

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

BRYAN C. KOHBERGER,

Defendant.

Ada County Case No. CR01-24-31665

**ORDER ON DEFENDANT'S MOTION IN
LIMINE RE: VAGUE AND
UNDISCLOSED EXPERT TESTIMONY**

I. INTRODUCTION

Defendant moves to limit or exclude several different experts disclosed by the State on grounds that their disclosures are deficient in some regard.¹ The State responds that it has complied with all discovery obligations and its disclosures are sufficient. It adds that several of Defendant's challenges are fodder for cross-examination, not exclusion.

Oral argument on the motion was held on April 9, 2025, after which the Court took the matter under advisement. The Court finds no basis to exclude or limit the disclosed expert testimony at this time, but if Defendant believes an expert is testifying at trial outside the scope of his or her disclosure, he may object at that time and the Court will consider it.

II. STANDARD

A trial court's decision regarding discovery violations must be supported by substantial and competent evidence in the record. *State v. Koch*, 157 Idaho 89, 93, 334 P.3d 280, 284 (2014). Choice of sanctions for failure to comply with discovery obligations, or whether to impose a sanction at all, is discretionary. *State v. Cochran*, 129 Idaho 944, 949, 935 P.2d 207, 212 (Ct. App. 1997). On discretionary matters, the trial court must: 1) correctly perceive the issue as one of discretion; 2) act within the outer boundaries of its discretion; 3) act consistently with the legal standards applicable to the specific choices available to it, and; 4) reach its

¹ Defendant's challenge to Rylene Nowlin's expert disclosures was addressed in the Order on Defendant's Motion in Limine re: Rylene Nowlin and 'Touch' or 'Contact' DNA (Apr. 18, 2025). Defendant's challenge to David Mittelman's disclosure is rendered moot by the parties' agreement to not present IGG evidence.

decision by the exercise of reason. *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

III. ANALYSIS

Rule 16(b)(7) requires the State to provide, upon written request of the defendant, “a written summary or report of any testimony that the state intends to introduce at trial” that qualifies as expert witness testimony under IRE 702, 703, or 705. The disclosure must include a summary of “the witness's opinions, the facts and data for those opinions, and the witness’s qualifications...” ICR16(b)(7). When a party fails to comply with discovery, the trial court may impose sanctions including, in appropriate circumstances, the exclusion of a witness. *State v. Wilson*, 158 Idaho 585, 588, 349 P.3d 439, 442 (Ct. App. 2015) (citing ICR 16(f)(2), 16(j)).

A. Jennie Ayers²

Jennie Ayers is a forensic scientist with the Idaho State Police (“ISP”) Forensic Services who works in evidence collecting and crime scene processing. She is disclosed to testify in the State’s case-in-chief about crime scene processing generally, including collecting DNA, blood stains, latent fingerprints, hair and fibers and shoe impressions. She will explain what DNA is, that it may be present in biological material or left on an item when handled, and that it is collected for preservation and sent elsewhere for testing. She is also going to testify to her work in this case detailed in Lab Report 25 and supporting field notes. That report discusses ISP’s processing of Defendant’s Pullman apartment and Washington State University office, which included photographing and collecting evidence. Ms. Ayers was specifically involved in capturing images of the apartment and office and performing presumptive tests for the presence of blood at various points in the apartment.

Her rebuttal testimony concerns ISP’s crime scene investigation procedures generally and the ISP forensic team’s processing of the crime scene at 1122 King Road, including identifying areas that contained probative evidence. In addition, the lab report (Lab Report 11) and field notes for the team’s work are referenced by Bates within the disclosure.

