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

STATE OF IDAHO,

Plaintiff,

v.

LORI NORENE VALLOW, AKA LORI
NORENE DAYBELL,

Defendant.

Case No.: CR33-20-0302

DISCOVERY DISCLOSURE

COMES NOW, The State of Idaho, by and through the Madison County Prosecuting Attorney's Office and hereby responds to the Defendant's Discovery Request as follows:

1. Response to Defendant's Discovery Request No. 1:

Any written or verbal statements are located in the reports sent in this disclosure or prior disclosures and/or on videos previously disclosed.

2. Response to Defendant's Discovery Request No. 2:

The Defendant's criminal record is attached herein.

3. Response to Defendant's Discovery Request No. 3:

Any reports or exams are located in the documents attached or previously disclosed.

4. Response to Defendant's Discovery Request No. 4:

The state may call any of the following at a trial, preliminary hearing, grand jury hearing, or any other hearing in this matter. The State reserves the right to disclose other witnesses in the future:

- a. Det. Ron Ball, Rexburg Police (hereinafter RPD)
- b. Det. Ray Hermosillo, RPD
- c. Det. Dave Stubbs, RPD
- d. Det. Chuck Kunsaitis, RPD
- e. Det. Dave Hope, RPD
- f. Det. Rick Schmitt, RPD
- g. Det. Randy Reese, RPD
- h. Officer Kellen Whetten, RPD
- i. Det. Chad Cataluna, Kauai Police Department
- j. Det. Ryan Pillar, Gilbert Police Department
- k. Det. Nate Moffat, Chandler Police Department
- l. Melanie Gibb
- m. David Warwick
- n. Chad Daybell (Please see I.R.E. 504(d)(1))
- o. Julie Wilcox
- p. Larry Woodcock
- q. Kay Woodcock
- r. Adam Cox
- s. Zackary Cox
- t. Brandon Boudreax
- u. Melanie Powlaski
- v. Ian Powlaski
- w. Leah Bernard
- x. Seth Bernard
- y. SAC Chris Smith, National Park Service
- z. Deputy Chief Ranger Chris Flesch, National Park Service
- aa. Sidney Woodbury
- bb. Travis Homer, FBI
- cc. Ricky Wright, FBI
- dd. Michael Douglass, FBI
- ee. Mark Saari, Social Security Investigator
- ff. Jason Gwilliam
- gg. Colby Ryan
- hh. Jack Daybell
- ii. Sheila Daybell
- jj. Teresa Christensen, 2nd Grade Teacher
- kk. Joshua Wilson, Kennedy Elementary School Principal
- ll. Randy Lords, Madison School District

mm. Julie Black
nn. Dale Guthrie, MD
oo. Gary Auxier, MD
pp. Tim Jacks, DO
qq. Robert Minicola, Kauai Beach Resorts
rr. Shawn Derrick, Blue Sky Property
ss. Greg Krause
tt. Traci Singleton, IDHW
uu. Audrey Barattiero
vv. Reverend Colin Moore, AKA Kahu Coco

5. Response to Defendant's Discovery Request No. 5:

Any police reports/records are attached herein or have previously been disclosed.

6. Response to Defendant's Discovery Request No. 6:

Please see the attached documents.

7. Response to Defendant's Discovery Request No. 7:

Defendant's Request No. 7 requests "Police/investigating entity's: emails, text messages, voice messages, records, telephone call/text records, or the like to any persons contacted/communicated with regarding the above case, whether on police issued communication device(s) or personal devices(s) (for example: computer, cellular phone, text device, etc.) from Jan. 2019 to present or before said date if such communication occurred.

The State objects to Defendant's Discovery Request No. 7 to the extent it has not already complied in that the request is vague, overly broad, unduly burdensome, may include attorney work product, and is outside the scope of I.C.R. 16.

8. Response to Defendant's Discovery Request No. 8:

Defendant's request No. 8 requests cellular and internet provider contact information regarding all police authority/investigating entity for both personal and city/agency/employment communication device(s) for each and every person(s) involved in the child welfare check relevant to his matter and or assigned an investigative duty regarding the above case. The State objects to request No. 8 to the extent it has not already complied on the grounds that I.C.R. 16 does not require the state to furnish the cellular and internet provider information of the police or other

investigators as that information is outside the scope of I.C.R. 16. The State further objects on the grounds that said information is irrelevant to the case.

