**STATE OF ILLINOIS**

**IN THE CIRCUIT COURT OF THE COUNTY OF COOK**

PEOPLE OF THE STATE OF ILLINOIS )

PLAINTIFF, )

)

) CRIMINAL

VS ) No. 02 CF 1618

) (DuPage County)

)

SKYLER M. CHAMBERS )

DEFENDANT. )

 **DEFENDANT'S RESPONSE TO PEOPLE'S**

 **MOTION REGARDING EVIDENCE OF OTHER CRIMES**

 NOW COMES the Defendant, SKYLER M. CHAMBERS, by one of his attorneys, Robert A. Miller, DuPage County Public Defender, and moves the Court to deny the People's MOTION REGARDING EVIDENCE OF OTHER CRIMES In support of this motion, Defendant states as follows:

1. When evidence of other crimes is offered, the trial judge must weigh its probative value against its prejudicial effect and may exclude the evidence if its prejudicial effect substantially outweighs its probative value. [*People v. Illgen,* 145 Ill.2d 353, 365, 164 Ill.Dec. 599, 583 N.E.2d 515 (1991)](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1991191840&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).

 2. Evidence of crimes for which a defendant is not on trial is inadmissible if relevant merely to establish the defendant's disposition or propensity to commit crime.[*People v. Thingvold,* 145 Ill.2d 441, 452, 164 Ill.Dec. 877, 584 N.E.2d 89 (1991)](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1991205453&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1); [*Illgen,* 145 Ill.2d at 364, 164 Ill.Dec. 599, 583 N.E.2d 515](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1991191840&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).

 3. However, evidence of other crimes committed by the accused may be admitted if it is probative of motive, intent, identity, absence of mistake or accident or the existence of a common design or plan or modus operandi*.* *People v.* [*Lehman,* 5 Ill.2d at 342-43, 125 N.E.2d 506](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).(1955)

 4. Evidence of other crimes is objectionable not because it has little probative value, but rather because it has too much. [*People v. Lucas,* 151 Ill.2d 461, 485, 177 Ill.Dec. 390, 603 N.E.2d 460 (1992)](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).

 5. Such evidence overpersuades a jury, which might convict the defendant only because it feels that defendant is a bad person who deserves punishment. [*Thingvold,* 145 Ill.2d at 441, 164 Ill.Dec. 877, 584 N.E.2d 89](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).

 6. The law distrusts the inference that because a person has committed other crimes, he or she is more likely to have committed the current crime. "And so, as a matter of policy, where the testimony has no value beyond that inference, it is excluded." [*People v. Lehman,* 5 Ill.2d 337, 342, 125 N.E.2d 506 (1955)](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).

 7. Evidence of other offenses is admissible if relevant for any purpose other than to show propensity to commit a crime. ([*People v. Jones* (1993), 156 Ill.2d 225, 239, 189 Ill.Dec. 357, 362, 620 N.E.2d 325, 330](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).)

 8. In order for evidence of other crimes to be admissible, there must be some clear connection between the other crime and the crime charged which creates a logical inference that if defendant committed one of the acts, he may have committed the other act.' " ([*People v. Overlin* (1993), 241 Ill.App.3d 530, 539, 181 Ill.Dec. 674, 679, 608 N.E.2d 925, 930,](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1) quoting [*People v. Kimbrough* (1985), 138 Ill.App.3d 481, 486-87, 93 Ill.Dec. 82, 87, 485 N.E.2d 1292, 1297](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).)

 9. The inference does not arise where the features linking the two crimes are common to many crimes, including those not committed by the defendant. Illinois courts have adopted less stringent requirements than the "signature" requirement, that other-crimes evidence is admissible where the other offense is substantially similar and has common features with the offense charged. [*People v. Bryan* (1987), 159 Ill.App.3d 46, 51-52, 110 Ill.Dec. 969, 973, 511 N.E.2d 1289, 1293](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1)

 10. The People are attempting to introduce evidence that the Defendant engaged in negotiations with a Sheriff's Deputy to falsify reports to support an inference that the Defendant suffered from mental health issues.

 11. The charge of Bribery, which the People are attempting to introduce is based in part on an eavesdrop, which includes many "unintelligible" portions.

 12. The "unintelligible" portions cause the recording to be unreliable and untrustworthy.

 13. A partially inaudible sound recording is admissible unless the inaudible portions are so substantial as to render the recording untrustworthy as a whole. The admission of a recording that is partially inaudible, or that reproduces only part of a statement or conversation, is a matter within the trial court's discretion. [*People v. Dougherty,* 160 Ill.App.3d 870, 876, 112 Ill.Dec. 337, 513 N.E.2d 946 (1987)](_); accord [*United States v. Robinson,* 956 F.2d 1388, 1395 (7th Cir.1992)](http://web2.westlaw.com/find/default.wl?DB=578&SerialNum=1955109011&FindType=Y&AP=&mt=Illinois&fn=_top&sv=Split&vr=2.0&rs=WLW4.1).

 14. The Defendant has not plead an affirmative defense involving mental capacity.

 15. The introduction of evidence concerning the Defendant's pending bribery charge is not relevant for purposes of motive, intent, identity, absence of mistake or accident or the existence of a common design or plan or modus operandi.

 16. The introduction of evidence concerning the Defendant's pending bribery charge is far more prejudicial than probative.

 WHEREFORE, the Defendant asks that this Court deny the People's MOTION REGARDING

 EVIDENCE OF OTHER CRIMES**.**

SKYLER M. CHAMBERS, Defendant

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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