Defendant argues Ms. Ayers’ case-in-chief disclosures do not provide any opinions she has about crime scene processing or about the DNA at issue in this case. Thus, he asks the Court

² The State submitted three disclosures for Ms. Ayers: the Initial Disclosure (S-15) (Dec. 18, 2024); the Rebuttal Disclosure (S-1) (Feb. 17, 2025), and; the Amended Supplemental Disclosure (S-1) (Mar. 3, 2025).

to limit her testimony to her qualifying background and her work in Lab Report 25. As to her rebuttal disclosure, Defendant argues again that it fails to provide any opinion about crime scene investigation procedures and it does not clearly state what she did in processing 1122 King Road and what her opinion is regarding that work.

Defendant's challenges misapprehend the type of expert Ms. Ayers is. Much like law enforcement, Ms. Ayers is a hybrid fact/expert witness as opposed to a traditional expert. She will be educating the jury on crime scene investigation procedures to provide foundation for her testimony regarding the work she and her team performed in this case, as outlined in Lab Reports 25 and 11 and the accompanying field notes. This testimony is factual in nature, despite that fact that it requires special knowledge, skill, experience and training. Consequently, the absence of "opinions" in her disclosure does not limit her ability to testify to these matters. In addition, Ms. Ayer's rebuttal disclosure is replete with explanations about why and how the crime scene investigation was carried out at 1122 King Road.³ Her testimony will be allowed as disclosed.

B. Special Agent Nicholas Ballance⁴

FBI Special Agent Ballance was primarily involved in the analysis of cell phone records in the investigation. He is disclosed to testify in the State's case-in-chief about his analysis of AT&T cell phone records for Defendant, Madison Mogen and Xana Kernodle, as well as his own drive testing measurements to determine the use and general location of their cell phones between June 2022 and November 2022. Accompanying his Initial Disclosure is his 30-page CAST Report, which discusses and maps the data he reviewed, and the methodology employed. Initial Discl., Exh. S-2(a). His Supplemental Disclosure goes through each page of the CAST Report to discuss its significance. He will also discuss topics pertaining to how cellular technology works, particularly how cell towers operate and how cell phones connect to the towers, how cell phone usage data is reflected in call detail records and how those records

³ For example, the disclosure discusses why the team focused on certain areas of the home as opposed to others, why they decided not to collect mattresses and bedframes and why they swabbed and/or applied amido black where they did.

⁴ The State submitted three disclosures for Mr. Ballance: the Initial Disclosure (S-2) (Dec. 18, 2024); the Rebuttal Disclosure (S-2) (Feb. 17, 2025), and the Amended Supplemental Disclosure (S-2) (Mar. 3, 2025). In addition throughout this case Defense has had and been on notice of the "Exhibit A"s to the various search warrant affidavits which detail much of the opinion and analysis of the CAST team, and thus Ballance, including those related to Defendant's locations at the outlined times before and after the homicides.

provided by AT&T for the target cell phones in this case were used to create cell site maps showing their general location before and after the homicide and their direction of travel.

In challenging Agent Ballance's case-in-chief disclosures, Defendant provides the affidavit of his cell phone data expert, Sy Ray. Mr. Ray complains that he is unable to identify Agent Ballance's methodology, which was described in the CAST Report. Mr. Ray states that the CAST Report omits data and/or fails to mention how certain AT&T data was utilized in his analysis (namely handoff data and drive test mapping) and why some data was ignored.⁵ He asserts this omitted data and methodology is exculpatory and, without it, he cannot fairly analyze Agent Ballance's work.

According to the State, its disclosures sufficiently identify Agent Ballance's opinions and the facts and data he relied upon and Defendant's concerns are fodder for cross-examination. In fact, in Agent Ballance's Rebuttal Disclosure, the State marches through each concern outlined by Mr. Ray, offering additional explanation about what Agent Ballance considered, including the handoff data, and why.

