

OFFICE OF PROSECUTING ATTORNEY

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ASSIGNED PROSECUTOR: ☒ Benjamin Allen; ☐ Britney Jacobs; ☐ Scott Sergeant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF SHOSHONE

STATE OF IDAHO,		No. CR40-23-970
vs.	Plaintiff,	
Majorjon Kaylor,	Defendant.	STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

COMES NOW, ☒ Benjamin Allen; ☐ Britney Jacobs; ☐ Scott Sergeant, a prosecuting attorney, in and for Shoshone County, State of Idaho, and pursuant to I.C.R. Rule 16, hereby responds to the Defendant's Request for Discovery as follows:

DEFENSE COUNSEL IS HEREBY NOTIFIED that this document shall serve as a "State's Response to Defendant's Request for Discovery." As a result, the enclosed response to discovery includes information governed by Idaho Criminal Rule 16, and may contain protected information that includes but is not limited to contact information, personal identifying information, and private information as those terms are defined within the rule. An **unredacted** version of this information is provided herewith. Pursuant to Idaho Criminal Rule 16(d)(2) Defense counsel, including any appellate counsel if applicable, **shall not disclose the unredacted or protected information to the defendant, or to a member of the defendant's family, without the consent of the prosecuting attorney or an order of the court upon a showing of need.**

THE STATE ALSO REQUESTS DISCOVERY FROM DEFENDANT PURSUANT TO ICR 16(c), for all discovery authorized within that Rule.

1. STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

The State objects to and will not comply with any request that may be construed to request any information that is in excess of wording of Rule 16(a) and 16(b). The State objects to any portion of Rule 16(a) and 16(b) that compels trial type discovery prior to the time when trial preparation is completed. To the extent any information provided by the State is beyond the scope of I.C.R. 16, by providing such information, the State does not waive any objection to requests for other information that is outside the scope of I.C.R. 16, nor does the State waive any right to object to the admissibility of any evidence.

If the defense believes it is entitled to discovery beyond that authorized by I.C.R. 16(a) and (b), the defense may make a motion to that effect pursuant to I.C.R. 16(b)(10) demonstrating its substantial need for the additional information and satisfying the Court that the defense is unable without undue hardship to obtain the substantial equivalent of that information by other means. To the extent the defense believes this response is non-compliant with I.C.R. 16, the State requests that the defense provide to our office a detailed written statement outlining what additional information is requested and why the State's response is insufficient *prior to the time scheduled for pretrial conference in the case.*

I.C.R. 16(a) Mandatory Disclosure (*Brady-Agurs*). The State is unaware of any evidence that is exculpatory on its face relating to the offenses charged other than that which may be included in the discovered documents, audio and/or video. With regard to evidence that may be exculpatory as used or interpreted, the State requests that the defense submit, in writing, the defense to be asserted in this case so the State can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the State will make arrangements, upon written request, for defense counsel to review those documents in the control and possession of the State that may be exculpatory in some manner to the offense charged. The defendant is hereby

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advised that the Shoshone County Sheriff's Office permits jail inmates to communicate with persons outside of the jail, which are captured electronically for a limited period of time through a third-party, Telmate. Due to the limited resources of the State, the prosecutor is unable to disclose if any particular communications exist that may be exculpatory. To the extent that the State identifies or becomes aware of a specific communication that contains exculpatory or impeachment evidence, or identifies a communication that is likely to be used at the time of trial, you will be advised of this communication.

I.C.R. 16(b) Disclosure by State upon Written Request.

1) Statement of Defendant. The known statements of the defendant for this case are contained in the police report, documents and information provided in our discovery responses, as well as any statements captured by the third party system related to electronic jail communications.

2) Statement of Co-Defendant. The known statements of any Co-Defendant(s) are contained in the police report, documents and information provided in our discovery responses, as well as any statements captured by the third party system related to electronic jail communications.

3) Defendant's Prior Record. The Defendant's known prior criminal record as is currently known to the State has been provided. This serves as notice of the intention to use the defendant's criminal history should any fall under I.R.E. 609(b).

4) Documents and Tangible Objects. The State has identified the following documents and tangible objects that are in the possession, custody or control of the prosecutor and that (A) are material to the preparation of the defense, (B) are intended for use by the prosecutor as evidence at trial, or (C) were obtained from the Defendant or belong to the Defendant.

