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Effective Date: September 15, 2021
Amended Date: September 30, 2021

Open File Policy

The intent of this policy is to provide guidance for uniformity in discovery and disclosure compliance practices in the Dallas County Criminal District Attorney's Office (DCCDAO). This Office is committed to upholding the rule of law, and encourages its prosecutors to do so while exercising appropriate and reasonable prosecutorial judgment and discretion guided by the evidence and highest ethical principles. To that end, this Office recognizes that discovery obligations in criminal matters are governed by Article 39.14 of the Texas Code of Criminal Procedure, the United States and Texas Constitutions, case law, ethical standards, and policies of this Office.

Prosecutors, unlike other practicing attorneys, are bound by particular laws and ethical rules to ensure the integrity of the criminal justice process. Amongst those, is a prosecutor's duty "not to convict, but to see that justice is done." Tex. Code Crim. Proc. art 2.01. Additionally, prosecutors are bound by Rule 3.09 ("Special Responsibilities of a Prosecutor") of the Texas Disciplinary Rules of Professional Conduct, which among other things, sets out particular requirements for disclosure of evidence or information known to the prosecutor.

Texas Code of Criminal Procedure Article 39.14 (the "Michael Morton Act") codifies discovery in Texas, and triggers certain disclosure obligations upon receipt of a "timely request from the defendant." Additionally, prosecutors are guided by the mandate of due process of law as required by the 14th Amendment of the United States Constitution, and Art. 1, Sec. 19 of the Texas Constitution. Under *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, a prosecutor has a constitutional duty, pursuant to due process, to timely disclose favorable information to a defendant.

Favorable information consists of exculpatory, mitigating, and impeachment information. Exculpatory evidence is evidence tending to justify, excuse, or clear the defendant from alleged fault or guilt. Mitigating evidence is information or evidence about the defendant or the circumstances of the crime that might support leniency in the sentencing. Impeachment evidence is evidence which the defense

can present to dispute, disparage, deny, or contradict evidence offered by the State, including evidence establishing a motive or bias on the part of a State's witness to offer false or inaccurate testimony in favor of the State.

A. Duty to Disclose

It is the policy of the DCCDAO to provide discovery in compliance with Article 39.14 of the Texas Code of Criminal Procedure and any other constitutional, legal, and ethical requirements. This Office has adopted an open file policy that is intended to ensure that all evidence, whether inculpatory, exculpatory, mitigating, or impeaching, is disclosed to the defense. In determining discoverability of evidence, prosecutors should not be concerned with the admissibility or credibility of the evidence; rather, prosecutors should be concerned with the disclosure of said evidence to defense counsel and the documentation of such. It is the intention of this policy to be an expansion of basic Article 39.14 requirements in some ways, per Article 39.14(n). This Office further recognizes that a prosecutor has a broad ethical duty to disclose favorable information and evidence to the defense, and it is this Office's intention to support each prosecutor in upholding said duties. Further, this policy intends to encourage transparency in our prosecutorial practices to the extent we can continue to fully and safely prosecute cases in this county, while also keeping within the bounds of the mission and guiding principles of this Office.

Discovery shall be provided to the defense counsel of record, as soon as practicable, once the DCCDAO has accepted the case (and/or grand jury referral) from the filing law enforcement agency.

a. Pre-Indictment and Grand Jury Referrals

Absent the special exceptions addressed below, the general policy is that discovery shall be made available pre-indictment by the trial prosecutor. This includes, but is not limited to, witness interview notes (as described in subsection B(e) of this policy on p. 8, below), and disclosing NCIC/TCIC criminal history record searches of any witness made by the State for its use in prosecuting the case. If the defense requests copies of the existing criminal history record searches pursuant to discovery, the prosecutor shall provide a copy of the existing NCIC/TCIC criminal history record search printout, pursuant to a court order. The applicable court order can be found in the dropdown menu on TechShare. Regarding disclosures

related to prospective law enforcement and expert witnesses pursuant to Article 39.14, please refer to subsection B(h) of this policy on p. 12, below.

If a prosecutor has *imminent* concerns about releasing discovery pre-indictment, the prosecutor will staff the case with the supervising Division Chief to discuss said concerns before releasing discovery. The prosecutor must receive approval from the supervising Division Chief before determining whether to withhold pre-indictment discovery. Whether approval or denial to withhold pre-indictment discovery is received, the prosecutor will create a work product (WP) note in TechShare, state the reasons for the decision, and name the Division Chief with whom the case was staffed. If discovery is withheld, the prosecutor shall disclose to the defense the nature of the information being withheld, with specificity (e.g., offense report, DNA report, etc.), and the general reason for withholding.

