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*Attorneys for Lori Norene Vallow*

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

vs.

LORI NORENE VALLOW  
AKA LORI NORENE DAYBELL,

Defendant.

Case No.: CR33-20-0302

DEFENDANT'S REQUEST FOR  
DISCOVERY TO PLAINTIFF

PLEASE TAKE NOTICE that the Defendant, Lori Norene Vallow AKA Lori Norene Daybell, by and through undersigned counsel and pursuant to Rule 16(b) of the Idaho Rules of

Criminal Procedure, hereby requests discovery and inspection of the following information, evidence and materials:

1. Statement of Defendant. Permit Defendant to inspect and copy or photograph: any relevant written or recorded statements made by Defendant, or copies thereof, within the possession, custody or control of the State, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by Defendant whether before or after arrest to a peace officer, prosecuting attorney or his agent and the recorded testimony of Defendant before a grand jury which relates to the offense charged.

2. Defendant's prior record. Furnish Defendant such copy of Defendant's prior criminal record, if any, as is then or may become available to the prosecuting attorney.

3. Documents and tangible objects (UNREDACTED COPIES). Permit Defendant to inspect and copy or photograph unredacted copies of all books, papers, documents, reports, photographs, tangible objects, buildings or places or copies or portions thereof which are in the possession, custody or control of the prosecuting attorney and which are material to the preparation of the defense or intended for use by the prosecutor as evidence at trial, or obtained from or belonging to Defendant.

4. Any and all mobile data terminal (MDT) and/or mobile digital computer (MDC) records and/or other data related to this incident.

5. Reports of examinations and tests. Permit Defendant to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case or copies thereof within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence. This request also extends to any and all notes, graphs, charts or

other preliminary data or findings of any type or kind performed during and in the course of such scientific testing, or which in any way relates to the results of such tests provided.

6. Prosecution witnesses. Furnish to Defendant a written list of names and addresses of all persons having knowledge of relevant facts who may be called by the State as a witness at trial together with any record or prior felony convictions of any such person which is within the knowledge of the prosecuting attorney or his agents.

You are herein specifically requested to comply fully and completely with Rule 16 (b)(6) of the Idaho Criminal Rules by providing the true and correct address of each and every witness who is not a law enforcement officer. In the event the State does not have an address for any persons having knowledge of relevant facts related to this case, please provide any contact information the State may possess. You are further requested to provide any statements made by the prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigation of this case and/or any matters related to this case.

You are also notified that, in the event your response to this discovery request does not comply with the cited Rule, in that it fails to provide actual addresses for citizen witnesses, the undersigned attorney for the Defendant will file a Motion to Compel Discovery without further notice to you. By this Motion, the undersigned and will ask the Court to issue an order compelling you to provide defense counsel with the addresses of all persons who may be called as witness by you, awarding the Defendant reasonable attorneys' fees and costs incurred in connection with the filing, supporting and arguing of this Motion, and imposing such other further and additional sanctions as are provided by the Idaho Criminal Rules or elsewhere in the laws of the State of Idaho.

You are also notified that your obligation to make timely compliance with the express language of Rule 16(b)(6) of the Idaho Criminal Rules does not depend upon whether or not you receive a communication from the named victim, and, should you fail, neglect or refuse to comply with the Rule based on the failure of such person to communicate with you, this, too, shall constitute grounds on which the undersigned attorney for the Defendant will file a Motion to Compel Discovery without further notice to you.

Further, you are notified that the blanket objection to providing witness addresses which you now included in your discovery responses also fails to comply with the terms and conditions of Idaho Criminal Rule 16 (b)(6), insofar as it seeks protective orders for all witnesses, absent any particularized and specific showing of any need for a protective order.

You are accordingly notified that, in the event your response to this discovery request fails to provide witness addresses based on a generalized, non-specific policy of always refusing to provide this information, the undersigned attorney for the Defendant will file a Motion to Compel Discovery without further notice to you and will seek all of the relief outlined above.

7. Expert Witnesses:

The Defendant requests the prosecution provide a written summary or report of any testimony that the prosecution intends to produce pursuant to Idaho Criminal Rule 16(b)(7), including the facts and data supporting the opinion and the witness's qualifications.

8. Police reports (UNREDACTED COPIES). Furnish to Defendant unredacted copies of all reports and memoranda in the prosecuting attorney's possession which were made by a police officer or investigatory agent (including Victim-Witness coordinators employed either by the Boise City Police Department, the Ada County Sheriff's Office or the Ada County Prosecutor's Office) in connection with the investigation or prosecution of the case.

You are herein specifically requested to comply fully and completely with all applicable sub-parts of Rule 16 of the Idaho Criminal Rules by providing unredacted copies of all police reports and reports of other investigatory personnel, including but not limited to Victim Witness Coordinators.

