

ANDREW P. THOMAS
MARICOPA COUNTY ATTORNEY

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Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN CHESTER STUART,)	CR 2008-006332-001 DT
)	
Defendant.)	STATE'S NOTICE OF DISCLOSURE
)	AND REQUEST FOR DISCLOSURE
)	
)	(Assigned to the Honorable
)	Roland J. Steinle, III, Saj06)
)	

The State of Arizona, by and through undersigned counsel, hereby gives notice of disclosure pursuant to Rule 15.1, Arizona Rules of Criminal Procedure, and requests disclosure pursuant to Rule 15.2.

Rule 15.1(b) Witnesses

The State may call the following witnesses in the case in chief or as rebuttal witnesses:

Maricopa County Sheriff's Office
100 West Washington – 19th Floor
Phoenix, Arizona

1. Al Shearer # 192
2. Roberta Stegen – Fingerprint Tech

Maricopa County Superior Court

1. Sally Hawley – JA
2. Roland J. Steinle – Judge
3. Timothy Ryan – Judge
4. Linda rubalcaba – Deputy Clerk of the Court

**Maricopa County Attorney's Office
301 West Jefferson
Phoenix, Arizona**

1. Andrew P. Thomas

Expert Witnesses

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Civilians:

1. Thomas Ford McFadden
17300 17th Street, Unit J434
Tustin, CA
2. Clayton Thomas Utterback
701 N. Loara Street
Anaheim, CA
3. Ryan Thomas Utterback
2034 E. Lincoln Avenue # 340
Anaheim, CA
4. James Owen Golden
18857 Santa Marta
Fountain Valley, CA
5. Shawn Talbot Rice
6. Richard Fry
4153 Bryan Street
Oceanside, CA

The addresses of victims have been withheld pursuant to Rule 39(10).

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Other Witnesses

1. Any custodian of records for any disclosed item or document.
2. Any witness from the defense disclosure.
3. Any individual named or referred to in the preliminary hearing transcript, grand jury transcript, police report, or other State's disclosure.

Rule 15.1(b) Evidence

The State may introduce into evidence:

Crime/Crime Scene Evidence

1. Pictures, reproductions, PowerPoint presentations, charts or diagrams of the crime, crime scene, or any damage or injuries that were a result of the crime.

2. All physical evidence taken from the defendant.
3. Any fingerprints, footprints, hairs, fibers, blood, bodily fluids, chemicals or other forensic evidence found as a result of the investigation of the crime and their analyses.
4. All physical evidence taken as a result of medical exams and the analysis of that evidence.
5. Any weapons, bullets, or bullet fragments and related ballistic or forensic examinations.
6. Any theft or burglary tools, including but not limited to: .

Identification Evidence

1. Any arrest/booking report or photograph of the defendant related to the charged offenses.
2. MVD records, prior conviction records or other records demonstrating a prior identification of the defendant.
3. Any photographic line-ups.
4. Any DNA and related examinations or statistical analyses.

Victim Evidence

1. Photographs of the victim.
2. All medical records of the victims, if relevant to the crime charged.
3. All statements made by witnesses for purposes of medical diagnosis or treatment, if relevant or applicable.
4. C.P.S records.
5. All evidence from a sexual assault evidence kit, including but not limited to physical or forensic evidence, and any statements made as a result of the kit.

Document Evidence

1. Any written instruments including but not limited to: checks, receipts, applications for credit, accounts, or check-cashing services.
2. Any computer or account access devices, including but not limited to: credit cards, debit cards, passwords, account numbers, password generators.
3. Any forgery devices, including but not limited to: computer software, check blanks, drivers license blanks, social security card blanks, laminator.
4. Samples of handwriting and related analyses.
5. Bank account records, credit account records, or other receipts or transaction

records, including but not limited to:

Drug Evidence

1. Illegal drugs and related laboratory analyses.
2. Packaging materials, including but not limited to: .
3. Ingestion materials, including but not limited to: .
4. Any drug ledger or other records of sales.
5. Any scales or other measuring devices.
6. Any rental agreement, deed, mail, receipt, or other indicia of residence, leasehold, or ownership.
7. Any pagers, cell phones, or records of communications by pager or cell phone.
8. Search warrant.
9. Any drug manufacturing materials, including but not limited to:
10. Money.

Other Evidence

1. Any statements of the defendant or of any co-conspirators mentioned or contained in the police reports or other disclosed materials.
2. Any writing or recording of the defendant or witnesses.
3. Any object, representation of an object, thing, or document referred to in the defense disclosure or disclosed by the defense or used or referred to at trial by the defense.
4. Any grand jury, preliminary hearing, or deposition transcript.
5. Any object, representation of an object, thing, or document referred to in the preliminary hearing transcript, grand jury transcript, police report, or in any of the State's disclosure, including but not limited to:
 - a. court documents
 - b. booking photo/records
6. Any and all evidence listed in Maricopa County Sheriff's DR #: 2008-00003 (and all supplements).