If any exculpatory, mitigating, or impeachment information becomes known during the intake/grand jury process, that information should be documented by the intake/grand jury prosecutor in written form and attached as DME. Additionally, a WP note should be made to that effect and the trial court prosecutor should be copied on the WP note. The trial court prosecutor is responsible for making all DME discoverable to defense counsel.

In the interest of justice, if an intake/grand jury prosecutor determines that certain DME should be made discoverable pre-indictment or pre-filing, they shall document in a WP note what information was provided to defense counsel.

Prior to indictment in grand jury referral cases, discovery shall be provided by the intake/grand jury prosecutor who will be presenting the case. If the case contains sensitive information, the responsible intake/grand jury prosecutor may seek an exception to disclosure from the Division Chief, Deputy Administrator, Chief Administrator, or the District Attorney. Whether approval or denial to withhold discovery is received, the grand jury prosecutor will create a WP note in TechShare, state the reasons for the decision, and name the administrator with whom the case was staffed.

If any exculpatory, mitigating, or impeachment information becomes known to the grand jury prosecutor pre-indictment or pre-filing, that information should

be documented in written form and attached as DME. If there is an attorney of record, the grand jury prosecutor is responsible for making the DME discoverable to defense counsel. However, if there is not an attorney of record, the grand jury prosecutor shall make a WP note and the trial court prosecutor, when assigned, is responsible for making the DME discoverable to defense counsel.

b. Indicted/Pending Cases

Further, it is the ongoing responsibility of each prosecutor to continue to provide discovery during the pendency of the case as provided by law. This includes, but is not limited to, witness interview notes (as described in subsection B(e) of this policy on p. 8, below), and disclosing NCIC/TCIC criminal history record searches of any witness made by the State for its use in prosecuting the case. If the defense requests copies of the existing criminal history record searches pursuant to discovery, the prosecutor shall provide a copy of the existing NCIC/TCIC criminal history record search printout, pursuant to a court order. The applicable court order can be found in the dropdown menu on TechShare. Regarding disclosures related to prospective law enforcement and expert witnesses pursuant to Article 39.14, please refer to subsection B(h) of this policy on p. 12, below.

Because the DCCDAO is committed to providing complete discovery as soon as practicable, a case file containing grand jury information, such as transcripts and/or materials obtained through grand jury subpoenas, shall be disclosed after promptly filing a Motion to Release Grand Jury Records and an Order by the Court (Texas Code of Criminal Procedure Article 20A.201, et seq.). The motion can be auto-generated in TechShare under “More Actions; Generate Documents.”

If sensitive information is contained in such disclosures, a protective order should also be requested to protect the sensitive and/or confidential information. In the situation of a grand jury referral for which there is no pending case, trial division prosecutors should refer any inquires about the referral to the grand jury division.

Additionally, any evidence obtained *after* disposition of a case must also be provided to the defense and is addressed more thoroughly in Section B(d), “Ongoing duty to disclose newly discovered or newly available evidence” of this policy on p. 6, below.

B. Disclosure of Discoverable Evidence

Disclosure of any document, item, or information pursuant to this Open File Policy shall be made as soon as practicable after representation of the defendant by an attorney of record has been confirmed.

a. Documents, items, or information that must be produced pursuant to Tex. Code Crim. Proc. art. 39.14(a), subject to the restrictions of arts. 39.15 & 39.151 and Tex. Fam. Code §264.408:

- i. Offense, prosecution, arrest, and incident reports;
- ii. Designated documents, papers, written or recorded statements of the defendant or a witness, including witness statements of law enforcement officers; and
- iii. Any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged that constitute or contain evidence material to any matter involved in the action.

Prosecutors should keep in mind that these documents, items, or information may be in the DCCDAO's prosecution file or in the possession of the State by way of some other means, but may also be in the possession, custody, or control of "any person under contract with the state." The prosecutor must, therefore, make inquiries to ensure that discovery from all parties associated with, or involved in, the investigation of the offense is received and disclosed.

