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OFFICE OF THE DISTRICT ATTORNEY  
TWENTIETH JUDICIAL DISTRICT  
Michael T. Dougherty, District Attorney

March 23, 2021

**VIA ELECTRONIC MAIL**

**Re: People v. Ahmad Alissa – 21CR497 and Colorado Rules of Professional Conduct 3.6 and 3.8**

To All Law Enforcement Agencies Assisting with Case 21CR497:

As you all are aware, the attack on our community by Mr. Alissa on March 22, 2021 has garnered national media attention. As the investigation into the matter continues, our office is obligated to abide by the Colorado Rules of Professional Conduct when discussing the matter. This obligation extends to all law enforcement officials assigned to the case. As we anticipate continued interest in this case, I write to inform you of Rule 3.6 of the Colorado Rules of Professional Conduct and its application to pretrial publicity by law enforcement officials. Rule 3.8(f) of the Colorado Rules of Professional Conduct requires that the District Attorney take “reasonable care” to ensure that all law enforcement officials are informed of, and abide by, Rule 3.6. As a general rule, any statements as to law, facts, or process should be reviewed by the DA’s Office in advance of release.

If we do this right, we will be able to defeat the inevitable defense claims of a tainted jury pool or motion to change venue to another jurisdiction. That would require us to try the case in a different community. Please see below:

Colorado Rules of Professional Conduct Rule 3.8 reads, in relevant part:

(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused unless such comments are permitted under Rule 3.6(b) or 3.6(c), and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an

extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

Accordingly, I write to ensure that we are apprised of and continue to follow Rule 3.6.

Colorado Rules of Professional Conduct Rule 3.6 reads:

- (a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.
  
- (b) Notwithstanding paragraph (a), a lawyer [or other peace officer] may state:
  - (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;
  - (2) information contained in a public record;
  - (3) that an investigation of a matter is in progress;
  - (4) the scheduling or result of any step in litigation;
  - (5) a request for assistance in obtaining evidence and information necessary thereto;
  - (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
  - (7) in a criminal case, in addition to subparagraphs (1) through (6):
    - (i) the identity, residence, occupation and family status of the accused;
    - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of the person;
    - (iii) the fact, time and place of arrest; and
    - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

Please ensure that all law enforcement officers, officials, and staff who may interact with the press have been reminded of these rules and, if appropriate, that they also receive copies of this letter. Our failure to comply with the above ethical obligations would likely have a negative impact on the prosecution of this case.

Thank you again for your cooperation in this matter. I truly value our strong working relationship and the great teamwork. If you have any questions or concerns, please feel free to contact me directly at (303) 441-3798.

Sincerely,

s/  
Michael T. Dougherty  
District Attorney