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Assigned Attorney:

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Bicka Barlow, Attorney at Law, CA Bar Number: 178723
Jay W. Logsdon, First District Public Defender, Bar Number: 8759

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

V.

BRYAN C. KOHBERGER,

Defendant.

CASE NUMBER CR01-24-31665

**DEFENDANT'S OBJECTION TO
STATE'S MOTION IN LIMINE**

RE: ALIBI

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby objects to the State's Motion in Limine to exclude Mr. Kohberger's alibi.

The State provided the Court a list of pleadings to take notice of in support of its motion. However, the State failed to provide the Court with the full scope of the pleadings.

Mr. Kohberger filed a response to the State's Request for Discovery Disclosure and Alibi Demand on June 9, 2023 and contemporaneously filed a Motion for an Exception or in the

Alternative to Extend Time for Compliance. The State filed a response to our Motion for an Extension on June 13, 2023 with an agreement for additional time.

Mr. Kohberger filed his Notice of Alibi on July 24, 2023. This notice stated that at the time alleged by the State that he was inside the King Road home he was driving his vehicle and not in Moscow. The State filed a Motion to Compel on July 27, 2023 and a hearing was held on August 18, 2023. The State provided a partial transcript of the hearing in their Motion in Limine (State's Exhibit S-1). Subsequently speedy trial was waived, and the Scheduling Order was vacated. Pursuant to a new Scheduling Order, Mr. Kohberger filed a Supplemental Response to the State's Alibi Demand on April 17, 2024.

Idaho Code 19-519 governs notice of alibi and requires specific names and places to verify where a defendant was *at the time of the crime*. Mr. Kohberger advised the State he intended to offer expert testimony, through Sy Ray, as partial corroboration that he was driving south and west of Moscow, Idaho during the early morning hours of November 13, 2022. The expert testimony involves cell site location information (CSLI). Mr. Kohberger further advised the State of his intention to cross examine any state expert in that field. (Objection to State's MIL: Alibi, Exhibit 1, Supplemental Response: Alibi.)

After that disclosure the Court heard Mr. Kohberger's 4th Motion to Compel wherein among other things, Mr. Kohberger sought further records related to CSLI. Mr. Kohberger called Mr. Ray to testify at this hearing and the State declined cross examination.

The State provided records necessary to CSLI in various batches of discovery. These records consist of Call Detail Records from AT&T; Cell tower lists; and drive test data. The State provided its "CAST Draft" report and later a final report, however, no analysis has been provided. The State did not produce a Timing Advance report for Mr. Kohberger's cell phone. ¹

Partial corroboration does not cover the time alleged in the State's charging documents or in any affidavit in support of searching and seizing Mr. Kohberger's person and property. Partial corroboration relates to where Mr. Kohberger was during the early morning hours of November 13, 2022.

The State cites to *State v. Juarez*, 169 Idaho 274, 494 P.3d 822 (Ct. App. 2021); *Williams v. Florida*, 399 U.S. 78, 81-82, 90 S.Ct. 1893, 1896(1970). To suggest that Mr. Kohberger is hiding a witness that will prejudice the State. That is not the case. Mr. Kohberger has stated exactly how he will partially corroborate where he was. He will use information contained in the discovery supplied by the State and he will present the testimony of expert witness Sy Ray.

¹ See also Motion in Limine to Exclude Experts, Nicholas Ballance AND Objection to State's Motion in Limine' exclude reference to Timing Advance Records.

Mr. Kohberger has met his statutory obligation of providing the State notice of corroboration of his partial alibi.

DATED this 17 day of March, 2025.



BY:

ANNE C. TAYLOR
ANNE TAYLOR LAW, PLLC

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 17 day of March, 2025 addressed to:

Latah County Prosecuting Attorney –via Email: paservice@latahcountyid.gov

Elisa Massoth – via Email: legalassistant@kmrs.net

Jay Logsdon – via Email: Jay.Logsdon@spd.idaho.gov

Bicka Barlow, Attorney at Law – via Email: bickabarlow@sbcglobal.net

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Assigned Attorney:

Anne C. Taylor, Public Defender, Bar Number: 5836
Jay W. Logsdon, Chief Deputy Public Defender, Bar Number: 8759
Elisa G. Massoth, Attorney at Law, Bar Number: 5647

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH**

STATE OF IDAHO

Plaintiff,

V.

BRYAN C. KOHBERGER,

Defendant.