Defendant, however, asserts the attempted clarification in the Rebuttal Disclosure is insufficient, arguing there is "no disclosure[]" as to why he has omitted 95% of the relevant coverage maps" for his drive testing, no analysis or mapping of the handoff data and no documentation provided of the CAST Report's peer review process.⁶

However, the fact remains that Defendant has all the facts and data that Agent Ballance relied upon to form his opinions, which are expressed within his CAST Report.⁷ Initial Discl., p. 4 ("The data supporting SA Ballance's opinions is located in the files of the cell phone records provided by AT&T and the drive testing files which were provided to defense through discovery."); Supp. Discl., p. 2 (identifying disclosed information relied upon by Agent Ballance by description, AV number and date disclosed). While his methodology might not be set forth

⁵ Mr. Ray notes that Agent Balance failed to include an analysis of handoff data for Defendant's cell phone between the hours of 2:30 and 3:00 a.m. on November 13, 2022, that he did not include the mapping he relied upon to establish Defendant was near the crime scene on several occasions before the crime and he failed to disclose how his drive testing works to a sufficient degree.

⁶ There is no requirement under Rule 16, ICR, that the State provide peer review documentation of an expert's report. Likewise, the rule does not require an expert to identify the data they did not rely upon or why they did not rely upon that data.

⁷ A draft of the CAST report was disclosed to the defense in the early stages of this case. It was subsequently peer reviewed and the final CAST report was issued and disclosed in July of 2024.

with as much specificity as Mr. Ray would like, Rule 16 does not require that detailed methodology be provided. It requires merely opinions, facts and data for those opinions, and the witness's qualifications. ICR 16(b)(7). To the extent Defendant believes Agent Ballance omitted important data or is relying on insufficient data for his opinions, this is fodder for cross-examination, not exclusion. Moreover, if, an opinion is not reasonably set forth within the disclosure, it will not be allowed.⁸

C. Heather and Jared Barnhart⁹

The Barnharts are digital specialists with Cellebrite who were retained by law enforcement to analyze Defendant's cell phone and PC to determine "user behavior and actions." They are disclosed to opine that the gaps in data on the two devices were "abnormal."¹⁰ Attached to the disclosures is a report jointly authored by the Barnharts detailing their analysis and findings. Their CVs were provided as well.

Defendant argues that the disclosures indicate they will testify to "habit" evidence, which he complains is not explained and is not accompanied by any opinions. Defendant's challenge is confusing. Nowhere do the disclosures or the report indicate the Barnharts will testify about "habit" evidence. Rather, the disclosures state they will testify to their findings pertaining to Defendant's activities on his PC and cell phone for a period of time before and after the homicides and why gaps in data over that time period are "abnormal."

The Barnharts' opinions regarding these topics are fully set forth in their joint report. For example, they observed gaps in Defendant's school PC that "may be consistent with cleaning up

⁸ For example, Defendant complained at the hearing that Agent Ballance analyzed handoff data for the seven minutes prior to the phone powering off at 2:54 a.m. on November 13, 2022, but did not provide an opinion about what his analysis showed. Thus, Defendant wants to exclude any opinion as to what his analysis of those seven minutes showed. However, as pointed out in Agent Ballance's rebuttal disclosure, page 13 of the CAST Report sets forth the data Agent Ballance relied upon to opine that Defendant's phone used a certain tower and sector at 2:47 a.m. southeast of his apartment and ceased communication with the network at 2:54. He also explains that the location of a device is best estimated by the initial cell site versus the handoff cell site. He will be allowed to testify to these opinions. If Defendant believes Agent Ballance strays beyond these opinions, he can object and the Court will take the matter up then.

⁹ The State submitted the following disclosures for the Barnharts: Initial Disclosure – Heather Barnhart (Exh. S-3) (Dec. 18, 2024); Initial Disclosure – Jared Barnhart (Exh. S-4) (Dec. 18, 2024); Rebuttal Disclosures – Heather and Jared (Exhs. S-3 through S-5) (Feb. 17, 2025). Their rebuttal disclosures state simply that the Barnharts intend to rebut the expert testimony of Carol Penden, Kevin Penden and Josiah Roloff but need additional information prior to offering rebuttal opinions. Defendant is not challenging these.

