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<p>DISTRICT COURT, COUNTY OF EL PASO, STATE OF COLORADO Court Address: 270 South Tejon Colorado Springs, Colorado 80903 Telephone: (719) 452-5000</p>	<p>FILED IN THE DISTRICT AND COUNTY COURTS OF EL PASO COUNTY, COLORADO</p> <p>S.K. DEC 17 2015</p> <p>DR. LYNETTE CORNELIUS CLERK OF COURT</p> <p>▲ COURT USE ONLY ▲</p>
<p>PEOPLE OF THE STATE OF COLORADO, Plaintiff</p> <p>v.</p> <p>ROBERT LEWIS DEAR, Defendant.</p>	<p>Case Number: 15CR5795</p> <p>Division: 10</p>
<p>Elizabeth A. Kirkman Senior Assistant County Attorney El Paso County Sheriff's Office 210 South Tejon Street Colorado Springs, CO 80903 Phone: (719) 520-7264 FAX: (719) 520-7419 E-mail: LisaKirkman@elpasoco.com Reg. # 19055</p>	
<p style="text-align: center;">D-012</p> <p style="text-align: center;">EL PASO COUNTY SHERIFF'S OFFICE RESPONSE TO MOTION FOR COURT ORDER DIRECTING EL PASO SHERIFF'S OFFICE TO PRESERVE AND PRODUCE ALL VIDEOTAPED FOOTAGE OF MR. DEAR</p>	

The El Paso County Sheriff's Office ("EPSO"), through its attorney, Elizabeth A. Kirkman, submits the following Response to Defendant's Motion for Court Order Directing El Paso Sheriff's Office to Preserve and Produce all Videotaped Footage of Mr. Dear as follows:

I. Background

Mr. Dear was booked into the El Paso County Criminal Justice Center ("CJC") on November 28, 2015. Currently, Mr. Dear is being housed in a ward which has cells that are equipped with video cameras. Mr. Dear's activities in the cell are captured and recorded according to the general recording process. The video in the cell does not have the capability to record audio. In addition to the general recording, EPSO has chosen to videotape, using a handheld recorder with audio capabilities, Mr. Dear's movement outside of his cell. EPSO has decided to preserve and record both in-cell

recording and out of cell recording for up to 30 days from the time Mr. Dear was incarcerated at CJC. EPSO has set up a system to put the recordings into evidence, to then be distributed through discovery.

If Mr. Dear's housing assignment changes prior to the expiration of the 30 days, EPSO does not intend to continue to preserve in-cell video.

EPSO is in receipt of the letter from Mr. Dear's attorney's which is attached to Defense Motion D-0012 as Exhibit A. Prior to receipt of the letter, EPSO had decided to preserve and place the video footage into evidence. EPSO is aware of the Court's verbal order on December 10, 2015 ordering EPSO to preserve any and all video of Mr. Dear, and will continue to do so until the Court rules on the extended request.

II. Preservation and Production of the Video

A. From November 28, 2015 through December 28, 2015 or until Mr. Dear is moved to a new location whichever comes first.

EPSO will continue to preserve and produce in-cell video and out of cell video of Mr. Dear while he is in his current location at CJC or until December 28, 2015 whichever comes first. EPSO objects to any order to preserve and produce after December 28, 2015.

EPSO will continue to place a copy of any and all video of Mr. Dear into evidence at the Colorado Springs Police Department ("CSPD") under CSPD Case No. 15-47334 on a weekly basis until December 28, 2015 or until Mr. Dear's housing assignment changes. The video will be released, by CSPD, to the prosecution and the defense through the normal discovery process.

If Mr. Dear is still housed in the same location at CJC on December 28, 2015, EPSO is no longer willing, absent court order or mutual agreement with requesting party, to preserve, download, and place video into evidence. The software system that records video of cells runs on a 30 day loop. If there is an incident, the video is saved, together with an incident report. Otherwise, the system is set up to record over previously used video. It is EPSO's intention to revert to its usual practice and allow the software system to record over video, unless a specific request is made to preserve video, and the requestor is willing to pay for the cost of the personnel to download the video, and the cost of the multi-gigabyte drive to receive the download.

If, after December 28, 2015, Mr. Dear is still housed in the location that has video capability and either party to this case requests continued preservation and production of recording, EPSO will comply with this request and will invoice the requesting party for expenses at the following rate:

- \$ 278.37 (per week) for employee time to download video (one camera view)
(expect higher amount if more than one camera view)
- \$ 446.81 hardware to be used to receive download video which is then placed in evidence (covers one to 30 days)

B. When Mr. Dear is moved to a new housing location in CJC.

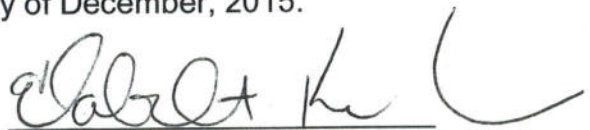
If Mr. Dear's housing assignment changes to where there is no video inside in the cell, EPSO will no longer have the resources to accommodate the request to videotape Mr. Dear. This is because the camera takes video 24 hours a day of the general ward area, and it would be extremely time intensive to search the video and save those sections that have photos of Mr. Dear.

The videotaping that will occur in a populated ward will be the general video recording of the ward from several different camera angles that is designed to ensure the safety of the Deputies and inmates. This video is on a loop which means that it will be preserved for thirty (30) days pursuant to EPSO's retention schedule. Specific video will not be pulled unless there is an incident that would warrant further preservation beyond EPSO's retention schedule, or a specific request is made, and payment is arranged.

III. Conclusion

EPSO understands and will continue to comply with the Preservation and Production of any videotaping of Mr. Dear while he is housed in his current location at CJC or until December 28, 2015, whichever comes first. If requested to continue after such date, EPSO requests that this Court include in its Order that the requesting party shall be responsible for the cost of completing the request. EPSO has attached a modified proposed Order re: D-012 for the Courts consideration.

RESPECTFULLY submitted this 16th day of December, 2015.



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CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing via email on this day of December 17, 2015 to the following:

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