Additionally, prosecutors should be aware that divisions outside of the trial bureau may have separate files that are not traditionally included in TechShare. By way of example, but not an exhaustive list, is the Juvenile Division or any division that screens, prepares, and litigates protective orders.

b. Prosecutors should be aware of the special restrictions on discovery in cases involving children or minors as provided by Article 39.14, such as:

- i. Records related to child abuse investigations are subject to protection and restrictions under §264.408 of the Texas Family Code;
- ii. Evidence depicting or describing abuse of, or sexual conduct by, a child or minor, as governed by Article 39.15 of the Texas Code of Criminal Procedure; and
- iii. Evidence depicting invasive visual recording of a child, as governed by Article 39.151 of the Texas Code of Criminal Procedure.

c. Duty to disclose exculpatory, impeachment, or mitigating evidence:

Under Article 39.14(h), prosecutors shall disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the State that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged. This disclosure shall be made regardless of the credibility or admissibility of the evidence or information. For guidance on documentation of disclosures, see the Documentation section below.

d. Ongoing duty to disclose newly discovered or newly available evidence:

The duty of disclosure is an ongoing obligation, as mandated under Article 39.14(k). If at any time before, during, or after trial the State discovers any additional document, item, or information required to be disclosed under Article 39.14(h), the State shall promptly disclose the existence of the document, item, or information in writing to the defendant (if not represented by counsel) or to defense counsel (if the defendant is represented), and file the written disclosure with the convicting court. This disclosure shall be made regardless of the credibility or admissibility of the evidence.

While ordinarily post-conviction discovery is handled by the writ section of the Appellate Division or the Conviction Integrity Unit pursuant to post-conviction cases being handled by those respective areas of the Office, trial bureau prosecutors also remain responsible for post-conviction disclosure of exculpatory, impeaching, or mitigating evidence as required by Article 39.14(h) and (k).

As such, when newly discovered or newly available information comes to light that is required to be disclosed under Article 39.14(k), the original prosecutor who handled the case to disposition shall be responsible for disclosing the newly discovered document, item, or information. Prior to making the disclosure, the prosecutor shall first determine whether any post-conviction litigation or investigation is pending by notifying the Chief Prosecutor of the Conviction Integrity Unit and the Chief Prosecutor of the Appellate Division in writing.

If post-conviction litigation or investigation is not pending, the prosecutor shall promptly disclose the newly discovered document, item, or information to the defendant, send a copy to defendant's last known counsel of record (if available), file a copy of the disclosure in the convicting court, and upload a copy of the disclosure in TechShare.

If post-conviction litigation or investigation is pending, the original prosecutor shall notify the prosecutor handling the post-conviction litigation or investigation and the Chief of the court where the case was adjudicated or supervisor of the division/unit that originally handled the case. The disclosure shall be made by the prosecutor handling the post-conviction litigation or investigation, and must be documented appropriately in the case file (whether in TechShare or in the hard copy trial file), a copy of the disclosure should be sent to the defendant's last known counsel of record (if available), and also filed in the convicting court.

In the event that the original prosecutor who handled the case to disposition is no longer employed at the DCCDAO, the Chief of the court

where the case was adjudicated or supervisor of the division/unit that originally handled the case to disposition shall be responsible for disclosing the newly discovered document, item, or information as directed above.

e. Attorney notes:

i. The Work Product exception:

Work product of prosecutors and investigators is not generally discoverable unless it contains exculpatory, impeaching, or mitigating evidence. The work product privilege/exception can also be waived in certain circumstances.

ii. Work product includes, but is not limited to:

1. Mental impressions, conclusions, opinions, legal theories, trial strategy decisions, and notes related to those decisions made in anticipation of trial; and
2. Documents, reports, or memoranda compiled by the prosecutor or his/her agents, and communications in anticipation of trial.

Notes taken by a prosecutor, investigator, victim advocate, legal assistant, paralegal, intern, other employee, or an agent of the State during a witness interview are NOT themselves work product. These notes must be uploaded into DME in TechShare (see section iii, below).

iii. Witness interview notes

It is best practice to take notes during witness interviews. However, even if notes were not taken, but information is orally communicated to the prosecutor, investigator, victim advocate, legal assistant, paralegal, intern, other employee, or an agent of the

State, that information may need to be turned over if required by law.

During a witness interview, regardless of whether notes are taken, if a witness says something that is inconsistent with previous information given OR if the witness says something completely new that had never been stated or reported (**even if it is not an inconsistent statement**) the prosecutor shall turn over the information to the defense in writing.

If a witness had not come forward during the initial investigation, but subsequently comes forward and the prosecutor, investigator, or other DCCDAO staff talks to this person and develops information, that newly discovered information must be turned over to the defense in writing.