You are also notified that, in the event your response to this discovery request does not

comply with the cited Rule, in that the requested reports are redacted, the undersigned attorney for the Defendant will file a Motion to Compel Discovery without further notice to you. By this Motion, the undersigned and will ask the Court to issue an order compelling you to provide defense counsel with unredacted versions of all reports covered by this request, awarding the Defendant reasonable attorney's fees and costs incurred in connection with the filing, supporting and arguing of this Motion, and imposing such other further and additional sanctions as are provided by the Idaho Criminal Rules or elsewhere in the laws of the State of Idaho.

9. Handwritten Notes. Furnish to Defendant any and all original handwritten notes or memoranda of any agents of the State of Idaho who participated in any way in the investigating, arresting or prosecuting the Defendant in this case. This request extends to and includes any and all Victim Witness Coordinators, whether employed by the Boise City Police Department, the Ada County Sheriff's Office or the Ada County Prosecutor's Office, who have had any meetings, phone calls or other contact with any individual who is deemed or considered to be "a" or "the" victim in this case. This request applies whether or not the original handwritten notes or memoranda have subsequently been included in another written report.

Furnish to Defendant the original handwritten notes or memoranda of any agent of the government regarding any of the statements made by prospective witnesses, whether or not the original notes have subsequently been included in other written reports.

10. Furnish to the Defendant unredacted copies of any and all digital media and identify whether the unredacted digital media contains protected information as defined by I.C.R. 16(d)(1). The Defendant hereby requests the consent of the prosecuting attorney to permit the Defendant to review the unredacted digital media in the presence of defense counsel or defense counsel's agent(s). In the event the prosecuting attorney determines that the digital media contains protected information that requires redaction, the Defendant hereby requests that the prosecuting attorney provide a redacted copy of any and all digital media that can be reviewed and retained by the Defendant. Pursuant to I.C.R. 16(9)(B), the Defendant specifically requests that the prosecuting attorney provide a written explanation of the information that was redacted.

11. Brady Materials. Furnish to Defendant any and all other, further or additional material of whatever type or kind, which is or may be exculpatory, which tends to negate the guilt of the accused as to the offense charged, which would tend to reduce the punishment therefore, or which is otherwise discoverable within the meaning of *Brady v. Maryland*, 373 U.S. 83 (1963), including, but not limited to the following:

(a) The results of tests, experiments, examinations, searches or seizures, which produced evidence favorable to the defendant or failed to produce evidence tending to incriminate the defendant;

(b) The name(s) of any other person considered a possible suspect in the case and/or any evidence (including, but not limited to, statements of person interviewed by investigative agents in connection with this case which include the names of other persons connected with the commission

of the offenses with which Defendant is charged) which in any way indicates that other persons may have committed, or aided in the commission of, these crimes;

(c) Any evidence in this case which the government has intentionally or inadvertently destroyed, or for whatever cause, no longer has within its possession. *Brady v. Maryland*, 373 U.S. 83 (1963);

(d) Any evidence, information, testimony, transcripts, or statements indicating that any prospective prosecution witness on any occasion has given false, misleading, or contradictory information regarding the charges at bar or any other matter to any persons, including those involved in law enforcement and their agents or informers, or has engaged in perjury before any court;

(e) Any evidence, information, testimony, transcripts, or statements indicating or showing that the complaining witness is not a truthful person or is a threatening, aggressive, or assaultive person;

(f) Any evidence, information, testimony, transcripts, or statements indicating that any prospective prosecution witness has given a statement which contradicts that of another potential prosecution witness;

(g) The existence and substance of any deals or understandings entered into between any law enforcement agency and any prospective witness to this incident;

(h) Any evidence, information, testimony, transcripts, or statements indicating that any witness is biased or prejudiced regarding the defendant or any case in any way. *United States v. Bagley*, 473 U.S. 667 (1985).

12. Any statements made by the prosecution witnesses, prospective prosecution witnesses, or any other person to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigation of the case.

13. Dispatch Tapes. Furnish Defendant with tape recorded copies of any and all calls made to or from any law enforcement dispatch in connection with this case.

IT IS PARTICULARLY IMPORTANT THAT THE PLAINTIFF RESPOND TO THIS REQUEST AS SOON AS POSSIBLE, GIVEN THAT THE TAPES OF ADA COUNTY LAW ENFORCEMENT DISPATCH CALLS ARE ROUTINELY ERASED, DESTROYED OR OTHERWISE MADE UNAVAILABLE AFTER THIRTY DAYS. THEREFORE, IF A PROMPT RESPONSE TO THIS PARTICULAR REQUEST IS NOT MADE, THERE IS A HIGH LIKELIHOOD THAT MATERIALS TO WHICH THE DEFENDANT IS ENTITLED WILL BE DESTROYED, IN VIOLATION OF *BRADY V. MARYLAND, SUPRA*. IF THE DISPATCH TAPE IS DESTROYED, THERE IS A HIGH LIKELIHOOD THAT THE DEFENDANT, THROUGH COUNSEL, WILL MAKE A MOTION SEEKING SANCTIONS, WHICH COULD INCLUDE THE DISMISSAL OF THIS ACTION, AND BASE THIS MOTION ON THE FAILURE OF THE STATE TO PRESERVE POTENTIALLY EXCULPATORY INFORMATION. IN SUCH CASE, THE FACT THAT THE DEFENDANT TIMELY REQUESTED THAT THIS TAPE BE PRESERVED, AND IT WAS NOT, WILL BE BROUGHT TO THE ATTENTION OF THE COURT.

