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**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

**NOTICE OF FILING AFFIDAVIT IN
SUPPORT OF DEFENDANT'S
OBJECTION TO THE STATE'S
MOTION IN LIMINE**

**RE: AT&T TIMING ADVANCE
RECORDS**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby
files the accompanying Affidavit of Sy Ray in support of their Objection to the State's Motion in

Limine RE AT&T Timing Advance Records filed with the Court on March 17, 2025. This Affidavit is filed pursuant to the Court's March 18, 2025 Order denying witness testimony at the April 9, 2025 hearing, subject to the Court hearing remote testimony.

DATED this 26 day of March, 2025.



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 26 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

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AFFIDAVIT OF SY RAY

REF: AT&T TIMING DATA

STATE OF ARIZONA)

: SS.

County of Maricopa)

1. I am an adult, over the age of 18, and I have personal knowledge of the facts set forth in this Affidavit.
2. I have been working in the field of call detail record analysis for over 25 years. I became a certified police officer in the State of Arizona in 1996. I worked with my first set of

AFFIDAVIT OF SY RAY

AT&T records in 1997. I spent nearly 20 years in law enforcement in the primary role of a detective. I have worked hundreds of death investigations and consulted on over a thousand homicide cases in my career. In my role as a detective, I gained extensive experience utilizing call detail records and exploiting cellular networks for investigative related purposes. In 2014, I retired from law enforcement and started a business called ZetX that created software for law enforcement to map and analyze call detail records. As part of that business, we maintained software that supported every known call detail record provided to law enforcement in the United States. To date, the system has analyzed over 3 billion calls from call detail records provided by cellular phone companies in the United States. In 2021, LexisNexis purchased ZetX, and to date, is still using and selling the software I created. As a result of this experience, I have worked directly with engineers at the cellular phone companies for over two decades and I am intimately familiar with the type of data they maintain in the normal course of business and provide to law enforcement through a legal demand process.

3. In addition to my law enforcement experience, I have instructed classes on utilizing cellular records in criminal investigations for nearly twenty years. I have had over thirty-thousand law enforcement officers attend these courses and/or presentations on this subject matter. In 2014, I created the first Geolocation Cellular Investigations Subject Matter Expert course in this field, offered to State and Local law enforcement officers. As a result of this work, I have established well known and used "best practices" within the discipline of call detail record analysis. Over one thousand law enforcement agencies have attended my courses on the subject matter of cellular record analysis, to include the FBI, ATF, US Marshalls, DEA, and DHS.
4. Through my work in this discipline, I am regularly consulted by the prosecution on investigations around the world. As a recognized Subject Matter Expert in this field, I have testified on the matter more than one hundred times throughout the United States in both Federal and State courts. Apart from this case, all my testimony in this field has been on behalf of the prosecution, it is only in rare cases and circumstances, I have ever considered working on the side of defense.
5. I have worked extensively with Timing Advance data from the cellular phone network providers over the past fifteen years. I have testified to the use of Timing Advance data numerous times. I have created and taught hundreds of classes on this subject matter to law enforcement. I am extremely familiar with the type of Timing Advance records available from US cellular providers, their retention periods, and the legal process to obtain those records.

Timing Advance:

1. Timing Advance records are maintained by cellular network providers that provide a time measurement. This time measurement refers to the amount of time it takes a radio signal to travel from a cell site to a mobile device and back to the cell site. Given this signal travels at a known constant (speed of light) it is possible to use the measurement to determine the distance the mobile device is from a known cell site.

2. When multiple cell sites record Timing Advance data in short periods of time, it is possible to use trilateration to determine the location of a mobile device. The use of Timing Advance data in this manner is one of the most accurate ways for law enforcement to locate a mobile device.
3. Given these records are available in a historical context, it is possible to conduct an analysis of Timing Advance data to pinpoint historical locations of a mobile device at a given date and time. It is also possible to determine routes of travel, stagnation, and when a mobile device is powered on and off.
4. As a result of its accuracy, requesting Timing Advance data has become a standard practice for all law enforcement in the United States, and is regularly requested through legal process relating to a criminal investigation.

AT&T Timing Advance:

1. In August of 2021, I was approached by an FBI Special Agent to assist in analyzing a type of record set identified as, AT&T Timing Advance report, and it was the first time I was made aware of this type of data from AT&T. Upon request, I can provide the date, time, location, and FBI Agent I assisted with the record set.
2. As of the year 2021, AT&T had not officially released a Timing Advance report to law enforcement, therefore, the ZetX software program did not yet support AT&T Timing Advance records. As a result of this interaction with the FBI, I obtained a copy of the Timing Advance report from the Special Agent and forwarded it to our software engineers to write code within the ZetX system to support future uploads of this Timing Advance report format.
3. The next day, I was informed by the Special Agent the AT&T Timing Advance report was not supposed to be released/viewed outside of the FBI and that individual requested I return the report and not have any software developed to support the data they had shown to me. I did return the report, however, due to the interaction explained here, there is a paper trail documenting the facts of this interaction.
4. I have first-hand knowledge that AT&T was providing the FBI with Timing Advance reports prior to August of 2021.

