

CASE NO. CR29-22-2805
7/11/23 @ 4:30pm
CLERK OF DISTRICT COURT
LATAH COUNTY
BY [Signature] DEPUTY

LATAH COUNTY PROSECUTOR'S OFFICE
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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 No. CR29-22-2805

STATE'S SUPPLEMENTAL
RESPONSE TO DEFENDANT'S
SECOND MOTION TO COMPEL
DISCOVERY

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and submits the following supplemental response to "Defendant's Second Motion to Compel Discovery" filed by the Defendant on June 15, 2023 and in compliance with the Court's "Order on Defendant's Second Motion to Compel Discovery" ordered June 29, 2023 *nunc pro tunc* to June 27, 2023.

The State respectfully submits the following specific supplemental responses to

items 1 – 8 (State's responses in blue):

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 and 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 analysis of this data conducted by police agencies.

The State has complied with this request and has provided the following:

Bates 12319-12320 discovered on 6/5/23
Bates 13288-13289 discovered on 6/5/23 (MPD Sup. Report 196).
Bates 14412-14535 discovered on 7/11/23
Bates 14409-14411 discovered on 7/11/23

AV000296 discovered on 5/08/23

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 is identified this as the make and model of vehicle.

The State has complied with this request and has provided the following:

Bates 8920-8924 discovered 4/25/23 (related to a)
Bates 11651-11670 discovered on 6/5/23 (related to b)
Bates 14263-14271 discovered 6/26/23 (related to c)

3. Request 17.

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.

The State has complied with this request and has provided the following:

Hard drive provided to defense on 4/5/23.

4. Request 23.

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.

The State has been informed this phone interview was completed by SA Shirley who confirmed this referenced phone interview was not recorded.

5. Request 109. Identity of the FBI Special Agent that is a member of the Cellular Analysis Survey Team that was consulted with to determine locations of the cell phone form 11/12 to 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.

The State has complied with this request and has provided the following:

Bates 14409-14411 discovered on 7/11/23

6. Request 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 discovery. A complete and chronological list of all tips has not been provided.

The State has complied by providing all tips in its possession to defense. The State will continue to supplement this request as additional information is received. The tips have been provided in the same manner as provided to the State. A “complete and chronological list of all tips” does not exist.

7. Request 136. All audio recordings related 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 the county on 1/13/23.

The State has complied with this request and has provided the following:

AV000017 discovered on 2/7/23.

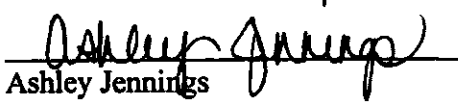
8. Request 164. Bodycam, recordings, notes, photographs and all information collected at the autopsies by Tolleson, Vargas, and Gunnerson.

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.

The State has been advised these items do not exist.

As the State has indicated in its responses to prior discovery requests from the Defense, the State has and will continue to provide discovery in accordance with I.C.R. 16 and applicable law.

DATED this 11th day of July, 2023.


Ashley Jennings
Senior Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing STATE'S SUPPLEMENTAL RESPONSE TO DEFENDANT'S SECOND MOTION TO COMPEL DISCOVERY was delivered to the following as indicated:

Anne Taylor
Attorney at Law
PO Box 9000
Coeur D Alene, ID 83816-9000

- Mailed
- E-filed & Served / E-mailed
- Faxed
- Hand Delivered

Dated this 11 day of July, 2023.