You are hereby notified the State may use all or any portion of the items provided as exhibits at the time of trial. The State certifies that on June 27, 2023, the following discovery was ☒ e-served,

3. STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

☐ mailed, ☐ hand-delivered / placed in interoffice mail, to Christopher Schwartz, Attorney at Law.

1. Complaint (3 pgs) Bate Stamp No. Kaylor – 000001 – Kaylor – 000003
2. Probable Cause Order (2 pgs) Bate Stamp No. Kaylor 000004 – Kaylor – 000005
3. Affidavit in Support of a Warrantless Arrest (4 pgs) Bate Stamp No. Kaylor – 000006 – Kaylor 000009
4. Prebooking Arrest Report (1 pg) Bate Stamp No. Kaylor – 000010 – Kaylor – 000010
5. Criminal History (3 pgs) Bate Stamp No. Kaylor – 000011 – Kaylor – 000013
6. Incident Report for 03-2023-137 (2 pgs) Bate Stamp No. Kaylor – 000014 – Kaylor – 000015
7. Kellogg Police Department Report (3 pgs) Bate Stamp No. Kaylor – 000016 – Kaylor – 000018
8. Statement Form for Kaylie Kaylor (2 pgs) Bate Stamp No. Kaylor – 000019 – Kaylor – 000020
9. Statement Form for Majorjon Kaylor (2 pgs) Bate Stamp No. Kaylor – 000021 – Kaylor – 000023
10. Photos (2 pgs) Bate Stamp No. Kaylor – 000024 – Kaylor – 000025
11. Eddy POV (1 disc – Interoffice Mail) Bate Stamp No. Kaylor – 000026 – Kaylor – 000026
12. Jail Communications. If the Defendant/Co-Defendant(s) was incarcerated during the pendency of this case, there may be recorded conversations. Pursuant to I.C.R. 16(b)(1) and/or (2), you are hereby put on notice of the existence of such communications. Any such communications may be used by the State as evidence at trial and upon identification of a specific communication intended to be used, the State will provide the same to you through a supplemental discovery response.
13. You are hereby notified that to the extent the State has disclosed any maps, charts, diagrams or photographs, it may be used by the State for demonstrative purposes.

The State certifies that on July 6, 2023, the following discovery was ☐ e-served, ☐ mailed,

☒ hand-delivered / placed in interoffice mail, to Christopher Schwartz, Attorney at Law. All discovery will be placed on a flashdrive(s) and placed into interoffice mail.

1. Devin Smith Autopsy Report (Bate Stamp No. Kaylor – 000027 – Kaylor – 000036)
2. Devin Smith Autopsy Photos (Bate Stamp No. Kaylor – 000037 – Kaylor – 000187)
3. Kenneth Guardipee Autopsy Report (Bate Stamp No. Kaylor 000188 – Kaylor – 000196)
4. Kenneth Guardipee Autopsy Photos (Bate Stamp No. Kaylor – 000197 – Kaylor – 000354)
5. Kenna Guardipee Autopsy Report (Bate Stamp No. Kaylor – 000355 – Kaylor – 000364)