9. Response to Defendant's Discovery Request No. 9:

Defendant's request No. 9 requests a "list of any and all person(s) full name, address, telephone number, email address, and any other corresponding contact information for any and all person(s) contacted by the Rexburg City Police, Madison County Sheriff's Department, or any other agency/entity in regards to the above matter. Please include the following: detailed dates of said contact/communications, contents of communications, statements made by officers/entity/attorneys, description of how communication was conducted (telephone, cell phone, email, text message, facsimile or the like, etc.)"

Please see the Rexburg City Police report already provided to the defendant. Further, the State has forwarded this request to the Rexburg City Police for any further information the Rexburg City Police have. Nevertheless, the State objects to Request No. 9 to the extent it has not already complied and to the extent that Request No. 9 requests the State to collect evidence for the Defendant. As explained in *State v. Boehm*, 346 P.3d 311, 2015 Ida. App. 11 (2015), neither *Brady* nor Idaho Criminal Rule 16 requires the State to locate and provide all of the information sought via Defendant's Request No. 9:

The prosecutor does not have a general duty to collect evidence. *State v. Bryant*, 127 Idaho 24, 28, 896 P.2d 350, 354 (Ct. App. 1995). Nor is there a "constitutional requirement that the prosecution make a complete and detailed accounting to the defense of all police investigatory work on a case." *Moore v. Illinois*, 408 U.S. 786, 795, 92 S. Ct. 2562, 33 L. Ed. 2d 706 (1972); accord *United States v. Bagley*, 473 U.S. 667, 675, 105 S. Ct. 3375, 87 L. Ed. 2d 481 (1985) ("[T]he prosecutor is not required to deliver his entire file to defense counsel."). Due process, though, requires that the prosecutor disclose to the defendant all material exculpatory evidence known to the prosecutor or in his possession. *State v. Lewis*, 144 Idaho 64, 66-67, 156 P.3d 565, 567-68 (2007); see also *State v. Gardner*, 126 Idaho 428, 433, 885 P.2d 1144, 1149 (Ct. App. 1994) (explaining that the duty under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963) is an obligation of not just the individual prosecutor assigned to the case, but of all the government agents having a significant role in investigating and prosecuting the offense). The duty to disclose material exculpatory evidence is also found in I.C.R. 16(a). *Gardner*, 126 Idaho at 432, 885 P.2d at 1148 (noting that I.C.R. 16(a) is in tandem with this constitutional obligation stemming from the Due Process Clause). Idaho Criminal Rule 16 also provides that the defendant may request that the prosecution

disclose other items. *See* I.C.R. 16(b). Relevant to this appeal, the prosecutor may satisfy the requirements of I.C.R. 16(b) with respect to documents, papers, tangible objects, and reports of examinations and tests by "permit[ing] the defendant to inspect and copy or photograph" the items. I.C.R. 16(b)(4) & 16(b)(5).

Boehm, 346 P.3d. at 317-318, 2105 Ida. App. 11, 3-4

Notwithstanding the above objection, the State has provided the witness information it possesses and will supplement this response in the event such additional information becomes available. The State further objects to the extent the request attempts to circumvent Rule 16(d).

10. Response to Defendant's Discovery Request No. 10:

The Defense Request No. 10 requests a "Copy of any and all contact/communications (emails, text, facsimiles, telephone records, call logs, text logs, or the like) between investigating entity, police, deputy, or the like and persons identified in these requests. Please see the Rexburg Police Report already provided to the Defense. Further, the State objects to Request No. 10 to the extent it has not already complied in that the request is vague, overly broad, unduly burdensome, may include attorney work product, and is outside the scope of I.C.R. 16.

11. Response to Defendant's Discovery Request No. 11:

The Defense Request No. 11 requests "Copies of any and all audio or video recordings, documents, records, etc., associated/related too/relevant to the incidents alleged and or associated incidents and or events of which Prosecution alleged/mentioned at the 3/6/20 arraignment/bond hearing before this Court. Please see the Rexburg Police Report already provided to the Defense. Further, the State is in the process of gathering financial records of the Defendant which the State anticipates sending to the Defendant within a week of this disclosure, if not sooner.

12. Response to Defendant's Discovery Request No. 12:

Included in this disclosure is the Cellebrite forensic report of Charles Vallow's cellphone. The State is in the process of gathering and preparing multiple Cellebrite forensic reports of cellular devices and tablets to deliver to the Defendant, including but not limited to multiple iPads and phones seized from the Defendant and her Husband.

13. Response to Defendant's Discovery Request No. 13:

The Defendant's Requests 13 requests: Toxicology reports/autopsy reports and any and all corresponding/associated documents, records, testing results, procedures used, expert reports, notes, charts, chemical analysis, expert opinions, persons involved (identifying information, role of involvement, employment title/position, education of persons) or the like regarding the autopsy of the following:

a. Deceased, Mr. Charles Vallow, former husband of Defendant.

b. Deceased, Mr. Alex Cox, brother of Defendant.

c. Deceased Mrs. Tami Daybell, former spouse of Mr. Chad Daybell.

d. Deceased Mr. Joe Ryan, former husband of Defendant.