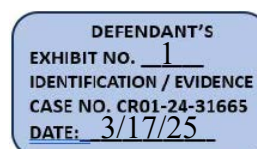
CASE NUMBER CR29-22-2805

**NOTICE OF DEFENDANT'S
SUPPLEMENTAL RESPONSE TO
STATE'S ALIBI DEMAND**

COMES NOW, Bryan C. Kohberger, by and through his attorney of record, Anne C. Taylor, Public Defender, and hereby files a supplemental response to the demand for alibi and in compliance with Idaho Code §19-519 and Idaho Criminal Rule 12.1.

Mr. Kohberger moved to Pullman, Washington in June of 2022. As an avid runner and hiker, he explored many areas of the Palouse. Of note, he explored Wawawai Park in July of 2022 and this became a favorite location. After the school year began, Mr. Kohberger was busy with classes and work at Washington State University and his running and hiking decreased but did not stop. Instead, his nighttime drives increased. This is supported by data from Mr.

**NOTICE OF DEFENDANT'S SUPPLEMENTAL
RESPONSE TO STATE'S ALIBI DEMAND**



Kohberger's phone showing him in the countryside late at night and/or in the early morning on several occasions. The phone data includes numerous photographs taken on several different late evenings and early mornings, including in November, depicting the night sky.

Mr. Kohberger was out driving in the early morning hours of November 13, 2022; as he often did to hike and run and/or see the moon and stars. He drove throughout the area south of Pullman, Washington, west of Moscow, Idaho including Wawawai Park.

PARTIAL CORROBORATION

Mr. Kohberger intends to offer testimony of Sy Ray, CSLI expert, (cell tower, cell phone and other radio frequency, curricula vitae is attached) to show that Bryan Kohberger's mobile device was south of Pullman, Washington and west of Moscow, Idaho on November 13, 2022; that Bryan Kohberger's mobile device did not travel east on the Moscow-Pullman Highway in the early morning hours of November 13th, and thus could not be the vehicle captured on video along the Moscow-Pullman highway near Floyd's Cannabis shop.

Additional information as to Mr. Kohberger's whereabouts as the early morning hours progressed, including additional analysis by Mr. Ray will be provided once the State provides discovery requested and now subject to an upcoming Motion to Compel . If not disclosed, Mr. Ray's testimony will also reveal that critical exculpatory evidence, further corroborating Mr. Kohberger's alibi, was either not preserved or has been withheld.

DATED this 17 day of April, 2024.

ANNE C. TAYLOR, PUBLIC DEFENDER
KOOTENAI COUNTY PUBLIC DEFENDER



BY: _____

ANNE TAYLOR
PUBLIC DEFENDER
ASSIGNED ATTORNEY

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 17 day of April, 2024 addressed to:

Latah County Prosecuting Attorney –via Email: paservice@latahcountyid.gov

Elisa Massoth – via Email: legalassistant@kmrs.net



Sy Ray
Curriculum Vitae



Work History

Burning Mountain Productions

D.B.A Socialite Crime Club

(480)540-3461

President – Executive

Producer

13771 N Fountain Hills BLVD

Suite 114

Fountain Hills, AZ 85268

2023-Present

LexisNexis Special Services Inc. (LNSSI)

(202) 785-3550

Director

1150 18th St NW

Washington, D.C. 20036

2021-2023

ZetX Inc.

(844) 367-9389

President - Founder

1900 W Chandler Blvd

Suite 15-224

Chandler, Az 85224

2013-2021

Gilbert Police Department

(480) 503-6500

Sergeant/Officer/SWAT

75 E. Civic Center Dr.

Gilbert, Arizona 85296

1999-2014

Phoenix Training Council

(480) 540-3461

Owner/Trainer

3130 N. Arizona Ave.

Chandler, AZ 85225

2006-2013

Show Low Police Department

(928) 537-5091

Officer

150 N. 6th Street

Show Low, Arizona 85908

1996-1999

Military Professional Resources Inc. L3

(703) 664-2950

Trainer/Mentor - Afghanistan
1320 Braddock Place
Arlington, Virginia 22314

2010 (June – December)

Applicable Experience:

20 years of law enforcement experience

5 years of patrol operations

13 years of criminal investigations-

7 years in violent crime, sex crime, and narcotic investigations

3 years as a Detective Sergeant in violent crime investigations

2 years on the Criminal Apprehension Team

1 year in undercover operations in Afghanistan

8 years SWAT/Tactical Operations experience

7 years instructor/operator of law enforcement training company

10 years of expert witness, case consultant experience (ZetX)

Testified over 100 times (State and Federal Courts)

All case work prior to 11/2023 was as prosecution witness

Advised/Peer Review on over 2000 criminal investigations

US Federal Cases

State and Local Law Enforcement Cases

International Cases

Experience Summary:

Criminal Investigations

Over 1000 death investigations including:

Gang related homicides

Murders by organized crime syndicates (Cartels)

Investigations of officer use of force & suspect use of force against officers

Complex Case Designation

Over 150 robbery investigations including:

Gang related robberies

Over 100 kidnapping investigations

Over 1000 cases involving assault, sexual assault, organized crime, arson, arson related homicide, auto theft, narcotics, property crime, wildlife crimes and public corruption of funds investigations

Supervision of Investigations Unit

Supervise and direct criminal investigations related to violent crime and narcotic investigations
VICE operations and undercover operations
Provided direction of up to 30 investigators during complex and dynamic cases
Provided mentoring and training in reference to investigations of violent crimes or other crimes as needed

Specialty Training in reference to Criminal Investigations

- Bullet trajectory and gunshot wound patterns
- Blood spatter interpretation
- Crime scene management and processing
- Cell phone analysis
- Interviewing and interrogation
- Provided instruction to Military units in reference to tactical questioning and interviewing techniques (10th Special Forces Group, Fort Carson, Co.)
- Statement analysis- LSI (Avinoam Sapir)
- Terrorism- Investigation of Response to Terrorists Threats/Activities
- Kidnapping (specifically as it pertains to organized crime)
- Narcotic Investigations
- Recruiting, managing and directing confidential informants
- Undercover/Clandestine Operations:
 - Assigned to DEA task force in reference to investigations involving Mexican Drug Cartel- successfully dismantled operation
 - Assigned to DEA task force in reference to investigation criminal syndicates/outlaw motorcycle gangs-Investigation resulted in the largest seize of precursor chemicals used to produce methamphetamine in the U.S.
- High-risk surveillance and street jumps
- Instructor in Arizona for both tactical elements and investigative elements
- Gang investigations- Criminal Street Syndicates
- Use of RF (radio frequency) collection and targeting of mobile devices for both tactical operations and investigative resources
 - Over 1000 missions in the field locating cellular devices
 - Provide instruction on this subject matter
 - Provide expert testimony on this subject matter
 - Have consulted with private industry (Rohde and Schwarz, Boeing) on developing hardware and software solutions for Law Enforcement and Military applications

Specialty Training in reference to SWAT

Basic SWAT entry school X3

Advanced SWAT entry school- Countermeasures Technical Institute

Hostage Rescue Tactics Training

Instructor Certified for Less Lethal, Flash/Stun Distraction Devices and Chemical Agents

SCBA Certified for Tactical Environments

Sub–Machine Gun Qualified

Tactical Firearms

- Low light & no light environments
- Colt M-4

Type III SWAT Training (DHS Office of Domestic Preparedness)

- Introduction to Worldwide Terrorism
- Weapons of Mass Destruction
- Protection Levels and Operations
- Scouting, Pre-Planning, Intelligence
- Tactical Movements
- Tactical Breathing
- Occupancy Control
- IED and Explosive Materials
- Citizen and Team Member Recovery
- Vehicle Assaults
- Hostage Rescue
- TIC/TOC Operations
- CBRNE Operations

Tactical Operation Packets and Briefings

Served as a Tactical Team Leader

Extensive Experience in scouting and planning of tactical operations in urban environments

Cellular Tracking and Operations in a Tactical Environment

Instructor

Development of training courses

Trained tactical units integration into high-risk cellular tracking missions in the field

Undercover Operations (Afghanistan)

- Mentored 10 man undercover Afghan Police Team targeting IED cells operation in a battlefield. The mission objective was to penetrate and exploit improvised explosives used against coalition troops.
- Created and executed action plans in the battlefield targeting IED cells and equipment once identified.
- Mentored Afghan Police on investigative techniques and rule of law applications
- Advanced investigations in relation to IED detonation—including device mechanism identification (ATF Advanced Course)
- Consulting of Rule of Law concerning policies and procedures. This covered all aspects from development of basic legislation to formalizing criminal investigations and courtroom procedures.

Fields of Expertise

Cellphones and radio frequency devices

- Extensive background in cellular devices in reference to criminal investigations
- Subject Matter Expert in: call detail record analysis, historical tracking, real-time/physical tracking of mobile devices (geolocation), site surveys, and RF identification.
- Extensive use of DRT Tracking equipment (Digital Receiver Technology)
- Technical applications of Rhode and Schwarz TSME/TSMA Scanning Equipment
- Experience in Denial of Service (RF jamming)
- Data collection
- Black Phone Operations (identifying and targeting unknown cellular devices)
 - Provided expert court testimony and consulting as a subject matter expert in the field
 - Recognized nationally by the International Chiefs of Police and Parade Magazine for my work in this field
- Designed and developed radio frequency sensors that detect wireless devices. Sensors were used by the NFL during the 2016 NFL Super Bowl for drone protection.
- Provided expert testimony and court consultation in Arizona, Utah, Montana, Colorado, Virginia, Florida, Texas, New York and California

