

<p>COMBINED COURTS, COSTILLA COUNTY, COLORADO</p> <p>Court Address: 304 Main Street, PO Box 301, San Luis, CO 81152</p> <hr/> <p>Plaintiff: The People of the State of Colorado</p> <p>vs.</p> <p>Defendant: Caleb Sanchez</p> <hr/> <p>Attorney for Defendant: Donald F. Cutler, IV Address: Cutler Law Office, LLC 329 West Hwy. 50 P.O. Box 743 Salida, Colorado, 81201 Phone No.: (719) 539-5017 Fax No.: (719) 539-5018 E-Mail: office@cutlerlaw.org Atty. Reg. No.: 32739</p>	<p>DATE FILED April 14, 2026 9:41 AM</p> <hr/> <p>Case Number: 26CR505</p> <p>Div.: Ctrm.:</p>
<p>MOTION FOR PRODUCTION OF POLICE NOTES AND RECORDINGS</p>	

COMES NOW, Mr. Sanchez, through counsel, requesting the State's immediate inquiry, preservation and/or production of any and all police notes, memoranda, or recordings that have been created in conjunction with this case. The defense also requests that if the prosecution discovers that said notes or tapes have been destroyed, that a description of what was destroyed, the date of its destruction, and the reason for its destruction.

AS GROUNDS, Mr. Sanchez states the following:

1. Notes and/or recordings were likely kept or made regarding interview of any witnesses or investigations of this case. Counsel has learned through that it is common practice for law enforcement to both take and then destroy notes or recordings or witness statements prior to the submission of the case for filing with the prosecutor's office. In this motion, the defense is requesting that the Court order that the prosecution immediately make inquiry and then to either produce the material if it still exists or if it does not, convey the result of such inquiry to the defense.

2. Ordering an inquiry in this case is appropriate because the law requires the prosecution to make inquiry if the defense makes a request. *See, People v. Lucero*, 623 P.2d 424,430 (Colo.App.1980). With respect to requested information held by other governmental agents the court in *Lucero*, stated that

“it was incumbent upon the prosecution to provide the defendant with information as to the existence and contents of the purported statement”. *See also, Chambers v. People*, 682 P.2d 1173 (Colo.1984)(holding that the prosecution’s duty to disclose extends to material in possession or control of those reporting to the prosecutor, and prosecutors are required to maintain conditions adequate to obtain such material from various investigative personnel, including police officers).


3. The defense, with this motion, is making a request for information held by other governmental personnel that, under Lucero, obligates the prosecution to make an inquiry into the existence and status of what is clearly discoverable material; namely police notes, memoranda or tapes. *Supra* and Crim.P.Rule 16, Part I(a)(1).
4. This request is reasonable in that the items requested can be requested and preserved in the performance of routine procedures by state agents.
5. If the requested material has been intentionally destroyed, that fact and the fact surrounding this destruction should be disclosed to the defense. A few legal concepts are clear when it comes to the taking of and disclosure of police notes. First, government agents are not required to reduce oral interviews with witnesses to writing and to provide the written version to defense counsel. People v. Garcia, 627 P.2d 255 (Colo.App.1980); People v. Graham, 678 P.2d 1043, 1047 (Colo.App.1983); People v. Anderson, 837 P.2d 293, 299 (Colo.App.1992). Second, whether information is written or not, any and all exculpatory information must be disclosed to the defense. Brady v. Maryland, 83 S.Ct. 1194 (1963). Third, when government agents reduce such witness statements to notes or writing, such material is discoverable. People v. Denton, 91 P.3d 388 (Colo.App.2003); Crim.P.Rule 16, Part I(a)(1). Finally, the prosecution may not circumvent its disclosure requirements under Rule 16, by intentionally or deliberately refraining from reducing a statement to writing. *Id.* at 389; People v. Anderson, 837 P.2d 293, 299 (Colo.App.1992)(holding that “the prosecution cannot circumvent an obligation to disclose exculpatory information by deliberately avoiding taking nor reducing statements to writing,”; U.S. v. Van Nuys, 707 F.Supp. 465 (D.Colo.1989).
6. Since it is clear that the prosecution cannot intentionally refrain from taking notes to avoid disclosure, the immediate and most salient inference is that the prosecution and its agents cannot intentionally destroy existing material in order to avoid disclosure. If the requested material has been intentionally destroyed, the defense should be informed of the fact so that appropriate due process challenges can be made depending on the nature and content of the material destroyed.

7. The Defendant's right to confrontation and right to due process require the production of this evidence. People v. Sheppard, 701 P.2d 49 (Colo.1985); People v. Shaw, 646 P.2d 375 (Colo.1982).
8. The evidence requested is material to this case and contains potentially exculpatory and necessary information to the defense of this action. Brady v. Maryland, 83 S.Ct. 1194 (1963); People v. Greathouse, 742 P.2d 334 (Colo.1987); People ex rel. Gallagher v. District Court, 656 P.2d 1287 (Colo.1983).
9. Preservation and production of this evidence is authorized by the Fifth, Sixth and Fourteenth Amendments to the United States Constitution; Article II, Section 16 and 25 of the Colorado Constitution; and Colorado Rule of Criminal Procedure 16.

WHEREFORE, the defense requests that the prosecution to make immediate inquiry and then either preserve and produce the material to the defense or communicate the result of such inquiry.

Date: April 13, 2026

CUTLER LAW OFFICE, LLC



Donald F. Cutler, IV
Atty. Reg. # 32739

CERTIFICATE OF MAILING

I hereby certify that on this 14 day of April, 2026, I delivered a true and correct copy of the above and foregoing by electronic service via CCE, addressed to:

Anne Kelly, Esq.,
District Attorney

