

District Court, Teller County, Colorado Court Address: 101 West Bennett Avenue Cripple Creek, CO. 80813	DATE FILED: December 21, 2018 3:14 PM
<hr/> People of the State of Colorado vs. Defendant: Patrick Frazee	<hr/> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<hr/> <u>Deputy District Attorney:</u> ELIZABETH REED Address: 105 E. Vermijo, Colorado Springs, CO. 80903 Phone Number: 719-520-6000 Attorney Registration #: 35210 District Attorney: Daniel H. May, #11379	<hr/> Case #: 18CR330 Division #: 11 Courtroom #:
<p style="text-align: center;">PEOPLE'S RESPONSE TO DEFENDANT'S NOTICE OF INVOCATION OF ALL STATUORY, CASE LAW, AND CONSTITUIONAL PRIVILEGES (P-4)</p>	

Comes now, by and through the People of the State of Colorado, Elizabeth Reed, Lead 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 in which the 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.

Dated: December 21, 2018

/S/: Elizabeth Reed #35210
Lead Deputy District Attorney
(Original Signature on File)

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December , 2018, I mailed a true and correct copy of the foregoing, first class mail, postage prepaid and e-notified through Colorado Courts E-Filing to the following interested party:

Adam Steigerwald, Public Defender's Office

/S/: Karen Johnston
Senior Legal Assistant
District Attorney's Office
(Original Signature on File)

This document has been electronically filed and served via the Integrated Colorado Courts E-Filing System (ICCES). Pursuant to C.R.C.P. 121 §1-26, the duly signed original remains on file at the Office of the 4th Judicial District Attorney's Office.

Dated: December 21, 2018

/S/: Elizabeth Reed #35210
Lead Deputy District Attorney
(Original Signature on File)

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2017, I mailed a true and correct copy of the foregoing, first class mail, postage prepaid and e-notified through Colorado Courts E-Filing to the following interested party:

Kelly McCullough, Public Defender's Office

/S/: Karen Johnston
Senior Legal Assistant
District Attorney's Office
(Original Signature on File)

This document has been electronically filed and served via the Integrated Colorado Courts E-Filing System (ICCES). Pursuant to C.R.C.P. 121 §1-26, the duly signed original remains on file at the Office of the 4th Judicial District Attorney's Office.