¹⁰ Specifically, their report explains that the gaps in data may be consistent with "cleaning up or using anti-forensic methods to clear evidence." Report, p. 1.

or using anti-forensic methods to clear evidence.” Rpt., p. 1. Among the gaps found were in the PC’s event logs and System Resource Usage Monitoring between November 11, 2022 and November 16, 2022, which Barnharts opined was abnormal given that school was in session. *Id.* Likewise, they located gaps in the PC’s Chrome history during dates where downloads occurred on the system, indicating the user was private browsing or clearing browsing history. *Id.* Together, the Barnharts’ disclosures and joint report set forth all that is required by ICR 16(b)(7) and there is not no basis to exclude or limit their testimony.

D. Michael Douglass¹¹

Mr. Douglass is a forensic accountant for the FBI and is disclosed to testify to financial transaction data for Defendant, the four victims and the two other roommates. His Initial Disclosure identifies by category and date range the financial transaction data he intends to testify to and appends Mr. Douglass’s report of specific transactions found within these individuals’ financial data. His Supplemental Disclosure identifies more specifically the financial data associated with Defendant that he intends to discuss and also identifies video evidence obtained showing Defendant’s ATM withdrawals.

Defendant contends that Mr. Douglass should not be able to offer any opinions because none are expressed in his disclosures. Specifically, Defendant notes that Mr. Douglass’s Supplemental Disclosure indicates he will testify to an “analysis” of Defendant’s “spending habits.” Defendant takes issue with this, arguing there is no spending habit opinion disclosed.

However, Mr. Douglass’s disclosure makes clear that he is intended as a fact witness and is only being disclosed as an expert in the event the Court determines his testimony was based on specialized knowledge under IRE 702. Moreover, although the Supplemental Disclosure appears to indicate he will offer an opinion as to Defendant’s spending habits, and his testimony will be limited to factual changes in how Defendant spent money. For example, the disclosure notes Defendant only conducted ATM withdrawals on and after the date of the homicide and ceased using his debit card after November 10, 2022 whereas, prior to November 10, he had regularly used his debit card. There is no indication he will attempt to opine about the reasons for the

¹¹ The State submitted two disclosures for Mr. Douglass: Initial Disclosure (S-7) (Dec. 18, 2024) and Amended Supplemental Disclosure (S-2) (Mar. 14, 2025).

spending changes, just that they occurred.¹² Thus, there is no basis for excluding or limiting Mr. Douglass's testimony based upon disclosure concerns.

E. Shane Cox¹³

Mr. Cox is a litigation and regulatory manager for Amazon.com. His Initial Disclosure states Mr. Cox will testify to the content of documents produced by Amazon to law enforcement pertaining to an Amazon account associated with Defendant. The documents include the order history between January 5, 2022 and December 13, 2022 and click history and sign-in history for specific dates in that time frame. The documents are referenced by Bates number. His Supplemental Disclosure identifies with specificity the facts Mr. Cox will be testifying to from the identified documents.

As with his challenge to Mr. Douglass, Defendant asserts that Mr. Cox should not be able to offer any opinion because none are expressed in his disclosures.¹⁴ Again, Mr. Cox is a fact witness and will not be offering opinions on the documents apart from explaining what the document show as outlined in his disclosures. There is no basis for exclusion.

F. Darren Gilbertson¹⁵

Defendant disclosed expert opinions from Brent Turvey that more than one assailant was necessary to accomplish the crime in the time frame alleged. Specifically, he asserts that: 1) there is direct and indirect evidence that attempts were made by the suspect(s) to clean up the crime scene after the homicides, which would have taken far longer than the time interval alleged by the State, and; 2) there were multiple weapons used against Kaylee Goncalves, and Xana and Ethan appeared to have been attacked at the same time. Turvey Rpt., p. 20. Through his other expert, Rachel Orr, Defendant has also submitted evidence that he suffers from Developmental Coordination Disorder, which has resulted in deficits in fine motor dexterity and visual motor

¹² Without more, the Court has concerns about the relevance of this testimony, but Defendant has not challenged it on this basis as yet.

