

DISTRICT COURT, TELLER COUNTY, COLORADO 101 West Bennett Ave., PO Box 997 Cripple Creek, CO 80813	DATE FILED: January 2, 2019 10:26 PM
<b>THE PEOPLE OF THE STATE OF COLORADO,</b>  v.  <b>PATRICK FRAZEE, Defendant</b>	<b>▲ COURT USE ONLY ▲</b>
	Case No. 2018CR330 Division: 11
<b>AMENDED ORDER RE: MOTION TO PRESERVE POLICE AND PRODUCTION OF LAW ENFORCEMENT NOTES, RECORDINGS AND OTHER EVIDENCE (DEF – 01)<sup>1</sup></b>	

THIS MATTER comes before the Court for consideration of defendant’s Motion to Preserve Police and Production of Law Enforcement Notes, Recordings and Other Evidence (DEF – 01) filed on December 21, 2018, and the prosecution’s Response. At the December 21, 2018, advisement hearing, the prosecution did not object to notifying law enforcement to preserve existing notes and recordings involving this case and otherwise comply with their Crim. P. 16 discovery obligation. However, they objected to parts of the defense motion that are overly broad, overly burdensome and infringe on work product. On December 21, 2018 the Court orally issued an Order requiring the prosecution to preserve existing handwritten and recorded law enforcement notes involving this case. The Court stated it would address the remainder of the defense motion at the December 31, 2018, First Appearance/Advisement hearing.

The prosecution’s obligation to disclose information is set forth in Crim. P. 16. The defendant is requesting all law enforcement handwritten notes and audio or video recordings or other memorialization of any and all people contacted regarding this case, including Defendant; law enforcement investigator dictation recordings of their notes that are transcribed into law enforcement reports; all video recordings, 911 recordings, dispatch recordings, and any other audio or video recordings that pertain to the investigation of this case; and all communications such as emails, text messages, instant messages, or written correspondence that pertain to the substantive investigation of this case. This request is overly broad and exceeds the scope of Crim. P. 16. The prosecution shall strictly comply with Crim. P. 16. The defendant may renew his motion and specify what recording they are requesting. However, the Court is ordering the preservation of all notes and dictated reports, not currently destroyed, to be preserved. The prosecution shall notify law enforcement of this order to preserve. The defendant’s request for all communications pertaining to the investigation of the case may encompass work product and exceeds the Crim. P. 16 obligation of the prosecution. Therefore, the prosecution shall disclose any correspondence and/or communication concerning the investigation of this case that is not

<sup>1</sup> The Court’s original order erroneously referred to the Motion to Preserve Notes, etc. as Defense Motion – 03.

work product. If the prosecution seeks an in camera review of any correspondence, they shall file a motion.

Done this 2<sup>nd</sup> day of January, 2019.

BY THE COURT:

*Linda Billings Vela*

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Linda Billings Vela  
District Court Judge