AT&T Legal Demands:

1. During my career(s) working with call detail records from every cellular provider in the United States, I have been involved with thousands of cases in which call detail records are obtained from these companies. Leading the way in the establishment of best practices within this field of investigation, I wrote and provided custom search warrants for every provider and distributed them to thousands of law enforcement officers in the United States, assisting them in the legal process of obtaining the vast and ever-growing amount of data sets offered by cellular providers.
2. I have worked with the AT&T Global Legal Demand Center (GLDC) for over 15 years.
3. I have first-hand knowledge that the AT&T GLDC is *one way*, not the only way, for law enforcement to obtain call detail records from AT&T.

4. I have first-hand knowledge that there is ***another way*** to obtain call detail records from AT&T ***without*** going through GLDC.
5. Over the course of many years, AT&T has had several different programs in partnership with federal law enforcement, primarily the FBI, that allowed for call detail records to be disseminated to the FBI without going through the standard GLDC process.
6. The first AT&T Timing Report I was presented and had a chance to review and become familiar with in August of 2021, was obtained from AT&T through one of these programs, not through GLDC.
7. I have been involved in numerous investigations where AT&T call details records were obtained through these AT&T programs, outside of GLDC.
8. I have first-hand knowledge and experience in working with individuals at AT&T associated with these other programs.
9. One such individual is Boyd Jackson. Mr. Jackson is a Program Director at AT&T who manages many of the programs I am referencing. Mr. Jackson is the primary contact for the FBI when requesting records outside of the standard GLDC process.

GLDC Disseminating Timing Advance Reports:

1. The State is correct in their claim that AT&T GLDC did not provide law enforcement with AT&T Timing Advance reports until May of 2023. As a matter of fact, in May of 2023, the working group known as GLDC had only begun their storage of Timing Advance records. The first official release of AT&T Timing Advance data was not provided to law enforcement until June 15, 2023, by GLDC.
2. In 2022 the FBI obtained AT&T Timing Advance records from another source, outside of GLDC.

AT&T Timing Advance Records in the State's Possession:

1. During this investigation, law enforcement obtained the following AT&T Timing Advance data:
 - a. Two of the victims had AT&T phones. Law Enforcement obtained AT&T Timing data on both of their phones.
 - b. Law Enforcement developed an early investigative lead in this case. That person had an AT&T phone at the time of the crime. Law Enforcement obtained his AT&T Timing Advance data.
 - c. Law Enforcement also requested a tower dump, consisting of AT&T Timing Advance data. This request involved AT&T providing all of the connections between two specific cell sites in Moscow during a two-hour period. The data produced was AT&T Timing Advance data. In all, there were over 3800 AT&T mobile phones identified in the Timing Advance tower dump data.
2. The AT&T Timing Advance data was obtained by the FBI, using an internal source at AT&T, Mr. Boyd Jackson, who is not associated with the GLDC working group.
3. GLDC was not used to obtain this data.
4. A forensic examination of the AT&T Timing Advance records in the State's possession show Mr. Jackson's association with the reports.

5. There is work product in the State's possession, created by the FBI, showing the AT&T Timing Advance data was not only obtained, but regularly referenced and used in the course of this investigation. Its existence is well known to the investigators and prosecutors.

Chain of Custody:

1. The State has provided a "Certificate of Authenticity" (CoA) to defense in relation to the Timing Advance records described above. The CoA was created in April of 2024 and issued by the Director of GLDC, Stephen Gordon.
2. I have previously worked with and I am familiar with Mr. Gordon.
3. The CoA specifically states, *"I am qualified to authenticate the records attached hereto because I am familiar with how the records were created, managed, stored, and retrieved."*
4. I have personal knowledge that in the event Mr. Gordon was required to testify, he would clarify that prior to May of 2023, neither he nor the AT&T GLDC working group was involved with AT&T Timing Advance records.
5. Additionally, there is forensic evidence contained within the records that indicate they were not produced by AT&T GLDC, nor were they produced in the year 2024.
6. In reviewing this data, I contacted and communicated with Mr. Gordon to clarify the chain of custody related to these records. Mr. Gordon and an AT&T legal representee informed me that Mr. Gordon would not be the individual to certify these records if required to do so despite issuing the CoA.
7. In my review of this information, there is evidence to suggest the chain of custody involving these records and CoA were produced well outside of AT&T's normal practice. There is missing information and data associated with this request. The prosecutions prior claims that AT&T Timing Advance data did not exist in 2022 further complicates this issue. It is my expert opinion that any testimony proffered on behalf of the FBI or AT&T on this matter would clearly reveal these issues.