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6. Kenna Guardipee Autopsy Photos (Bate Stamp No. Kaylor – 000365 – Kaylor – 000494)
7. Aiken Smith Autopsy Report (Bate Stamp No. Kaylor – 000495 – Kaylor – 000-502)
8. Aiken Smith Autopsy Photos (Bate Stamp No. Kaylor – 000503 – Kaylor – 000604)
9. Curriculum Vitae for Sean Ricciardo (Bate Stamp No. Kaylor – 000605 – Kaylor – 000609)
10. Idaho State Police Autopsy Photos (Bate Stamp No. Kaylor – 000609 Kaylor – 0001149)
11. Autopsy Property Receipts (Bate Stamp No. Kaylor – 001150 – Kaylor – 001153)
12. Medical Papers (Bate Stamp No. Kaylor – 001154 – Kaylor – 001166)
13. Evidence Processing Photos (Bate Stamp No. Kaylor – 001167 – Kaylor – 001269)
14. 06/21/23 Search Warrant Photos (Bate Stamp No. Kaylor – 001270 – Kaylor – 001712)
15. Photos of Search of Safe Downstairs (Bate Stamp No. Kaylor – 001713 – Kaylor – 001776)
16. Call/Interview Recordings (Bate Stamp No. Kaylor – 001777 – Kaylor – 001789)
17. Sherri Dempsy Handwritten Notes (Bate Stamp No. Kaylor – 001790 – Kaylor – 001792)
18. Evidence and Property Report (Bate Stamp No. Kaylor – 001793 – Kaylor – 001795)
19. Evidence Photos (Bate Stamp No. Kaylor – 001796 – Kaylor – 001832)
20. Jail Calls (Bate Stamp No. Kaylor – 001833 – Kaylor – 001833)
21. Jail Video Calls (Bate Stamp No. Kaylor – 001834 0 Kaylor – 001834)
22. Majorjon Kaylor Interview (Bate Stamp No. Kaylor – 001835 – Kaylor 001835)
23. Kaylie Kaylor Interviews (Bate Stamp No. Kaylor – 001836 – Kaylor – 001836)
24. 911/Dispatch Audio from 06/18/23 (Bate Stamp No. Kaylor – 001837 – Kaylor – 001837)
25. Initial Surveillance from Cascadia (Bate Stamp No. Kaylor – 001838 – Kaylor – 001838)
26. Report for 16KEL-11721-OF (Bate Stamp No. Kaylor – 001839 – Kaylor – 001841)
27. Report for 16KEL-14085-OF (Bate Stamp No. Kaylor – 001842 – Kaylor – 001850)
28. Report for 03-2018-167 (Bate Stamp No. Kaylor – 001851 – Kaylor – 001854)
29. Report for 03-2019-32 (Bate Stamp No. Kaylor – 001855 – Kaylor – 001857)
30. Report for 03-2019-106 (Bate Stamp No. Kaylor – 001858 – Kaylor –

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- 001870)
31. Johnson POV for 03-2019-106 (Bate Stamp No. Kaylor – 001871 – Kaylor – 001871)
 32. Report for 03-2019-284 (Bate Stamp No. Kaylor – 001872 – Kaylor – 001875)
 33. Report for 03-2022-189 (Bate Stamp No. Kaylor – 001876 – Kaylor – 001878)
 34. Report for 03-2023-137 (Bate Stamp No. Kaylor – 001879 – Kaylor – 001891)
 35. Report for 03-2023-147 (Bate Stamp No. Kaylor – 001892 – Kaylor – 001895)
 36. Groves POV for 03-2023-147 (Bate Stamp No. Kaylor – 001896 – Kaylor – 001896)
 37. Mayfield POV for 03-2023-147 (Bate Stamp No. Kaylor – 001897 – Kaylor – 001897)
 38. Screenshot of Idaho Tribune Facebook Comments (Bate Stamp No. Kaylor – 001898 – Kaylor – 002029)
 39. KHQ Link (Bate Stamp No. Kaylor – 002030 – Kaylor – 002030)
 40. Screenshot of North Idaho News Facebook Comments (Bate Stamp No. Kaylor – 002031 – Kaylor – 002136)
 41. Electronic Evidence Photos (Bate Stamp No. Kaylor – 002137 – Kaylor – 002235)
 42. Photos By Shoshone County (Bate Stamp No. Kaylor – 002236 – Kaylor – 2303)
 43. Kaylor Search Warrant Photos (Bate Stamp No. Kaylor – 002304 – Kaylor – 002384)
 44. 911/Dispatch Audio from 07/12/22 (Bate Stamp No. Kaylor – 002385 – Kaylor – 002385)
 45. 911/Dispatch Audio from 06/13/23 (Bate Stamp No. Kaylor – 002386 – Kaylor – 002386)
 46. Scene Photos (Bate Stamp No. Kaylor – 002387 – Kaylor – 002935)
 47. SUAS Photos (Bate Stamp No. Kaylor – 002936 – Kaylor – 002957)
 48. Officer Reports and POV's (Bate Stamp No. Kaylor – 002958 – Kaylor – 3001)
 49. Trooper Baldwin Dashcam (Bate Stamp No. Kaylor – 003002 – Kaylor – 003002)
 50. Trooper Martinez Dashcam (Bate Stamp No. Kaylor – 003003 – Kaylor – 003003)
 51. Trooper Rodier Dashcam (Bate Stamp No. Kaylor – 003004 – Kaylor – 003004)
 52. Search Warrant 776 – 780 (Bate Stamp No. Kaylor – 003005 – Kaylor – 003062)

6. STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

The State certifies that on July 31, 2023, the following discovery was ☒ e-served, ☐ mailed, ☐ hand-delivered / placed in interoffice mail, to Christopher Schwartz, Attorney at Law.

