

NO. 0000

STATE OF TEXAS)	IN THE DISTRICT COURT
VS.)	226TH JUDICIAL DISTRICT
JOE SMITH)	BEXAR COUNTY, TEXAS

**REQUEST FOR NOTICE OF INTENT TO OFFER
STATEMENTS ALLEGEDLY MADE BY DEFENDANT**

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves this Court to require the state to give written notice, at least 30 days prior to hearing his Motion to Suppress Written or Oral Statements of Defendant, of all statements allegedly made by Mr. Smith, that the state intends to offer at trial. For good cause, we show the following:

I.

Review of the discovery provided to date reveals several witnesses who say that Mr. Smith made statements to them about the evidence in this case. Some of these statements were electronically recorded and some were not. Some were made to persons who were obviously agents of the State of Texas; in other cases, the agency relationships are less clear. Some were likely the product of custodial interrogation. The admissibility of each statement will depend on the facts and circumstances under which they were made, if in fact they were made.

II.

A defendant is entitled to a hearing outside the presence of the jury on the admissibility of any confession he is alleged to have made. TEX. R. EVID. 104(c). A

defendant is also entitled to a hearing outside the presence of the jury on the voluntariness of any statements he allegedly made TEX. CODE CRIM. PROC. ANN 38.22 § 6; *Jackson v. Denno*, 378 U.S. 368 (1964).

III.

Mr. Smith requires timely notice of any statement he allegedly made that the state intends to offer against him at trial so that he can properly contest its admissibility.

IV.

Additionally, he requires timely notice to avoid unfair surprise, prohibited by the Due Process Clause of the Fourteenth Amendment to the United States Constitution and the Due Course of Law Clause of Article 1, §§ 13 and 19 of the Texas Constitution; and so that he can confront the witnesses against him and receive the effective assistance of counsel, guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, § 10 of the Texas Constitution.

V.

And, timely production of a true, complete, and accurate copy of all recordings of a defendant that the state contends are admissible under article 38.22 is required under section 3(a)(5) of that provision.

VI.

Finally, article 39.14 of the Texas Code of Criminal Procedure authorizes this Court to order the state to produce and permit the inspection and copying of any written

statement of the defendant.

VII.

Mr. Smith requests the state to provide to the defense the following, at least 30 days before hearing his Motion to Suppress Written or Oral Statements of Defendant:

1. A true, complete, and accurate copy of all documents containing written statements of the defendant;
2. The substance of all oral statements allegedly made by the defendant that the state intends to offer at trial, as well as the persons to whom the statements were allegedly made, and the time and place they were allegedly made;
3. A true, complete, and accurate copy of all recordings of defendant that the state contends are admissible under article 38.22 of the Texas Code of Criminal Procedure.

Respectfully submitted:

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Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of Request For Notice of Intent To Offer Statements Allegedly Made by Defendant has been delivered to the Bexar County District Attorney's Office; 101 W. Nueva St, San Antonio, Texas on July 15, 2018.

MARK STEVENS

ORDER

On this the _____ day of _____, 2018, came on to be considered Defendant's Request For Notice Of Intent To Offer Statements Allegedly Made By Defendant, and said motion is

(GRANTED)

(DENIED)

JUDGE PRESIDING