The State objects to Request No. 13 to the extent it has not already complied on the grounds that the requested items are outside the care and custody of Madison County Prosecutor's Office and the deaths of the above mentioned individuals are irrelevant to the desertion of the minor children who are the subject of the above-captioned case. Further, the Madison County Prosecutor's Office has no jurisdiction over the investigation of the deaths of any of the mentioned individuals. Any information the Madison County Prosecutor's Office may have pertaining to the deaths of the above mentioned individuals has already been provided to the Defense in the State's initial discovery disclosure and would be found in the Rexburg Police Report and accompanying documents. Further, the requested information is likely part of continuing investigations that investigating agencies have no duty to report during an investigation phase. Should any of the agencies involved in the investigations of the above-named deceased persons provide any of the requested documentation to the Madison County Prosecutor's Office the State would forward that documentation to the Defense. Nevertheless, the State further objects to Request No. 13 to the extent it has not already complied and to the extent that Request No. 13 requests the State to collect evidence for the Defendant. Please see the State's response to Request No. 9. Finally, the State objects to the Defendant's Request No. 13 in that it is overly broad, unduly burdensome, and outside the scope of I.C.R. 16 as it relates to the case currently before the Court. The State will comply with the requirements set out in Brady v. Maryland, 373 U.S. 83 (1963).

14. Response to Defendant's Discovery Request No. 14:

The Defendant's Request No. 14 requests:

Any and all records related to the following:

a. Investigation (including any and all requested "records" etc., above) materials, files, records, reports, regarding Mr. Charles Vallow, deceased husband of Defendant; Please include all emails for past two years from Mr. Vallow's "Gmail" email account, all social media postings, dating/romantic website information/communications, all financial records including but not limited to life insurance policy records, Chase credit accounts, UFCU credit union (Austin, Texas); US Bank Credit Card, Chandler, Arizona Police department records, reports, etc. All records from Mr. Charles Vallow items (which belong to Defendant) cellular telephone and laptop and or other items/properties in the possession of the Chandler Arizona Police Department.

b. Investigation (including any and all requested records, etc., above) regarding Mr. Alex Cox, deceased brother of Defendant;

c. Investigation (including any and all requested etc., above) regarding Mrs. Tami Daybell, deceased;

d. Investigation (including any and all requested etc., above) regarding Mr. Joe Ryan, deceased;

e. All the above related to or concerning the allegations made against Defendant in this case.

f. Any and all of the above provided previously or in the future to the Prosecution of the above case by and any all law enforcement agency whether said agency be local, county, state, or federally associated. Including but not limited to City/County Police/Sheriff's departments, and or the Federal Bureau of Investigation (FBI).

g. All audio presentation/broadcasts, podcast, presentation, or the like regarding Defendant, involving defendant, or mentioning defendant.

h. All records, text, email, documents, records, forensic computer/electronic analysis/records, school and education records, financial institutional records, communications, videos, pictures tangible/intangible of minor child Joshua "JJ" Vallow and Tylee Ryan.

i. Any and all other documents, records, exhibits, evidence, etc., that the Prosecution intends to offer as evidence at the trial of this matter.

The State objects to Request No. 14 to the extent it has not already complied on the grounds that the request is vague, overly broad, unduly burdensome, may include attorney work product, and is outside the scope of I.C.R. 16 insofar as it requests information regarding investigations into the deaths of Alex Cox, Charles Vallow, Tami Daybell, and Joe Ryan. Further, the State objects because Request 14(a) would require the State to collect evidence for the Defendant. Please see the State's objection and response to Defendant's request no. 9. The State further objects for the reasons stated in its objection to the Defendant's request no. 13.

DATED this 20th day of April, 2020.

/s/ Rob H. Wood

Rob H. Wood

Madison County Prosecuting Attorney

CERTIFICATE

I HEREBY CERTIFY that on this 20th day of April, 2020, that a copy of the foregoing DISCOVERY DISCLOSURE was hand delivered, emailed, faxed or mailed to the following party as indicated:

Mark L. Means
429 SW 5th Avenue, Ste. 110
Meridian, Idaho 83642
mlm@means-law.com

- U.S. Mail
- Hand Delivered
- Courthouse Box
- Facsimile:
- File & Serve
- Email

By: /s/ Jodi L. Thurber _____