¹³The State submitted two disclosures for Mr. Cox: Initial Disclosure (S-5) (Dec. 18, 2024) and Amended Supplemental Disclosure (S-1) (Mar. 3, 2025).

¹⁴ Defendant also asserts in the motion that Mr. Cox's testimony should not be allowed because, according to defense expert David Howell, far more information must be reviewed in order to attribute specific activity to a specific person or otherwise render an opinion about user behavior with forensic certainty. This argument was addressed and rejected by the Court in its Order Memorializing Oral Rulings on Motions in Limine, pp. 7-8 (April 18, 2025) and will not be reiterated here.

¹⁵ The State submitted only a rebuttal disclosure for Detective Gilbertson. (Exh. S-7) (Feb. 17, 2025).

function. His attorneys have argued in other motions that these deficits render it “not possible” for Mr. Kohberger to have acted with the speed and coordination required to commit the crimes in the time frame alleged by the State. However, this has not been disclosed as an opinion of any of Defendant’s experts.

In rebuttal, the State disclosed Detective Darren Gilbertson, a lead investigator for ISP in this case. The disclosure indicates he will testify that he and other investigators conducted timed runs at 1122 King Road to gain an understanding of the approximate time needed to have carried out the homicides. A report of the timed runs is attached to his disclosure. It was performed to determine if one person could carry out the homicides. His opinion will be that, depending on the suspect’s pace and route, he could have carried out the crimes in approximately two to four minutes.

Defendant argues Det. Gilbertson’s testimony should be excluded because: 1) the State has failed to disclose how Det. Gilbertson is an expert in timed runs; 2) the relevance is minimal; 3) important data (i.e., recordings, photographs and notes of the experiment) was not disclosed, and; 4) his opinion carries a risk of juror confusion and prejudice. On the prejudice issue, Defendant claims that Det. Gilbertson was already familiar with the house when he did the experiment and, additionally, the house had been vacated. Defendant also notes the house has been torn down so he is not able to conduct his own tests.

Whether Det. Gilbertson’s opinions are relevant will depend on what Mr. Turvey and Dr. Orr opine to at trial.¹⁶ While Dr. Turvey does not specifically state in his report that one assailant could not have accomplished the murders in the short time frame alleged by the State, he infers as much through his opinion that there was evidence of clean-up efforts at the crime scene, which would have taken a significantly longer period of time. Further, while Dr. Orr’s report does not opine as to what deficits in fine motor dexterity and visual motor function Defendant suffers from, to the extent she testifies to these deficits at trial, it may render Det. Gilbertson’s opinions relevant to rebut any inference that Defendant could not have single-handedly committed the crimes in less than fifteen minutes.

¹⁶ The Court has indicated in a separate order that there is no foundation at this point for Defendant’s assertion that his deficits in fine motor dexterity and visual motor function rendered it difficult or impossible for him to commit the crimes. *See*, Order on State’s Motion in Limine re: Neuropsychological and Psychiatric Evidence (April 18, 2025).

Further, given Detective Gilbertson's role as the lead detective for ISP in the investigation, he is well qualified to offer his opinion on suspected movement throughout a crime scene. In addition, there does not appear to be a disclosure violation due to the lack of underlying data. It was a simple experiment consisting of timing Det. Gilbertson moving through the house at a slower speed and a faster speed. His routes were described, as well his pauses to simulate the number of stab wounds each autopsy showed. It does not appear there are any photographs or recording or any other data not already described therein.