1. Idaho State Police K23000038 Original Report (Bate Stamp No. Kaylor – 003063 – Kaylor 003067)
2. Idaho State Police K23000038 Supplement Report No. 0001 (Bate Stamp No. Kaylor –003068 – Kaylor 003071)
3. Idaho State Police K23000038 Supplement Report No. 0003 (Bate Stamp No. Kaylor –003072 – Kaylor 003074)
4. Idaho State Police K23000038 Supplement Report No. 0006 (Bate Stamp No. Kaylor –003075 – Kaylor 003076)
5. Idaho State Police K23000038 Supplement Report No. 0007 (Bate Stamp No. Kaylor –003077 – Kaylor 003086)
6. Idaho State Police K23000038 Supplement Report No. 0010 (Bate Stamp No. Kaylor –003087 – Kaylor 003089)
7. Idaho State Police K23000038 Supplement Report No. 0011 (Bate Stamp No. Kaylor –003090 – Kaylor 003091)
8. Idaho State Police K23000038 Supplement Report No. 0012 (Bate Stamp No. Kaylor –003092 – Kaylor 003094)
9. Idaho State Police K23000038 Supplement Report No. 0013 (Bate Stamp No. Kaylor –003095 – Kaylor 003098)
10. Idaho State Police K23000038 Supplement Report No. 0014 (Bate Stamp No. Kaylor –003099 – Kaylor 003100)
11. Idaho State Police K23000038 Supplement Report No. 0015 (Bate Stamp No. Kaylor –003101 – Kaylor 003102)
12. Idaho State Police K23000038 Supplement Report No. 0018 (Bate Stamp No. Kaylor –003103– Kaylor 003104)
13. Idaho State Police K23000038 Supplement Report No. 0019 (Bate Stamp No. Kaylor –003105 – Kaylor 003108)
14. Idaho State Police K23000038 Supplement Report No. 0020 (Bate Stamp No. Kaylor –003109 – Kaylor 003115)
15. Idaho State Police K23000038 Supplement Report No. 0021 (Bate Stamp No. Kaylor –003116 – Kaylor 003116)
16. Idaho State Police K23000038 Supplement Report No. 0024 (Bate Stamp No. Kaylor –003117 – Kaylor 003119)
17. Idaho State Police K23000038 Supplement Report No. 0025 (Bate Stamp No. Kaylor –003120 – Kaylor 003121)
18. Idaho State Police K23000038 Supplement Report No. 0026 (Bate Stamp No. Kaylor –003122 – Kaylor 003122)
19. Idaho State Police K23000038 Supplement Report No. 0027 (Bate Stamp No. Kaylor –003123 – Kaylor 003125)
- 20.
- 21.

7. STATE’S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT’S REQUEST FOR DISCOVERY

5) Reports of Examinations and Tests. To the extent these items exist, they have been provided as documents and other tangible objects.

6) and 7) State Witnesses and Expert Witnesses. The State reserves the right to call upon any witness listed in the provided discovery, or listed in any underlying reports, or documentation submitted by the defense. Any witness may be called upon to provide expert testimony at hearings or trial regarding observations and qualifications relating to their knowledge, skill, experience, training, education and may testify as to the resulting opinion(s) which are disclosed in the discovered reports. Copies of the report(s) containing the opinions, facts and data relied upon in forming the opinions of said witness(es) is being provided at this time as described above or will be provided through a Supplemental Discovery response as the material is received by the State. In that event, a separate expert witness disclosure will be provided consistent with I.R.E. 702, except to the extent the same is protected pursuant to I.C.R. 16(g). The following individuals may be utilized as witnesses in this case:

- a. Justin Klitch, Idaho State Police
- b. Jared Bilaski, Shoshone County Sheriff's Office
- c. Megan Costa, Shoshone County Sheriff's Office
- d. Zach Mills, Shoshone County Sheriff's Office
- e. William Eddy, Kellogg Police Department
- f. Kaylie Kaylor, Kellogg, Idaho

