

NO. 00000

STATE OF TEXAS)	IN THE DISTRICT COURT
VS.)	186th JUDICIAL DISTRICT
JOE SMITH)	BEXAR COUNTY, TEXAS

**MOTION FOR DISCOVERY AND PRESERVATION OF
RECORDED IN-COMING TELEPHONE CALLS AND
DISPATCH RADIO COMMUNICATIONS**

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves this Court for Discovery and Preservation of all recorded in-coming telephone calls to "911," or to the sheriff's office, or to the police station requesting assistance in the 100 block of Main Street, Case No. 10-100000, Bexar County, San Antonio, Texas, on April 1, 2018, all recorded communications between the dispatcher and police officers dispatched to the 100 block of Main Street, Case No. 10-100000, Bexar County, San Antonio, Texas, on April 1, 2018, and all recorded communications between police officers who had anything to do with the investigation of this case on April 1, 2018, and in support thereof, shows the following:

I.

Counsel believes that recordings were made of in-coming calls to "911", to the sheriff's office, and to the police station, and radio communications between the police dispatcher and police officers, and radio communications between police officers.

II.

These recordings will provide information as to who initially requested assistance, the reason assistance was requested, the state of mind of the responding officers, as well as other significant events occurring before, during and after this alleged offense. This information is material and relevant to the defense.

III.

The information is not privileged, or, if privileged, then the privilege must give way to the overriding interest defendant has in preparing and presenting his case and in order to preserve his rights to compulsory process confrontation, effective assistance of counsel, and due process of law, guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article I, §§ 10, 13 and 19 of the Texas Constitution.

IV.

Such information is within the exclusive control and possession of the State, and is not otherwise procurable by the defendant through the exercise of due diligence.

V.

That this motion is made in good faith and not for the purpose of delay.

WHEREFORE, premises considered, defendant respectfully requests that he be allowed to inspect, listen to, and copy all recorded in-coming telephone calls to "911" or the sheriff's office, or to the police station requesting assistance in the 100 block of Main Street, Case No. 10-100000, Bexar County, San Antonio, Texas on April 1, 2018, all recorded communications between the dispatcher and police officers dispatched to the 100 block of

Main Street, Case No. 10-100000, Bexar County, San Antonio, Texas, on April 1, 2018, and all recorded communications between police officers who had anything to do with the investigation of this case or the arrest of defendant on April 1, 2018. Additionally, the defendant requests that this Court immediately enter an order that all such recordings be preserved and not destroyed until this cause is finally disposed of. In the alternative, defendant requests that this Court conduct an in-camera inspection of these records to determine questions of materiality, relevance and privilege.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I certify that a copy of the Motion For Discovery and Preservation of Recorded Incoming Telephone Calls and Dispatch Radio Communications has been delivered to the Bexar County District Attorney's Office, 101 W. Nueva St; San Antonio, Texas, on July 12, 2018.

MARK STEVENS

ORDER

On this the _____ day of _____, 2018, came to be considered defendant's Motion for Discovery and Preservation of Recorded In-Coming Telephone Calls and Dispatch and Radio Communications, and said motion is hereby

(GRANTED)

(DENIED)

JUDGE PRESIDING