As for Defendant's IRE 403 concerns, they are baseless. The State represents that there were no structural changes to the house when Det. Gilbertson performed his experiments. The fact that it was vacated or that Det. Gilbertson was familiar with the home—which would presumably allow him to conduct a faster timed run—is fodder for cross-examination, not exclusion. The State further notes that Defendant stipulated to the house being torn down after Det. Gilbertson's report was disclosed. Thus, any concern of prejudice in this regard is his own doing. Finally, Defendant cites no basis for jury confusion. Consequently, Det. Gilbertson's disclosed testimony will not be excluded or limited at this time.

G. ISP Forensic Lab Scientists¹⁷

The State disclosed several forensic scientists from the ISP forensics lab to testify as experts in this case. The Initial Disclosure for each scientist describes the subject matter the expert will discuss, including the particular evidence and testing performed. The disclosures also reference each scientist's specific lab report by Bates number. In each disclosure, the State included the following caveat:

This disclosure is provided as an aid; it does not encompass all findings, impressions, conclusions, or materials related to this expert's involvement in this case. It further does not in any [way] limit the scope of the expert's testimony. Further, this expert may testify about findings, impressions, and/or conclusions that he/she drew from the work of other experts who previously examined or handled the evidence in question.

¹⁷ The experts in this category specifically referenced by Defendant are Katherine Dace (White), Taylor Maichak, Tara Martinez, Jade Miller, Anne Nord, Eric Seat, Tina Walthall, Stephanie Wilt and Hailey Youngling. The analysis herein applies equally to Defendant's challenges—raised for the first time in his reply brief—to forensic toxicologists from NMS Labs, Daniel Anderson (Exh. S-1) (Dec. 18, 2024) and Chelsea Deisher (Exh. S-6) (Dec. 18, 2024).

After Defendant moved to compel more complete disclosures, the Court advised the State to supplement accordingly. On March 3, 2025, the State did so largely by expounding upon the general subject matter of the experts' respective work.¹⁸ They did not add any new opinions.¹⁹

Defendant now moves to limit the scientists' testimony in the State's case-in-chief to their lab reports. This limitation is not necessary. If the scientists testify to something that is not disclosed in their disclosures or lab reports, Defendant can object at trial. There is no basis to prospectively limit their testimony now.

H. Gary Dawson²⁰

Dr. Gary Dawson was disclosed in rebuttal by the State to testify to "the degree of impairment of the victims, particularly Madison Mogen, at the time of the homicide." His expert report, attached to his disclosure, opines that Madison Mogen would have been "markedly intoxicated from the effects of alcohol around the time of her death. She would not have the ability to mount a meaningful response to a sudden threat to her person." Dawson Rpt., p. 3. He further states that while he has limited his review to Madison Mogen, the same "general principles" apply to the other victims.

Defendant seeks to strike his testimony on grounds that it is improper rebuttal. He contends that none of his experts have challenged her ability to fight back or otherwise contested her toxicology levels. The State responds that the opinion rebuts defense expert Brent Turvey's opinion that that more than one assailant was necessary to accomplish the crime in the time frame alleged. Specifically, the State argues that evidence Ms. Mogen was unable to effectively fight back supports its position that one assailant could have completed the homicides in a short time frame.

¹⁸ For example, where the initial disclosures stated the expert would testify generally about the collection of DNA, the supplemental disclosures include far more detail about the collection procedure.

¹⁹ To the extent that Jade Miller's Supplemental Disclosure and Katherine Dace (White)'s Rebuttal Disclosure contain a discussion of CODIS, how it works, how CODIS eligibility is determined and why the decision was made not to enter certain profiles into the system, Defendant objects that it is new, untimely opinion. However, the Court does not view this discussion as opinion; rather it is a purely factual issue explaining reasons why certain decisions were made consistent with CODIS rules/limitations. In addition, to the extent Defendant contends these facts were not timely disclosed, Defendant has plenty of time between their disclosure and trial to address them.

²⁰ The State submitted only a rebuttal disclosure for Dr. Dawson. (Exh. S-6) (Feb. 17, 2025).

