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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,

Case No. CR29-22-2805

STATE'S RESPONSES TO
DEFENDANT'S "MOTION TO
ALLOW CERTAIN EXPERTS
AND INVESTIGATORS
PROTECTED ACCESS TO VIEW
IGG MATERIALS" AND
"MOTION REQUESTING
CLARIFICATION OF THE
SEALED ORDER FOR
DISCLOSURE OF IGG
INFORMATION AND
PROTECTION ORDER"

V.

BRYAN C. KOHBERGER
Defendant.

COMES NOW the State of Idaho, by and through the Latah County Prosecuting
Attorney, and respectfully submits the following responses to the Defendant's "Motion to

STATE'S RESPONSE TO DEFENDANT'S
"MOTION TO ALLOW CERTAIN EXPERTS AND
INVESTIGATORS PROTECTED ACCESS TO VIEW
IGG MATERIALS" AND "MOTION REQUESTING
CLARIFICATION OF THE SEALED ORDER FOR
DISCLOSURE OF IGG INFORMATION AND PROTECTION ORDER"

Allow Certain Experts and Investigators Protected Access to View IGG Materials” filed on February 1, 2024, and Defendant’s “Motion Requesting Clarification of the Sealed Order for Disclosure of IGG Information and Protection Order” filed on February 8, 2024.

Regarding the expansion of the protection order to include Dr. Leah Larkin, Bicka Barlow, and Steven Mercer, the State does not object.

Regarding the expansion of the protection order to include unnamed “criminal investigators” unfettered access to the IGG Materials, the State objects. At a minimum, individuals who will have access to any of the IGG materials should be named. Further, Defense has failed to make an adequate showing as to “why such individual[s] [need the] information for the preparation of the defense.” Defendant states that the information is requested to “investigate how and when Mr. Kohberger was identified as a suspect.” This information can be obtained from the *Touhy* letter from the FBI to the State dated November 28, 2023. The State objects to the balance of the IGG materials being provided to the criminal investigators for the reasons articulated by the Court in its protective order.

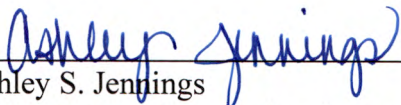
Regarding the Defense’s “Motion Requesting Clarification of the Sealed Order for Disclosure of IGG Information and Protection Order,” the Defense experts or investigators should not be allowed to use the protected materials to identify individuals or witness to contact without prior authorization from the Court and after showing why such contact is necessary for the preparation of the defense. This would not prohibit the defense from contacting potential witnesses learned through sources outside of the protected information.

The State respectfully submits that the appropriate course of action would be for the

court to amend “Sealed Order for Disclosure of IGG Information and Protection Order” to allow Dr. Leah Larkin, Bicka Barlow, and Steven Mercer, access to the IGG Materials disclosed to the defense. The criminal investigators seeking access to the information should be named in the Order and those investigators should only be allowed access to the November 28, 2023 letter provided to the defense. The State also requests the following language for an Amended Protective Order:

The Court orders that only defense counsel (Anne Taylor, Jay Logsdon, and Elisa Massoth), Defendant (Bryan Kohberger), and Dr. Leah Larkin, Bicka Barlow, and Steven Mercer, may view the materials provided. [Insert the names of the criminal investigators] may view the November 28, 2023 letter contained within the materials. Any further dissemination of the materials or the information contained within the materials, must first be approved by the Court after an adequate showing by the defense as to why such information is necessary and material to the preparation of the defense. Additionally, no individual learned solely through the review of the materials, shall be contacted by the defense or any agent of the defense without prior authorization from the Court after an adequate showing as to why such contact is necessary and material to the preparation of the defense.

RESPECTFULLY SUBMITTED this 9th day of February, 2024.



Ashley S. Jennings
Senior Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing STATE'S RESPONSE TO DEFENDANT'S "MOTION TO ALLOW CERTAIN EXPERTS AND INVESTIGATORS PROTECTED ACCESS TO VIEW IGG MATERIALS" AND "MOTION REQUESTING CLARIFICATION OF THE SEALED ORDER FOR DISCLOSURE OF IGG INFORMATION AND PROTECTION ORDER" 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 07th day of February, 2024.