This request extends to and includes, but is not limited to the following:

- (a) Calls made by any person who is not a law enforcement officer or in the employ of any law enforcement agency, to dispatch for the purpose of reporting a crime or their belief that a crime had happened, was happening, or was about to happen.
- (b) Calls made by any person who is not a law enforcement officer or in the employ of any law enforcement agency, to dispatch for the purpose of making any report whatsoever concerning the conduct or activity of this Defendant, whether or not the person believed that such conduct constituted a crime.
- (c) Calls made by any person who is a law enforcement officer or in the employ of any law enforcement agency, to dispatch for the purpose of reporting a crime, or their belief that a crime had happened, was happening, or was about to happen.
- (d) Calls made by any person who is a law enforcement officer or in the employ of any law enforcement agency, to dispatch for the purpose of making any report whatsoever concerning the conduct or activity of this Defendant, whether or not the person believed that such conduct constituted a crime.
- (e) Calls made by dispatch to any law enforcement officer or person in the employ of any law enforcement agency, in response to, in connection with, or as a result of any call or calls received by dispatch from any person or persons (whether or not the person making such call into dispatch was a law enforcement officer or person in the employ of any law enforcement agency).

- (f) Calls made by any law enforcement officer or any person in the employ of any law enforcement agency **TO** dispatch, after such officer or person had first received a call or message **FROM** dispatch, directing them to take any action which brought them into contact with the Defendant, directing them to respond to a place where the Defendant was known or suspected to be, or directing them to respond to any situation where they did in fact encounter the Defendant or some person who directed them to the Defendant.
- (g) Calls made by any law enforcement officer or person in the employ of any law enforcement agency **TO** dispatch, after such officer or person had first received a call or message **FROM** any other law enforcement officer or person in the employ of a law enforcement agency, who had, in their turn previously received a call **FROM** dispatch, directing them to take any action which brought them into contact with the Defendant, directing them to respond to a place where the Defendant was known or suspected to be, or directing them to respond to any situation where they did in fact encounter the Defendant or some person who directed them to the Defendant. (By this subparagraph, Defendant is requesting tapes of calls made by an officer or other law enforcement employee back to dispatch, after such officer or person responded to a call from a different officer or person who had received a direct call from dispatch).

14. Other Crime(s) Evidence. Inform Defense Counsel, in writing, as to whether or not the State of Idaho intends to introduce any evidence of "other crimes, wrongs or acts" in addition to the crimes charged against the Defendant in this Complaint. If so, provide the following:

- (a) The date(s), time(s) and place (s) of the crime(s), wrong(s), or act(s);
- (b) A description of the crime(s), wrong(s) or act(s) involved;
- (c) The names, addresses and telephone number of all individuals involved in the crime(s), wrong(s), or act(s) as either principals, accomplices, victims or witnesses;
- (d) The purpose of which the State of Idaho intends to introduce such evidence. (See Rule 404 of the Idaho Rules of Evidence).

15. Tape Recordings. Disclose and Furnish to Defense Counsel the following:

- (a) Whether Defendant has been the subject of electronic surveillance, eavesdropping, wiretaps and/or other recordings (both audio and/or visual);
- (b) Whether any application was made to any court for authorization to intercept or record any conversation by Defendant, any conversation related to Defendant, and/or

any communication instrument controlled, owned or used by Defendant, and, if any such application was made, produce a copy thereof;

- (c) Whether any order authorizing surveillance, eavesdropping, wiretaps or other recordings were granted, if any such order was issued, produce a copy thereof; and
  - (d) Produce copies of any and all recordings of intercepted conversations, statements, and/or other activities of Defendant, and all logs, memoranda, and transcripts relating to such intercepted conversations, statements and /or other activities.
16. Other Information. Furnish Defendant with any and all other further or additional material of whatever type or kind, to which Defendant is or may be entitled by virtue of Idaho Criminal Rule 16 and any case law interpreting or construing that rule.

DATED this 4<sup>th</sup> day of March, 2020.

BRIAN WEBB LEGAL



By:

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EDWINA E. ELCOX, of the firm  
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4<sup>th</sup> day of March, 2020, I caused to be served a true copy of the foregoing document by the method indicated below, and addressed to those parties marked served below:

<u>Served</u>	<u>Party</u>	<u>Counsel</u>	<u>Means of Service</u>
<input checked="" type="checkbox"/>	Plaintiff	Madison County Prosecuting Attorney 159 E. Main St. P.O. Box 350 Rexburg, Idaho 83440 <a href="mailto:rwood@co.madison.id.us">rwood@co.madison.id.us</a>	<input checked="" type="checkbox"/> eFile/Email



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Angela L. Piccola