

CASE NO. CR 29-22-2805
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**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 THIRD 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 3rd Supplemental Request for Discovery* filed herein on or about May 3, 2023.

Mr. Kohberger requests an Order for the State to disclose the following items included in *Defendant's 3rd Supplemental Request for Discovery*;

Standard Lab Discovery

3. **Profiles uploaded to a DNA database:** In the event that the case involves the upload of a DNA profile to either a Local, State, or National database (LDIS, SDIS, or NDIS), please provide all documentation maintained by the testing laboratory (including documentation maintained by Combined DNA Index System (CODIS) personnel within the laboratory), including profiles that have been identified as unknown males (not the defendant):
 - 3.1 Documentation of all uploads, including: interpretation and/or deconvolutions of mixed profiles, handwritten notes, spreadsheets, match estimator results, upload forms, and CODIS search forms.
 - 3.2 For each hit, please provide Match Detail Reports and long-form Candidate Match Reports for the hit(s) including partial hits and hits that are dispositioned to be nonmatching (even if the laboratory has dispositioned a profile as a hit).
 - 3.3 Any state manuals regarding the use of the SDIS and NDIS database systems.
 - 3.4 Any hits made to any profile uploaded, even if they hit on individuals not the defendant and deemed to not be candidate matches, including hits to any "unknown" males identified via testing.

The State has provided information related to this request for the DNA on the snap of the knife sheath only. The Defense has requested all DNA profiles including additional profiles developed during the course of law enforcement investigation. See Declarations of counsel for Mr. Kohberger, Bicka Barlow and Steve Mercer filed simultaneously.

6. **Communications:** Please provide a copy of all communications between laboratory personnel and any other party with regard to biological testing in this case, including letters, memos, emails, texts and records of telephone conversations. These materials should include communications with regard to outsourcing of DNA testing, statistical calculations and DNA profiles uploaded to a database.

All emails, text messages, electronic messages or other messages have not been provided. See Declarations of counsel for Mr. Kohberger, Bicka Barlow and Steve Mercer filed simultaneously.

10. **Unexpected results and corrective actions:** For each laboratory that performed DNA testing in this case, please provide copies of the laboratory's logs of unexpected results

and corrective actions. The logs should be provided for the time period beginning 6 months before the start of testing and ending 6 months after the completion of testing. Documentation should be provided for unexpected result events that arose due to mechanical, chemical, and/or analyst operations, including: contamination, the presence of extraneous DNA, sample handling errors, or any other reason. The logs should be provided for all laboratory personnel, not just the analyst(s) who performed the testing in this case. Please note: this is a request for the logs themselves, not just for entries within the logs that pertain to this case.

Unexpected results and corrective actions were requested for the 6 months before and 6 months after testing related to the case. Only entries relating to lab personnel and this case were provided. See Declarations of counsel for Mr. Kohberger, Bicka Barlow and Steve Mercer filed simultaneously.

Genetic Genealogy Testing and Search

1. All reports generated by any lab that conducted SNP testing on any sample in this case, including from samples where “unknown” males, not the defendant, were identified.
2. Copies of all communications between laboratory personnel and any other person or organization, with regard to the instant case, including letters, memos, emails, internet posts, press releases, and records of other communications (including communications with regard to any DNA profile uploaded to any public or private DNA database).
3. All documentation associated with any database search, including, but not limited to, CODIS, NDIS, GEDMatch, Family Tree DNA, and/or felon databases, case sample databases, missing persons databases, and internal quality assurance databases. The documentation should include, but is not limited to, the input profile, the input search parameters, the search output, all reports, all correspondence, and any follow-up actions.
4. All documents related to any genetic genealogy search, including, but not limited to, the creation of a user profile(s), account(s) information, automated search results, uploading of data, all queries and search results from any private or public databank(s), family tree information, and all other documents, reports, notes or other communications pertaining to genealogy DNA database searches.
5. All documents related to any genetic genealogy investigation, including but not limited to additional collection and/or testing of DNA samples, notes of any interviews, documents obtained related to ancestry, and/or recommendations for further testing.
6. All documents related to the comparison of any DNA samples collected during the genealogy investigation to crime scene evidence.

7. The name and address of all persons found to have sufficient sharing centimorgams with the “subject” profile to be identified as a match in the report created in this case.

The State has objected to this discovery request. Further, the State has filed a motion for a Protective Order. Mr. Kohberger incorporates herein his Objection to the State’s Motion for Protective Order as well as Declarations of counsel for Mr. Kohberger, Bicka Barlow and Steve Mercer in Support of Defendant’s Motion to Compel.

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 22 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 22 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