The following individuals may also be utilized as witnesses in this case:

- g. Jess Stennett, Idaho State Police
- h. Trooper Martinez, Idaho State Police

8. STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

- i. Trooper Baldwin, Idaho State Police
- j. Sam Rodier, Idaho State Police
- k. Joshua Beltz, Shoshone County Sheriff's Office
- l. Adam Durflinger, Shoshone County Sheriff's Office
- m. Darius Dustin, Shoshone County Sheriff's Office
- n. Jacob End, Shoshone County Sheriff's Office
- o. David Stanton, Shoshone County Sheriff's Office
- p. Matthew Crawford, Kellogg Police Department
- q. Joseph Johnston, Shoshone County Sheriff's Office
- r. David Bishop, Kellogg Police Department
- s. Sean Ricciardo, Spokane, Washington
- t. Demerey Smith, Kellogg, Idaho
- u. Hannah Walsh, Kellogg, Idaho
- v. Hunter Jones, Kellogg, Idaho
- w. Jacci Mendy, Kellogg, Idaho
- x. Jerry Silva, Kellogg, Idaho
- y. Judy Hailey, Kellogg, Idaho
- z. Katelyn Wuolle, Kellogg, Idaho
- aa. Ken Dempsy, Kellogg, Idaho
- bb. Sherri Dempsy, Kellogg, Idaho
- cc. Martin Paul, Kellogg, Idaho
- dd. Morten Saroe, Kellogg, Idaho
- ee. Tim Mitchell, Kellogg, Idaho

9. STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

The State objects to any request beyond the scope of I.C.R. 16, and specifically objects to any request for copies of subpoenas issued by the state in this matter, for any witness's NCIC or in-house law enforcement reports, and for any of the witness's misdemeanor criminal history under *Ramirez v. State*, 119 Idaho 1037 (Ct.App. 1991) and *Queen v. State*, 146 Idaho 502 (Ct.App. 2008).

The State is NOT aware of any felony convictions of any witness listed herein. In the event that there are any felony convictions of the foregoing witness(es) listed herein the Idaho conviction information may be obtained publicly through: <https://mycourts.idaho.gov/odysseyportal/>. To the extent that the State intends to call a witness with a known felony conviction, specific information will be provided about the known felony conviction upon the filing of the State's witness list in anticipation of trial.

8) Police Reports. To the extent these items exist, they have been provided as documents and other tangible objects.

9) Digital Media Recordings (Audio and Video). To the extent these items exist, they have been provided as documents and other tangible objects in an unredacted format. You are notified that the State may use all or any portion of the items disclosed as exhibits at the time of trial, or any hearing.

Notice is hereby given that pursuant to I.R.E. 404(b), the State may use any and all of the evidence described or referred to in the provided discovery and that any "Information" to be filed in this matter may include enhancements under I.C. 19-2514, 19-2520, 19-2520B, 19-2520C and 19-2520G, if applicable.

Pursuant to I.C.R. 16(f) and I.R.E. 509, the Prosecuting Attorney hereby asserts its privilege(s) and objects to any request which qualifies as work product and/or which might have the tendency of compromising the identity of any informants.

10. STATE'S RESPONSE AND NOTICE OF COMPLIANCE WITH DEFENDANT'S REQUEST FOR DISCOVERY

YOU ARE HEREBY NOTIFIED that to the extent any physical evidence was seized or medical records of a victim were received by the State during the course of the investigation in this matter, you may make arrangements to view said evidence and/or items along with the chain of custody documentation by making arrangements with the Office of the Prosecuting Attorney, who will schedule a time with the arresting officer(s) and/or evidence technician for the agency who has custody of said item(s) and/or evidence, or to the extent the medical records are held by the State, you may make arrangements with the Office of the Prosecuting Attorney to view those records, except to the extent a privilege applies that prohibits disclosure without further protective order of the Court.

DATED July 31, 2023.

/s/ Benjamin Allen
Prosecuting Attorney

C E R T I F I C A T E

I certify that a copy of the foregoing document was provided to the following party in the following manner on July 31, 2023:

Christopher Schwartz
Attorney for Defendant

- ☐ Facsimile
- ☐ In Clip
- ☐ US Mail
- ☐ Hand-delivered
- ☒ E-Service

/s/ Kylie Robinson