEREFORE**, the District Attorney respectfully requests this Court deny the Motion filed by the defense, D-006.

  
By: Jeffrey D. Lindsey, #24664  
Chief Deputy District Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing : **SUPPLEMENTAL RESPONSE TO DEFENDANT'S MOTION TO ALLOW CONFIDENTIAL DEFENSE EXPERTS TO BE PRESENT FOR SCIENTIFIC TESTING OF EVIDENCE (D-006)** has been forwarded to the Public Defender's Office by placing it into the Public Defender's box for pickup:

12/22/15

Lina Jacques