1. Documentation

It is imperative that you document your file to reflect compliance with the Michael Morton Act and the DCCDAO's Open File Policy. All information disclosed to the defense must be in writing, which can be done via email, letter, or notice filed with the court. Prosecutors should upload a copy of the written disclosure on TechShare's DME. If disclosing the information would put the witness's safety at risk, the information should be submitted to the court for an *in-camera* review and/or disclosed by way of protective order.

Prior practice has often been to send an email to defense counsel in order to share information (witness meeting notes, disclosure information, etc.); however the best practice for documentation on TechShare, is to upload any additional information into TechShare's DME. Often, cases change prosecutors and may also change defense lawyers, so an email is insufficient to provide the information, and also provide documentation of the disclosure. In order to be

compliant with the DCCDAO Open File Policy, all prosecutors should make any disclosures by uploading the disclosure into DME. If defense counsel changes, you must make any previous disclosures “discoverable” to new defense counsel.

- a. All prosecutors should clearly label the document as they are creating and uploading it. For example, “John Doe Witness Meeting Notes from 01012020” to easily identify the content of the document.
- b. Often, notes from witness meetings are reviewed years later. As such, it is imperative that when taking notes, whether handwritten or typed, during a witness interview, you include the following information: Defendant’s Name, Cause Number, your name, the identity of any other persons present during the interview, the name of the person being interviewed, and the date, time, and location of the interview.

f. Privileged or confidential information:

Article 39.14(a) of the Texas Code of Criminal Procedure requires the production of documents, items, or information *not otherwise privileged*. The responsible prosecutor must apprise the court of the confidentiality implicated by the discoverable information and seek a protective order, where appropriate. However, privileged information must be disclosed if it contains exculpatory, impeachment, or mitigating information or is otherwise required to be disclosed by due process of law. In the event that a prosecutor asserts a privilege, he or she may request an *in-camera* review for the court’s determination of whether the privilege applies and whether the prosecutor must be compelled to produce the discovery. The State will ask the court to make an *in-camera* review of the privileged information and determine if it contains exculpatory material. In the event the privileged information contains exculpatory material, the discovery shall be disclosed in accordance with Article 39.14(h), as discussed above.

A prosecutor may apply for a protective order regarding privileged, confidential, or sensitive information that must be produced. The protective order will admonish the defendant and counsel of record that the purpose of the discovery is trial preparation and the sensitive information provided within the scope of the protective order is to be used for only that purpose. In addition, the intention of the protective order is to provide discovery with the purpose that all information disclosed under the protective order shall be used only by the defendant and their counsel of record for purposes of trial preparation. Further, the protective order shall provide that the defendant and counsel of record shall not release or communicate the privileged, confidential, or sensitive information to any other outside parties.

g. Ongoing investigations/sensitive material:

If the disclosure of discoverable information would require release of sensitive information (*e.g.*, information that could affect the privacy or proprietary rights of a third party; information related to an ongoing criminal investigation; information that may compromise the safety of a victim, witness, or co-actor), the responsible prosecutor should consider seeking a protective order against unauthorized use or dissemination of the discoverable information, or consider withholding the information under Article 39.14(c).

If a prosecutor has *imminent* concerns about releasing discovery in a pending case, the prosecutor will staff the case with the supervising Division Chief to discuss said concerns before releasing discovery. The prosecutor must receive approval from the supervising Division Chief before withholding discovery in a pending case. Whether approval or denial to withhold discovery in a pending case is received, the prosecutor will create a WP note in TechShare, state the reasons for the decision, and name the Division Chief with whom the case was staffed. If discovery is withheld, the prosecutor shall disclose to the defense the nature of the information being withheld, with specificity (*e.g.*, offense report, DNA report, etc.), and the general reason for withholding.

h. Disclosure of prospective Law Enforcement and Expert Witnesses pursuant to Article 39.14:

Pursuant to Article 39.14 of the Texas Code of Criminal Procedure, prosecutors have a duty to disclose exculpatory, impeachment, or mitigating information that may exist regarding a prospective law enforcement or expert witness. The DCCDAO maintains a disclosure database, which must be searched for potential disclosures prior to disposition of a case, as explained below.