ZetX Corporation

- Development and implementation of a national cell tower database for the United States. Database has coverage areas defined for each sector—Over 3.1 million coverage overlays. Extensive RF mapping and link budget analysis completed in multiple environments.
- Automated call detail record processing- responsible for the program development and implementation. Extensive research and coordination required automating and standardizing call detail records sent by providers to law enforcement for investigative purposes.
- Instructor for all training courses—including ZetX 40 hour Advance Certification Course, the only 40-hour Certification Course offered in the United States.

Instructing

- Over 15 years of experience in developing training outlines, objectives, and Power Point presentations, implementation of training concepts, and debrief/after action reports on programs impact
- Arizona Peace Officer and Standards Training Board certified instructor
- Extensive background in reference to providing instruction and training all disciplines listed
- Guest speaker for various conference and convention in the United States and Canada
- Instructed for over 25,000 students nationally and internationally
 - Law Enforcement, Prosecutors, Judges, Defense Experts

Attributes

- Coordination of training exercise for 10th Group Special Forces
 - Arranged training schedules, facilities, instruction and participation in training events that incorporated full mission profiles for Special Operation Forces. The

exercises were pre-mission training for combat deployments in Operation IRAQ FREEDOM. Six separate concepts completed in 2003-2009. Training concepts mentioned above include

- Sensitive Site Exploitation
- Close Quarters Combat
- Flat Range Exercises/Live Fire Scenarios

Case References (Abbreviated) – Expert Testimony (2016-2024)

- State of Arizona v. Sharpe & Hernandez (Pinal County Superior Court)
 - Armed Robbery
- State of Arizona v. Craig (Pinal County Superior Court)
 - Homicide
- State of Montana v. Johnston (Richland County District Court)
 - Homicide
- State of New York v. Clayton (Steuben County District Court) – Frye Challenge
 - Homicide
- State of California v. Dinh, Hicks, & Tran (Sacramento District Court) – Frye Challenge
 - Homicide
- State of Utah v. Evans (Salt Lake County Superior Court)
 - Homicide
- State of Texas v. Ross (Dallas County District Court) – 702 Challenge
 - Homicide
- State of New York v. Meyer (Steuben County District Court)
 - Homicide
- State of Arizona v. Howe (Pima County Superior Court)
 - Aggravated Assault/Attempt Homicide
- State of California v. Marquez (Tulare County District Court)
 - Armed Robbery

- State of California v. Ernesto Hernandez (Monterey County District Court)
 - Homicide
- State of California v. Phil Ayala, Martinez, Luna, Rivera (Shasta County District Attorney)
 - Robbery x4
- State of Colorado v. Samuel Pinney (16CR742) (Weld County District Attorney) - Shreck (Daubert) Hearing
 - Double Homicide
- State of Texas v. Antonio Cochran (F17-76529H) (Dallas County District Attorney)
 - Homicide
- State of Arizona v. Freddis Williams (CR2017-109768-001)(Maricopa County District Attorney)
 - Homicide
- State of California v. Ingala Whiting (Orange County District Court)
 - Homicide

- State v. Ramirez, 425 P.3d 534 (WA, Ct. App. Aug. 30, 2018)

- United States v. Reynolds, 1:20-CR-24 (MI, W.D. Aug. 25, 2021)
- State v. Trevino, No. 05-19-00295-CR (Tex. Ct. App. May 19, 2020)
- State v. Villanueva, No. 36694-4-III (Wash. Ct. App. Dec. 17, 2020)
- State v. Burgos, No. F17-21050 (FL. 11th Jud. Cir. Ct. Miami-Dade Co. Crim. Div. (Jan. 10, 2023)
- State v. Clements, No. CR20183978-001 (AZ. Super. Ct. Pima Co. Jan. 26, 2023)
- State v. Page, No. 20FE000438 (CL. Super. Ct. Sacramento Co. 2023)
- State v. Hands, No. 20FE016389 (CL. Super. Ct. Sacramento Co. 2023) Denied Challenge
- Commonwealth v. Cotto, Fraticelli, Espinosa, Martinez (MA. Hampden Co. Superior Ct., April 21, 2023)
- US v. Torey White (PA. US District Court Middle District Pennsylvania, April 27, 2023)
- State v. Jorrie Cordova, No. 22CR1693 (CO, 18th Judicial Dist. June 2023)
- Commonwealth v. Jones (Superior Court No. 2283CR00006)