

District Court Arapahoe County, Colorado 7325 South Potomac Street, Centennial, Colorado 80112	▲ ▲ COURT USE ONLY
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff v. JAMES HOLMES, Defendant	
CAROL R. CHAMBRERS, District Attorney District Attorney For The 18 th Judicial District 6450 S. Revere Parkway Centennial, CO 80111 (720) 874-8649 Atty Reg # 14948	Case Number: 12CR1522 Division 408
<p style="text-align: center;">PEOPLE'S MOTION NO. 1</p> <p style="text-align: center;">MOTION REGARDING PUBLIC ACCESS TO UNIVERSITY OF COLORADO RECORDS</p>	

This motion is filed by the District Attorney for the 18th Judicial District.

1. The defendant has been arrested by the Aurora Police Department for numerous counts of first-degree murder, attempted murder, and other offenses related to events occurring in the early morning of July 20, 2012. The People will be filing charges against the defendant in the near future, including an anticipated 12 counts of first-degree murder, numerous counts of attempted first-degree murder, and other charges.
2. This case has engendered extensive media interest.
3. The Defendant was previously enrolled in the University of Colorado Denver/Anschutz Medical Campus in a neuroscience graduate studies program. As of June 12, 2012, he was in the process of voluntarily withdrawing from the University Of Colorado.
4. On July 21, 2012, a representative of the University Of Colorado contacted the District Attorney. That representative indicated that representatives of media organizations had made preliminary inquires of the University regarding submission of a request for release of records relating to the defendant pursuant to the Colorado Open Records Act (CORA), C.R.S. § 24-72-201, et seq. It is the People's understanding that the records subject to the putative CORA request would not be the type of educational records that would otherwise be protected from disclosure pursuant to Colorado and federal law, but would relate to electronic documents such as the defendant's e-mail communications on the University e-mail system and similar information.
5. CORA generally governs the disclosure of public records in the possession of government agencies and government personnel. The University Of Colorado is an agency of the State of Colorado and is governed by CORA. The term "public records" is defined as "all writings made, maintained, or kept by the state, any agency, institution . . . or political subdivision of the state. . ." C.R.S. § 24-72-202(6)(a)(I). The term "writing" is defined as "all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. 'Writings'

includes digitally stored data, including without limitation electronic mail messages, but does not include computer software." C.R.S. § 24-72-202 (7).

6. C.R.S. § 24-72-202(1)(a) provides that "[a]ll public records shall be open for inspection by any person at reasonable times . . ."


7. C.R.S. § 24-72-204(1)(c) provides: "The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds: (c) Such inspection is prohibited by rules promulgated by the supreme court or **by the order of any court.**" This limitation has been described as "expressive of the legislative intent that a court should consider and weigh whether disclosure would be contrary to the public interest." *Martinelli v. District Court*, 612 P.2d 1083, 1093 (Colo. 1980).

8. The People have not had access to the defendant's records from the University Of Colorado, but are of the belief that disclosure of such records to the media would be contrary to the public interest. Therefore the People request that this court exercise the authority granted to it pursuant C.R.S. § 24-72-204(1)(c) and enter an order prohibiting the University Of Colorado from releasing any records relating to the defendant pursuant to CORA, or in the alternative that prior to release of such documents pursuant to CORA the documents be submitted to this court for *in camera* review to determine whether the release of the documents would be contrary to the public interest because it would impede an ongoing investigation. A representative of the University Of Colorado has advised the District Attorney's Office that the University does not object to this motion.

9. This Motion is not intended to restrict the ability of the parties to this case to obtain documents relating to the defendant through the use of an appropriate subpoena to produce or any other method provided in the Colorado Rules Of Criminal Procedure.

A proposed order is attached.

Carol Chambers, District Attorney

By: 
Chief/Deputy District Attorney
Atty Reg: 26208