“Rebuttal evidence is evidence which explains, repels, counteracts, or disproves evidence which has been introduced by or on behalf of the adverse party.” *State v. Moses*, 156 Idaho 855, 867, 332 P.3d 767, 779 (2014) (internal quotes and citation omitted). Mr. Turvey has opined in his report that two assailants were involved in the homicide, partially because he believes multiple weapons were used against Kaylee Goncalves. Inferred in this opinion is that one person would not have had the time or ability to use multiple weapons in the time frame alleged when faced with two victims. If Ms. Mogen was intoxicated to the point of being unable to fight back, however, it would be possible for one suspect to incapacitate her and then use multiple weapons in attacking Ms. Goncalves. However, whether Dr. Dawson’s opinion is relevant depends on how Mr. Turvey’s testimony unfolds at trial. Consequently, his disclosed rebuttal opinion will not be excluded or limited at this time.

I. Lawrence Mowery; Jeffrey Tanzola; Neil Uhrig²¹

Detective Lawrence Mowery, Agent Jeffrey Tanzola and Detective Neil Uhrig are “forensic detectives” who were involved in the investigation of this case.

Detective Mowery of the Moscow Police Department is disclosed to testify in the State’s case-in-chief as an expert in the field of digital forensics and his role in the investigation. Specifically, he may testify to “any of the subjects identified in his reports, and may identify and testify to chain of custody, extractions, electronic data, files, and location records identified in the materials made available to Defendant.” Initial Discl, p. 1. There are approximately 50 individual devices, electronic accounts and digital data listed in the disclosures about which he will testify, and he will opine that he found no connection in that material linking Defendant to the devices and data he analyzed.²²

Jeffrey Tanzola is a Special Agent with the FBI who extracted, processed and archived the contents of seven identified digital devices belonging to Defendant. His is disclosed to discuss in the State’s case-in-chief the “extraction/imaging, examination, processing,

²¹ The disclosures for these individuals are as follows: Lawrence Mowery – Initial (“Amended”) Disclosure (S-10) (Jan. 7, 2025), Amended Supplemental Disclosure (Mar. 3, 2025); Jeffrey Tanzola – Initial Disclosure (S-13) (Dec. 18, 2024), Rebuttal Disclosure (S-3 to S-5) (Feb. 17, 2025); Neil Uhrig – Initial Disclosure (S-14) (Dec. 18, 2024), Amended Supplemental Disclosure (S-4) (Mar. 14, 2025).

²² Because Detective Mowery analyzed devices and information associated with Defendant, presumably these are excluded from his opinion.

verification, transportation, and chain of custody” of those devices. The disclosure references and appends his “Report of Examination” regarding his work in this regard.²³

Neil Uhrig is a Forensic Examiner and Detective Sergeant for the Post Falls Police Department who extracted, processed and archived the contents of computers belonging to the victims and two other roommates of 1122 King Road. His case-in-chief disclosures likewise state he will discuss “extraction/imagining, examination, processing, verification, transportation, and chain of custody” as to those computers, including the expertise necessary to extract the data from the devices. He will opine that there was no connection found between the listed devices and Defendant. His Initial Disclosure references and appends his “Officer Report” regarding his work in this regard.

Defendant argues that each of the three experts’ testimony must be limited to what has been disclosed, i.e., the devices/data examined and processes used. Other than the disclosed opinions by Detectives Mowery and Uhrig that no digital connection was found between Defendant and the residents of 1122 King Road, Defendant argues no specific testimony regarding what the devices and data depicted should be allowed. To this end, Defendant notes that the State has not identified in the disclosures the specific portions of the identified devices and data that these experts will testify to.

In response, the State clarifies that it not seeking to elicit opinions from these witnesses; rather, it intends to elicit testimony about their qualifications necessary to perform the extractions and analysis of the identified devices and data. It further represents that Defendant has been provided with all the data analyzed.

