



GREGORY D. TOTTEN
District Attorney

SHERIFF GEOFF DEAN
Ventura County Sheriff's Office

CHIEF KEN CORNEY
Ventura Police Department

CHIEF SCOTT WHITNEY
Oxnard Police Department

VENTURA COUNTY

LAW ENFORCEMENT COORDINATING COMMITTEE

CHIEF ANDREW SALINAS
Port Hueneme Police Department
Chair

CHIEF ANDREW SALINAS
Port Hueneme Police Department

CHIEF DAVID LIVINGSTONE
Simi Valley Police Department

CHIEF STEVE MCLEAN
Santa Paula Police Department

CAPTAIN AARON GOULDING
California Highway Patrol

MEMORANDUM OF AGREEMENT May 2018

A legally mandated aspect of every criminal prosecution is the provision of discovery to the defense. Law enforcement agencies and the prosecuting agency together make up the "prosecution team" and compliance with discovery mandates is a joint obligation of every member of the prosecution team under state and federal law. Discovery errors or omissions by the prosecution team may result in sanctions that impair or prevent the ability to bring a criminal to justice.

In recognition of the joint obligations outlined below, the Ventura County Law Enforcement Coordinating Council hereby agrees to and adopts the undersigned agree to these principles to ensure compliance with the discovery process.

A. DISCOVERY OBLIGATIONS

1. All members of the prosecution team shall comply with state and federal discovery law as it currently exists and as it may change over time due to statutory revisions and judicial decisions.
2. California's Criminal Discovery Statute requires that the prosecutor disclose to the defense the following materials and information, if it is in the possession of the prosecuting attorney or the prosecuting attorney knows it to be in the possession of the investigating agency:
 - (a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.

(b) Statements of all defendants.

(c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.

(d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.

(e) Any exculpatory evidence.

(f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

(Penal Code § 1054.1)

3. Under *Brady v. Maryland* (1963) 373 U.S. 83, the prosecutor has a duty to disclose exculpatory evidence that is material to either guilt or punishment, or that could be used to impeach the credibility of a prosecution witness. The courts consider information in possession of an investigating law enforcement agency to be in the possession of the prosecutor, whether the prosecutor actually knows about it or not.
4. Discovery must be provided at least 30 days before trial, or immediately if becomes known within 30 days of trial. (Penal Code § 1054.7) Disclosure of *Brady* information is also required before a preliminary hearing. (*Bridgeforth v. Superior Court* (2013) 214 Cal.App.4th 1074.)
5. The court may impose sanctions for failure to provide discovery, or for late discovery, including, but not limited to, immediate disclosure, contempt proceedings, delaying or prohibiting the testimony of a witness or the presentation of real evidence, continuance of the matter, advising the jury, or dismissal. (Penal Code § 1054.5 (b) & (c).) Sanctions for intentional failure to provide exculpatory evidence include disqualification of the prosecutor and a report to the State Bar (Bus. & Prof. Code § 6086.7 (a)(5); Penal Code § 1424.5) and felony prosecution of the prosecutor (Penal Code § 141(b)). Discovery violations may result in reversal of the judgment on appeal, vacating the conviction on habeas corpus, and/or a civil rights lawsuit.


B. COMPLIANCE

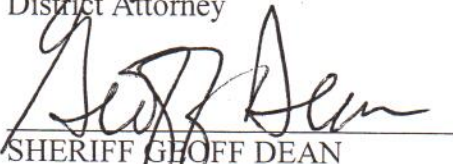
1. A complete set of reports shall be submitted to the District Attorney when the case is submitted for filing.

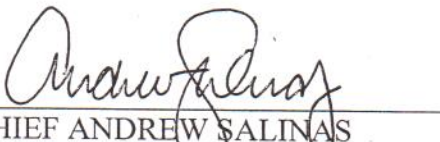
2. The law enforcement agency shall develop procedures to ensure that additional reports written, or additional evidence obtained, after the initial submission are timely provided to the District Attorney's Office.
3. When the District Attorney requests reports, recordings, or other items already in existence, the law enforcement agency shall provide them promptly. Absent unusual circumstances, this should be done within five business days. When a shorter deadline is present, the law enforcement agency shall endeavor to provide the discovery by that date.
4. Each station shall designate a supervisor who the prosecutor may contact in the event that the person ordinarily assigned to respond to discovery requests does not timely provide the requested discovery.
5. Prosecutors shall appropriately track and maintain the discovery received from law enforcement agencies and shall avoid requesting resubmission of items already received. Prosecutors shall not request "all reports" or request duplicate submissions unless a diligent search has been undertaken for discovery items already received.
6. Conferences are encouraged between the prosecutor and law enforcement agency personnel to ensure that all discovery has been provided to the District Attorney's Office.

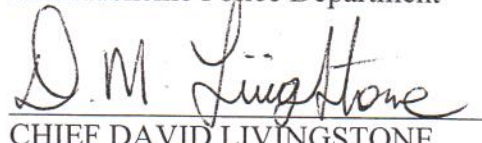
CONCLUSION


Discovery is a joint obligation of the prosecution team that impacts the ability of the justice system as a whole to bring defendants to trial and convict the guilty. Prosecutors and law enforcement recognize the importance of prompt and complete discovery.


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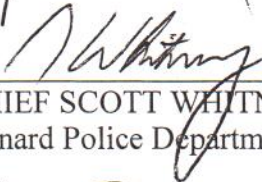

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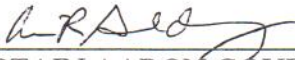
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CSU Channel Islands Police