Rule 15.1(b) Notices

1. Any other witnesses or evidence will be disclosed seasonably according to Rule 15.6.

2. The State has no obligation to provide witness telephone numbers. The only witness telephone numbers to be disclosed are those that are already included in police reports or other disclosure materials.
3. All of the listed witnesses' existing relevant written statements have already been provided in the police reports or are provided with this notice. Any other statement of a witness that any witness may remember may be obtained through witness interviews.
4. All existing written statements of the Defendant have already been provided in the police reports or are provided with this notice. Any other statement of the defendant that any witness may remember may be obtained through witness interviews.
5. Audio, video, or digitally recorded statements or images are available for review, and copies of such recorded statements or images will be provided upon request after sufficient arrangements are made, including providing blank tapes or compact disks and paying any reasonable costs associated with making copies.
6. Any exhibit presented to the grand jury has already been disclosed to the defense except insofar as disclosure may be prohibited by A.R.S. § 13-2812 or any other statute or rule. The State cannot identify for disclosure exhibits that were not admitted or presented to the grand jury.
7. Defense counsel shall be responsible for recording any witness statement made at an interview of the witness.
8. Experts to be called as witnesses in this case are listed in the witness list. The names and addresses of experts along with completed results of physical examinations, scientific tests, experiments, or comparisons have already been provided, are provided with this notice, or will be provided upon completion.
9. Any police officer listed above may be called as an expert witness with respect to an area within the officer's training and experience, including expert knowledge of illegal drugs, their possession or sale, useable amounts, or any other topic.
10. Any criminalist, fingerprint analyst, identification technician, or other similar witness will be called as an expert in his/her respective field.

11. If a witness becomes unavailable pursuant to Rule 804(a), the State will attempt to introduce prior statements under Rules 803(24) and 804(b)(5).

12. Unless otherwise indicated, the State wishes to be present during the interviews of all potential State's witnesses. The State's witnesses will be made available for defense interviews, except those who testified at a preliminary hearing or juvenile transfer hearing.

13. There was no electronic surveillance. There was no search warrant. There was no informant whose existence the defendant is entitled to know under Rule 15.4(B)(2).

14. All existing original and supplemental reports prepared by a law enforcement agency in connection with this case have already been provided or are provided with this notice.

15. The State is unaware of any existing material or information, unknown to the defense, that would tend to mitigate the defendant's guilt or punishment. Pursuant to *Kyles v. Whitley*, 514 U.S. 419, 437-438 (1995), the State will review any evidence in its possession, determine if any of it is exculpatory, and, if so, turn such evidence over to the defense. However, the State has no obligation to learn of existing exculpatory evidence. *Id.*

Rule 15.1(d) Prior Felony Convictions

1. The State intends to use at trial any prior felony convictions of the defendant or defense witness for impeachment purposes pursuant to Rule 609, Arizona Rules of Evidence, and for sentence enhancement under § 13-604.

2. The State has provided a list of the defendant's prior felony convictions in a separate allegation.

3. The State will provide a list of prior felony convictions of witnesses the state intends to impeach or call at trial thirty days before trial or thirty days after a request. The State cannot provide a list of felony convictions for defense witnesses without an accurate name, date of birth, and social security number for each defense witness.

4. The following witnesses may be called, and the following exhibits may be used to prove any prior conviction(s):

- a. A fingerprint technician/analyst.
- b. The fingerprints of the defendant.

- c. The original court files on the priors.
- d. The custodian of the original court files.
- e. The defendant's defense attorney on the prior(s).
- f. The arresting officers on the prior offenses.
- g. Any present/past Adult Probation Officers or Parole Officers of the Defendant.
- h. Any probation/parole files on the prior(s).
- i. Any booking photographs on the prior(s).
- j. Any prior fingerprints taken of the defendant.
- k. Any certified copies.
- l. Any "pen packs" from a State/Federal Prison/Penitentiary.
- m. Department of Corrections records custodian.
- n. MCSO Detention Officers.
- o. MCSO Custodian of Records.
- p. MCSO Booking Records/ Booking Photo(s).

Other Evidence Upon Request

1. The State will make recordings of existing 911 calls available to defense after a written request by providing an authorization form to be presented to the appropriate custodian of record.
2. Examination notes made by experts listed in Rule 15.1(b)(1) and 15.1(b)(4) shall be provided within thirty days of a written request.

Evidence of Other Acts

Pursuant to Rule 404(b), Rules of Evidence, the State intends to use evidence of other crimes, wrongs, or acts to prove motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, or for any other relevant purpose and for impeachment purposes that is not otherwise contained in the police reports. The State will provide notice of the specific acts and the witnesses it intends to call at trial in a separate notice.

State's Request for Disclosure

1. The State requests a list of all papers, documents, photographs, and other tangible objects that the defendant intends to use at trial.
2. The State requests any completed written reports, statements and examination notes made by experts the defense intends to call at trial.
3. The State requests copies of any recorded statements made during interviews conducted without the presence of a Deputy County Attorney.
4. The State requests, pursuant to Rule 15.2(a)(3), that defendant submit to being fingerprinted, palm-printed, or foot-printed at any scheduled court hearing.

Submitted May _____, 2008.

ANDREW P. THOMAS
MARICOPA COUNTY ATTORNEY

BY: /s/ _____
/s/ Susie Charbel
Deputy County Attorney

Copy mailed\delivered
May _____, 2008,
to:

The Honorable Roland J. Steinle, III, Saj06
Judge of the Superior Court

Shawdy Banihashemi
Office of the Public Defender

BY: /s/ _____
/s/ Susie Charbel
Deputy County Attorney