There is no basis to exclude or limit the detectives’ disclosed testimony. It is clear they will be testifying to the facts of their investigation, not providing traditional expert opinions. There is no need, therefore, for the detectives to identify specifically what the devices and data depict. This is factual in nature and Defendant has been provided with all of the material the detectives reviewed.

J. Rob Hille²⁴

²³ Defendant is not challenging Det. Uhrig’s rebuttal disclosures.

²⁴The State submitted only a rebuttal disclosure for Agent Hille. (Exh. S-8) (Feb. 17, 2025).

Rob Hille is a Special Agent with the FBI who reviewed surveillance footage from the hours before and after the homicides occurred depicting what law enforcement believes is Suspect Vehicle 1. Agent Hille was disclosed to rebut opinions by defense expert Steven Becker that it was not possible to ascertain from the surveillance videos whether a front license plate was missing from the vehicle. Agent Hille's rebuttal references the "full summary of video" depicting Suspect Vehicle 1—which has been disclosed to Defendant—as a basis for his opinion that Suspect Vehicle 1 did not have a front plate. He then lists the specific camera locations and time stamps he contends show a clear view of a missing front plate. His rebuttal also states he will provide testimony about the significance of the missing front plate.

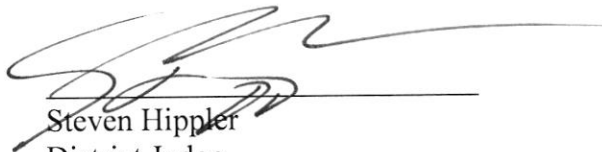
Defendant contends that since Agent Hille has not offered an opinion as to any videos other than those specific clips referenced, his testimony must be limited to those identified clips. However, Agent Hille's disclosed opinion is not restricted to the identified clips; it expressly based on the "full summary" of video of Suspect Vehicle 1, with the identified clips being the most clear. Thus, the Court will not limit his testimony in this regard.

V. ORDER

Based on the foregoing, Defendant's Motion *in Limine* re: Vague and Undisclosed Expert Testimony is DENIED.

IT IS SO ORDERED.

DATED this 24th day of April, 2025.


Steven Hippler
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on 4/24/2025, I served a true and correct copy of the **ORDER ON DEFENDANT'S MOTION IN LIMINE RE: VAGUE AND UNDISCLOSED EXPERT TESTIMONY**

LATAH COUNTY PROSECUTING ATTORNEY'S OFFICE

WILLIAM W. THOMPSON, JR.

PROSECUTING ATTORNEY

VIA EMAIL: paservice@latahcountyid.gov

ASHLEY JENNINGS

SENIOR DEPUTY PROSECUTING ATTORNEY

VIA EMAIL: paservice@latahcountyid.gov

JOSHUA D. HURWIT

SPECIAL DEPUTY PROSECUTING ATTORNEY

VIA EMAIL: paservice@latahcountyid.gov

JEFFERY D. NYE

SPECIAL ASSISTANT ATTORNEY GENERAL

VIA EMAIL: jeff.nye@ag.idaho.gov

MADISON ALLEN

SPECIAL ASSISTANT ATTORNEY GENERAL

VIA EMAIL: Madison.allen@ag.idaho.gov

ANNE TAYLOR LAW, PLLC

ANNE C. TAYLOR

VIA EMAIL: info@annetaylorlaw.com

ELISA G. MASSOTH, PLLC

ELISA G. MASSOTH

VIA EMAIL: emassoth@kmrs.net

IDAHO STATE PUBLIC DEFENDER'S OFFICE

FIRST DISTRICT PUBLIC DEFENDER

JAY W. LOGSDON

VIA EMAIL: jay.logsdon@spd.idaho.gov

BICKA BARLOW

Pro Hac Vice

VIA EMAIL: bickabarlow@sbcglobal.net

TRENT TRIPPLE

Clerk of the Court

By: 
Deputy Clerk 4/24/2025 3:25:43 PM

CERTIFICATE OF SERVICE