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District Court, El Paso County, Colorado Court address: 270 South Tejon Colorado Springs, CO 80903 Phone Number: (719) 452-5446	FILED-DISTRICT & COUNTY COURTS-EL PASO CO., CO MAR 9 - 2016 DIVISION 10
People of the State of Colorado, Plaintiff, v ROBERT LEWIS DEAR, JR, Defendant.	
Attorney or Party without Attorney(Name and Address): Phone Number: Email: FAX Number: Atty.Reg#:	Case Number: 15CR5795 Division 10 Courtroom W570
ORDER RE: (D-018) MOTION TO PROHIBIT THE PROSECUTION AND ITS AGENTS FROM OBTAINING EL PASO COUNTY JAIL RECORDS ON MR. DEAR	

The Court has reviewed the motion, response and reply and pursuant to said review issues the following order:

1. The Court is issuing the following order without a hearing. Paragraph thirteen of the motion requested a hearing; however, the Court at the February 24, 2016 court appearance inquired as to whether either party had any objection to the court ruling on the motion without a hearing and neither party objected to the court ruling on the motion without a hearing. In addition the Court is authorized in a number of circumstances to rule on motions without a hearing. See People v. Rodriguez, 914 P.2d 230 (Colo. 1996).

2. The defendant cites the court to a number of cases in support of his argument that the district attorney should not be privy to visitor logs and jail incident reports. The Court will discuss a number of said cases in the paragraphs below.

3. The Court has reviewed Richardson v. District Court, 632 P.2d 595 (Colo. 1981), Hutchinson v People, 742 P.2d 875 (Colo. 1987), Perez v People, 745 P.2d 650 (Colo. 1987), Miller v District Court, 737 P.2d 834 (Colo. 1987) and finds that these cases do not authorize this Court to expand their reasoning and holdings to visitor logs and jail incident reports.

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4. The cases cited in paragraph three above deal with written and recorded statements of non-expert defense witnesses, defense handwriting experts who were called in the district attorneys case in chief, a defense psychiatrist who was being asked to testify for the district attorney or provide information to the district attorney. The issue in the case at bar does not involve communications or statements made by the defendant, Mr. Dear. Thus, the cases cited in paragraph three above are distinguishable from jail logs and incident reports.

5. This Court is not prepared to extend the holdings of the cases cited in paragraph three above to jail logs and incident reports. There is no privilege or confidentiality in jail logs and incident reports.

6. In addition the Court is in agreement with People v Rodriguez, supra which states, "The supervision and management of the internal procedures of correctional institutions is within the discretion of institutional officials and is not subject to judicial scrutiny absent exceptional circumstances." This Court does not find that the case at bar presents exceptional circumstance.

7. The Court disagrees with the defense assertion that logs or lengths of visit information provides insight into the attorney-client relationship between counsel and Mr. Dear. The requirements of People v Bergerud, 223 P.3d 686 (Colo. 2010) are not compromised by the denial of the defendant's present motion.

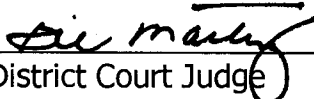
8. Defense counsel is correct that Rule 16 does not require defense counsel to turn over visitor information to the district attorney; however, that does not mean that the information is to be prohibited from the district attorney.

9. The records sought to be prohibited are not covered under the attorney-client privilege and are not the work product of defense counsel. They are administrative records that belong to the El Paso County Jail, not the defendant.

WHEREFORE, the motion is DENIED. This denial applies to visitor logs and jail incident reports and does not address mental health records. Issues concerning mental health records would be subject to future motions.

DONE this 9th day of March, 2016.

BY THE COURT:



District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March, 2016 a true and correct copy of this ORDER RE: (D-018) MOTION TO PROHIBIT THE PROSECUTION AND ITS AGENTS FROM OBTAINING EL PASO COUNTY JAIL RECORDS ON MR. DEAR was delivered via EMAIL to the following:

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