

CASE NO. CR 29-22-2805
2023 June 15 4:30
CLERK OF DISTRICT COURT P.M.
LATAH COUNTY
BY Att DEPUTY

Anne C. Taylor, Public Defender
Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836
iCourt Email: pdfax@kcgov.us

Elisa G. Massoth, PLLC
Attorney at Law
P.O. Box 1003
Payette, Idaho 83661
Phone: 208-642-3797; Fax: 208-642-3799

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 CR29-22-0002805

**DEFENDANT'S SECOND MOTION
TO COMPEL DISCOVERY**

COMES NOW, Bryan C. Kohberger, by and through his attorney, Anne C. Taylor, Public Defender, and pursuant to Idaho Criminal Rule 16(f) hereby moves the Court to order the State to comply with *Defendant's 1st and 2nd Supplemental Requests for Discovery* and Exhibit A and Exhibit B attached to the requests. The State has provided a significant amount of discovery materials and has provided written responses to the discovery requests, however certain requests remain outstanding. As such Mr. Kohberger requests an Order for the State to disclose the

following items included in *Defendant's 1st and 2nd Supplemental Requests for Discovery, Exhibits A and B.*

- 1. Request 1: Investigative reports and conclusions from all cell phone analysis; including but not limited to any analysis conducted by police agencies, FBI CAST team or other Idaho authorities.**

The State has responded by listing page numbers and audio/video file names of information and data provided to the defense in discovery. As of June 13, 2023, counsel for Mr. Kohberger has not received any investigative reports and conclusions of the analysis of this data conducted by police agencies.

- 2. Request 4: All footage provided to Forensic Examiners with FBI used to identify make and model of vehicle.**
 - a. All reports generated related to the identification of the White Elantra.**
 - b. All reports, communications and documentation related to the change in year of the White Elantra sought.**
 - c. CV or credentials of Forensic Examiners.**

The State has responded by listing various page numbers and file names of recordings they have previously provided, however, they do not provide any reports generated, communications and documents relating to the change in year of the white Elantra or the CV or identity of the Forensic Examiner who identified this as the make and model of vehicle.

- 3. Request 17. (Please see Exhibit A to Defendant's First Supplemental discovery request for specifics)**

The State has responded that they are attempting to obtain this information. If it exists, the State will comply with this request upon receipt. As of June 14, 2023 counsel for Mr. Kohberger has not received this information.

- 4. Request 23. (Please see Exhibit A to Defendant's First Supplemental discovery request for specifics)**

The State responded that they have provided AV000123 discovered on 3/30/23, however, the provided recording is an in person interview with FBI Agents rather than the phone interview done by Moscow Police.

- 5. Request 109. Identity of FBI Special Agent that is a member of the Cellular Analysis Survey Team that was consulted with to determine locations of the cell phone from 11/12 & 11/13 and all CAST Certification records and training records for the involved agent(s).**

The State objected to this request for the reason that this is outside the scope of I.C.R.16. To the extent that the State intends to offer expert testimony, it will comply with I.C.R. 16(b)(7).

Mr. Kohberger disagrees as this information was largely relied upon in various warrants, including the arrest warrant. Information relied upon to secure search and arrest warrants is necessary to conduct analysis of 4th Amendment issues. Further, the entirety of the information could include materials required under Brady. Idaho Criminal Rule 16 covers broader area than the evidentiary rules of admissibility.

6. Requests 120 and 140. All tips received by law enforcement relating to this case.

The State has provided various tips throughout discovery, however, they are scattered in pieces throughout the discovery. A complete and chronological list of all tips has not been provided.

7. Request 136. All audio recordings relating to all search warrants obtained in this matter.

The State has responded that they are attempting to obtain this information. If it exists, the State will comply with this request upon receipt. The defense has been provided with a photograph of a DVD entered into evidence as Item 435, 23M-0085 labeled as "SW Audio". There is also a notation that this DVD was copied to county on 1/13/23.

8. Request 164. Bodycam, recordings, notes, photographs and all information collected at the autopsies by Tolleson, Vargas, and Gunnerson.

The State responded that they do not have these items in its possession. Clarification is needed on if they exist and are still in the possession of another agency.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is ten (20) minutes.

DATED this 15 day of June, 2023.

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 15 day of June, 2023 addressed to:

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

Elisa Massoth – via Email: legalassistant@kmrs.net

Ingrid Batey – via Email: ingrid.batey@ag.idaho.gov

Jeff Nye – via Email: jeff.nye@ag.idaho.gov