Prosecutors must make an inquiry of said information to DABradyInfo@dallascounty.org and make appropriate disclosures, as directed below, beginning when the case is filed with the DCCDAO. These inquiries and pertinent disclosures should continue throughout the preparation of the case, and a final inquiry must be made prior to the disposition of the case - including pleas. In addition, if you are standing in for a plea on a case that was handled by another prosecutor, you must confirm that this policy has been complied with before signing the plea paperwork and submitting it to the Court.

i. No information to disclose:

If the prosecutor requests a search of the DCCDAO disclosure database for information on a prospective witness and receives notification that there is no disclosure material according to the disclosure lists under our Office's care, custody, or control, the prosecutor shall upload the document to TechShare evidencing no disclosure. The document should be uploaded into TechShare's Digital Media Evidence (DME) section and clearly labeled in order to identify its contents. For example, "39.14 Disclosure check on Officer John Doe on 01/02/2020."

ii. Information requiring disclosure:

If the prosecutor requests a search of the DCCDAO disclosure database for information on a prospective witness and receives notification that the information does exist (regardless of whether the information relates to a sustained finding or an under review investigation), the

prosecutor shall upload the written disclosure to TechShare and make it discoverable to the defense. It is best practice to simultaneously notify defense counsel of the information and request acknowledgment-of-receipt. If written acknowledgment-of-receipt is received from defense counsel, the prosecutor shall upload that acknowledgment-of-receipt to TechShare. These documents should be uploaded into TechShare's DME section and clearly labeled in order to identify its contents. For example, "39.14 Disclosure information disclosed to defense_Officer John Doe" and/or "Acknowledgement-of-receipt of 39.14 Disclosure information by the defense 1/1/2020_Officer John Doe."

a. *Motion in Limine*

When disclosure is made on a case set for trial, the prosecutor shall, where appropriate, file a *Motion in Limine* with the court pursuant to Rules 608(b), 404(b)(1), and 403 of the Texas Rules of Evidence to avoid improper impeachment of the witness with the disclosed information. A copy of the *Motion in Limine* shall be uploaded into TechShare's DME and clearly labeled in order to identify its contents. For example, "*Motion in Limine* 1/1/2020_Officer John Doe."

b. Knowledge of exculpatory, mitigating, and/or impeachment information

If a prosecutor becomes aware of any exculpatory, mitigating, and/or impeachment information related to a law enforcement or expert witness, which was not provided to the prosecutor pursuant to the prosecutor's request for a search of the disclosure database, the prosecutor must make the appropriate disclosure to the defense and must notify the Public Integrity Division as soon as practicable after learning of the information. This duty applies whether the witness is a prospective or actual witness, and whether the witness testifies or not. Such disclosures to the defense must be documented in TechShare's DME, and notices to the Public Integrity Division must be documented as a WP note in TechShare.

c. Disclosure to third parties not authorized by 39.14

If a prosecutor believes that materials disclosed to the defense or information contained in materials disclosed to the defense have been disclosed to third parties not authorized by 39.14(e) or (f), the prosecutor will immediately notify their Division Chief, Deputy Administrator, Chief Administrator, or the District Attorney, who will pursue remedial action, if necessary.

i. Request for Internal Affairs' File by the Defense

If a prosecutor receives a request from the defense requesting a law enforcement agency's Internal Affairs file, the prosecutor shall instruct the defense counsel to subpoena the file directly from the respective agency. The prosecutor shall also notify our Office's Public Integrity Division by forwarding a copy of the request to DABradyInfo@dallascounty.org.

j. Pro Se Defendants

- i. On Bond: Once the prosecutor becomes aware that a defendant who is on bond is *pro se*, the prosecutor should be prepared to make available to the defendant for inspection all discovery evidence in his/her possession at the first announcement setting. The prosecutor will provide the defendant the discovery in a redacted form for review while in the presence of their assigned DCCDAO investigator. Should the prosecutor be unable to be present during the entire time the defendant reviews the discovery, the investigator will be responsible for ensuring that nothing is removed from the file or copied by the defendant in the prosecutor's absence. The prosecutor shall also produce a discovery log detailing each document, item, or information produced in redacted form, and provide the reason for redaction, for the defendant's inspection and will have the defendant affix his/her initials next to each line-item. This discovery log will be signed and dated by the defendant, prosecutor, and investigator present during

the review. The completed discovery log shall be uploaded onto TechShare and filed with the court.

As discovery is supplemented, the prosecutor shall contact the court in order for the court to schedule a date for supplemental discovery to be provided to the defendant. A new discovery log will be completed each time discovery is supplemented and the completion process shall be the same each time, as outlined immediately above.

