

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

Assigned Attorney:
Anne Taylor, Public Defender, Bar Number: 5836

**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 REQUEST
FOR DISCOVERY PURSUANT
TO IC.R. 16**

TO: THE PROSECUTING ATTORNEY

COMES NOW, Bryan C. Kohberger, by and through their attorney of record, Anne Taylor Public Defender, and pursuant to Rule 16 of the Idaho Rules of Criminal Procedure, the Idaho Rules of Evidence, the Fourth, Fifth, Sixth Eighth and Fourteenth Amendments to the Constitution of the United States, and Article I, § 1, 2, 13 and 17 of the Constitution of the State of Idaho, hereby requests disclosure of information, evidence and materials pursuant to I.C.R. 16b(1 – 9) and the aforementioned constitutional provisions, including but not limited to the following information, evidence and materials:

1. Statements of the defendant. Permit the defendant to inspect and copy or photograph: any relevant written or recorded statements made by the 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 the defendant whether before or after arrest to a peace officer, prosecuting attorney or his agent, and the recorded testimony of the defendant before a grand jury which relates to the offense charged.

2. Statements of co-defendant. Any written or recorded statements by a co-defendant, and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney, or which are otherwise relevant to the offense charged.

3. Defendant's prior record. A copy of the defendant's prior record, if any, as is then or may become available to the prosecuting attorney.

4. Documents and tangible objects. Permit the defendant to inspect and copy all books, papers, documents, photographs, tangible objects, and copies and portions thereof, which are in the possession 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 the defendant.

5. Reports of Examinations and Tests. Permit the defendant to inspect and copy any results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with the particular case, that are in the possession, custody or control of the prosecuting attorney or the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

6. State witnesses. Provide a written list of the names, addresses, phone numbers and/or other reasonable means of contact for all persons having knowledge of relevant facts who may be called by the prosecuting attorney as witnesses at trial, together with a NCIC report and a Spillman report of any such persons.

A. Provide the statements made by the prosecution witnesses, or prospective witnesses, made to the prosecuting attorney or their agents, or to any official involved in the investigatory process of the case. This includes statements to employees of the

prosecutor's office such as witness coordinators and all members of any law enforcement agency that has had any involvement in the matter.

7. Expert witnesses. Provide a written summary or report of any testimony that the state intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications. The underlying facts or data that form the basis of any expert testimony pursuant to Idaho Rule of Evidence 705. Disclosure of expert opinions regarding mental health shall also comply with the requirements of I.C. § 18-207.
8. Police Reports. Provide to the defendant all reports, all memoranda and all rough notes or field notes of any agents, officers and investigators involved in the investigation or prosecution of the defendant in connection with the above-entitled case.
9. Digital Media Recordings (audio and video files). Release to defendant digital media that may or may not contain protected information as defined by I.C.R. 16. The prosecuting attorney must state whether the disclosure contains protected information.
 - A. Unredacted Digital Media. Release unredacted digital media to defense counsel for the purpose of expediting a resolution in a case prior to trial or hearing.
 - B. Redacted Digital Media. Provide redacted version(s) of digital media, along with a written explanation of the information that was redacted, if the prosecuting attorney determines the digital media contains protected information requiring redaction prior to disclosure.
10. Search Warrants. Provide all documentation in support of any search warrant issued in connection with this case, applications for search warrants (whether granted or denied), all affidavits, declarations and materials in support of such search warrants, all search warrants and all search warrant returns and inventories.
11. Exculpatory evidence. Provide to the defendant all material evidence within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963), *United States v. Agurs*, 427 U.S. 97 (1976), *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555 (1995) and their progeny. Specifically, any and all favorable or exculpatory evidence, information, and documents in possession of the prosecuting attorney's office or other agency or person available to the prosecution through due diligence.

A. *See also*, Idaho Rules of Professional Conduct 3.8 (d) and (g).

12. Inducement. Provide to the defendant all documents pertaining to the existence and substance of any payments, promises of leniency, preferential treatment or other inducements or threats made to prospective witnesses, within the scope of *United States v. Giglio*, 405 U.S. 150 (1972) and *Napue v. Illinois*, 360 U.S. 264 (1959) and their progeny.

13. Identification. Disclosure of whether a defendant, or any other person, was identified by lineup, show up, photo spread or similar identification proceeding relating to the offense charged, and production of any pictures utilized or resulting therefrom and the names, addresses and telephone numbers of all identifying witnesses.

14. Evidence pursuant to I.R.E. 404(b). Pursuant to the I.C.R. 16(a) requirement of mandatory disclosure, the Prosecution must disclose the general nature of evidence of other crimes, wrongs, or acts, it intends to introduce at trial as required by I.R.E. 404(b), *see, e.g., State v. Grist*, 147 Idaho, 205 P.3d.1185 (2009)

15. Electronic surveillance. Disclosure of the defendant's status as an aggrieved person as defined by 18 U.S.C. § 2510(11), if applicable, and copies of all records and recordings related to all electronic surveillance, and set forth in writing the circumstances thereof.

16. Drug tests. Provide a copy of all documentation generated as a result of performed drug tests by the State's agent for drug identification purposes, including types of testing performed in this case, testing procedures, reagents and/or solvents used in testing, comparative analyses performed, and number of experiments performed in each test.

17. Subpoenas. Provide copies of each and every subpoena issued by the State to any person or entity, regardless of whether served or not, in connection with this case.

18. Certifications. Provide verification of the hire date of all law enforcement officers that may be called as a witness in this matter, or who were involved in the investigation and/or arrest(s) in this case. Provide a copy of the POST certification for all law enforcement officers identified above.

Pursuant to I.C.R. 16(f), the defendant demands compliance from the State within fourteen (14) days of service of these requests.

DATED this 10 day of January, 2023.

ANNE C. TAYLOR, PUBLIC DEFENDER
KOOTENAI COUNTY PUBLIC DEFENDER



BY: _____

ANNE C. 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 10 day of January, 2023 addressed to:

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