Evidence in Direct Contradiction to the State's Motion:

1. In my review of this investigation, I have read numerous emails sent and received by law enforcement pertaining to their investigation.
2. One such email, dated 11/15/2022, was sent to Prosecutor Ashley Jennings at her Latah County government email address. This email is from Moscow Detective Lawrence Mowery. The email is informing Mrs. Jennings of Det. Mowery's recent contact with FBI Special Agent Ballance. SA Ballance informed Det. Mowery that AT&T can provide Timing Advance data and to make sure it is listed in the search warrant. Det. Mowery is specifically asking Prosecutor Jennings to make sure the AT&T Timing Data is listed in the warrant (prior to the report ever being distributed by the working group known as GLDC).
3. Mrs. Jennings did respond to Det. Mowery's email inquiring on the specific verbiage needed to obtain AT&T Timing Advance. This email is abundantly clear evidence that Mrs. Jennings was not only aware of the existence of AT&T Timing Advance in 2022, but also shows her intention to obtain it through legal process from AT&T.

4. This email communication with Prosecutor Ashely Jennings, is the same Prosecutor Ashley Jennings who filed this current and contradictory motion, stating AT&T did not produce Timing Advance records in 2022.
5. There is clear and convincing evidence that not only was the FBI able to obtain AT&T Timing Advance records in 2022, but they did so with the knowledge of the prosecutors involved in this case.

Missing AT&T Timing Advance:

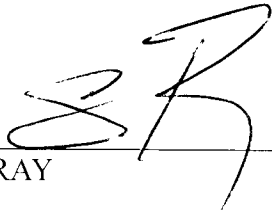
1. In my review of this investigation, based on my training and experience, it is incredibly unusual that the defendant's AT&T Timing Advance records were not obtained by the FBI.
2. The FBI demonstrated their ability to obtain AT&T Timing Advance in November of 2022 by obtaining AT&T Timing Advance records on over 3,800 mobile devices, none of them being the defendants'.
3. When it comes to location data from AT&T, Timing Advance data can be some of the most accurate data available. Additionally, it contains connections to the network other than the typical voice, text, or data connections. This allows law enforcement to not only see more data, but more accurate data. Anytime a defendant's locations are in question, a Timing Advance report would be asked for as a standard operating procedure. Moscow Police Department, by way of the FBI and with the knowledge of prosecutors, demonstrated their awareness of this standard procedure when they obtained AT&T Timing Advance data on over 3,800 mobile devices.
4. When detectives and prosecutors requested and served two different search warrants to AT&T on the defendant's AT&T account, they requested the exact same Timing Advance data they previously did when they obtained Timing Advance data from AT&T on over 3,800 mobile devices. They also maintained the same process in utilizing the FBI to serve the legal demands on AT&T. There is no difference in the verbiage, legal process, or individuals that produced AT&T Timing Advance data on 3,800 mobile devices and the request for the Defendant's AT&T Timing Advance data that allegedly yielded nothing.
5. Additionally, on December 23, 2022, the FBI sent a communication directly to AT&T specifically detailing their request for the defendant's AT&T Timing Advance records. There is no reason to believe AT&T would not respond to this request.
6. It is my expert opinion AT&T Timing Advance data did exist for the defendant's AT&T mobile device in 2022, and it was requested from AT&T by the investigators involved in this case. The investigators previously demonstrated their ability to obtain AT&T Timing Advance data in 2022. Failure to produce the defendant's AT&T Timing Advance data is either a gross deviation from standard practice or intentionally withheld from release in discovery.

Conclusion:

1. It is my expert opinion in reviewing all the evidence that has been disclosed by the State that:
 - a. AT&T Timing Advance data was available on the defendant's phone in 2022.

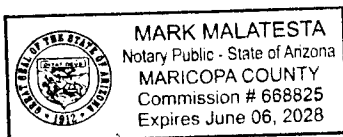
- b. There is overwhelming evidence showing the State obtaining and using AT&T Timing Advance data in the course of this investigation in 2022 on over 3,800 AT&T mobile devices, other than the defendants.
 - c. There is no doubt the author of this current motion, Prosecutor Ashley Jennings, knew or should have known, AT&T Timing Advance data did exist in 2022, she was directly involved in the legal process obtaining it, and was aware of work product created from it to further the investigation. The current motion is a deliberate misrepresentation to the court to further conceal false statements used to obtain probable cause against the defendant and conceal exculpatory evidence from discovery.
2. I'm prepared to provide witness testimony and relevant exhibits that support all my opinions contained in this affidavit. It is my belief this evidence is beyond clear and convincing and will be supported by any competent expert in this field who reviews all the data. This is not a battle of experts, the evidence supporting the opinions in this affidavit is overwhelming.
 3. In my nearly thirty years of working with and for prosecutors all over the United States, I have never witnessed such a deliberate attempt by prosecutors to mislead the court on evidence in such plain sight. Anyone making such a claim would have to believe the court is incapable of reviewing physical evidence in possession of the State and Defense. It rises to a level beyond a simple miscommunication or oversight and is clear and intentional misrepresentation in the hopes to conceal a much larger issue. I respectfully request the court give this affidavit the due attention it deserves and explore these issues further.

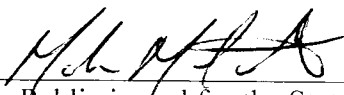
DATED this 25TH day of March, 2025.



SY RAY

SUBSCRIBED AND SWORN to before me this 25TH day of March, 2025.





Notary Public in and for the State of Arizona
Commission Expires: 6/6/28