If the defendant is unable to review the discovery at the first setting due to time constraints, the prosecutor will notify the court so an additional date can be scheduled.

Copies, or other types of electronic duplication, are not allowed, unless approved by a Division Chief. Any such approval shall be documented in a WP note on TechShare.

- ii. In Custody: Once the prosecutor receives notice that a defendant in custody is *pro se*, the prosecutor should be prepared to make available to the defendant for inspection all discovery evidence in his/her possession at the first announcement setting. The prosecutor will provide the defendant the discovery in redacted form for review while in the presence of their assigned DCCDAO investigator. Should the prosecutor be unable to be present during the entire time the defendant reviews the discovery, the investigator will be responsible for ensuring that nothing is removed from the file or copied by the defendant in the prosecutor's absence. The prosecutor shall also produce a discovery log detailing each document, item, or information produced in redacted form, and provide the reason for redaction, for the defendant's inspection and will have the defendant affix his/her initials next to each line-item. This discovery log will be signed and dated by the defendant, prosecutor, and investigator present during the review. The completed discovery log shall be uploaded onto TechShare and filed with the court.

As discovery is supplemented, the prosecutor shall email the court coordinator and ask for the defendant to be brought back to the court for supplemental discovery review. A new discovery log will be completed each time discovery is supplemented, and the completion process shall be the same each time, as outlined immediately above.

If the defendant is unable to review the discovery at the first setting due to time constraints, the prosecutor will notify the court so an additional date can be scheduled.

Copies, or other types of electronic duplication, are not allowed, unless approved by a Division Chief. Any such approval shall be documented in a WP note on TechShare.

k. Post-Conviction Writ litigation

The DCCDAO:

- i. Will proceed with discovery in post-conviction writ litigation cases under the current version of Article 39.14 of the Texas Code of Criminal Procedure (regardless of the date of the offense in question). In this regard, the State will make available for review its files in the above cause to Applicant's attorney(s), including, but not limited to, notes generated by the State, its investigators, and agents. Such notes, when available, will include witness interviews, trial notes on juror information forms provided by the trial court, trial notes on juror questionnaires, and trial notes on witness testimony. In certain instances, should the State seek to withhold production of any information (*See Pope v. State*, 207 S.W.3d 352, 358 (Tex. Crim. App. 2006)), the State shall immediately notify Applicant's attorney that it is withholding the specific information, and Applicant may seek a hearing with the court to secure disclosure of the withheld information;
- ii. Shall disclose any exculpatory, impeachment, and/or mitigating item, document, or information in its files and/or obtained as a result of its ongoing investigation in this case. The State shall conduct a reasonable investigation into the allegations of the

Applicant's habeas application to determine whether additional evidence favorable to Applicant exists in the possession of the State, but not necessarily in the District Attorney's file;

- iii. Will join Applicant in obtaining collateral files that may have a bearing on witnesses' or proposed-but-not-called witnesses' credibility at the time of trial, provided Applicant can make a *prima facie* showing such collateral files have a bearing on the credibility of the witness at the time of his/her testimony or at the time of the original investigation, if not called to testify. This may include, but is not limited to, obtaining police reports related to the witness on any case(s) that were pending at the time of trial or original investigation, prior police report(s) related to the witness, or any Community Supervision and Corrections Department (probation) files that existed at the time of the witness's testimony or original investigation;
- iv. Will, upon a showing by Applicant that a *prima facie* case of relevance exists and after review by the elected Criminal District Attorney, provide a copy of performance evaluations and/or reason(s) for separation from employment of any Dallas County Criminal District Attorney's Office employee who participated in the trial or investigation of the case;
- v. Shall continue to make appropriate and timely disclosures of information that it acquires as a result of the State's ongoing investigation for the pendency of the proceedings in a writ of habeas corpus; and
- vi. Shall inform Applicant's attorney if there is information that the State believes should be withheld for a reasonable amount of time in order to avoid jeopardizing its current investigation.

This policy, while a guide to uniform discovery practices in the DCCDAO, attempts to cover broad matters and may be amended at a later date in order to comply with changes in the law, ethical standards, or general practice. As such, the version of this policy that applies to each case is the version in effect at the time

of the acceptance of the case by this Office. Should the policy change during the pendency of the case, the prosecutor should observe changes in the new policy and handle discovery accordingly.

Approved by:



John Creuzot
Dallas County Criminal District Attorney

9/15/2021

Date