



NAVARRO COUNTY JUDGE

300 West Third Avenue, Suite 102
Corsicana, TX 75110

H. M. Davenport, Jr., County Judge

Sherlyn Curtis, Court Coordinator

hdavenport@navarrocounty.org
Phone: (903) 654-3025

scurtis@navarrocounty.org
Fax: (903) 872-0778

January 15, 2013

RE: Standard Discovery Order – Criminal Cases

Dear Counsel:

Please find attached the Court's Standard Discovery Order which is effective immediately in all pending and future criminal cases filed with the Navarro County Court. Some of you may note that this order is very similar to the standard discovery order previously adopted by the 13th District Court and the Navarro County Court at Law. And, it is the Court's understanding that representatives from the State and Defense worked on the wording in this order.

This order is intended to reduce the number and length of discovery hearings before the Court. However, it does not prevent either side from filing discovery motions when there is an issue that is not covered by this order.

Please contact the Court if you have any questions.

Sincerely,

H.M. Davenport, Jr.
Navarro County Judge

CAUSE NO. _____

THE STATE OF TEXAS

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IN THE COUNTY COURT

V.

OF

NAVARRO COUNTY, TEXAS

STANDARD DISCOVERY ORDER

I. State Evidence: The Court Orders that the State Furnish, Disclose, or Permit Inspection and Copying of the following, NOT LATER THAN TEN (10) WORKING DAYS PRIOR to the scheduled trial date, and provide amended notice as necessary if additional evidence otherwise subject to this order is discovered at a later date:

Defendant Statements:

- A. Furnish: a copy of all written or recorded statements of the defendant, including intercepted communications such as wiretaps, all confessions or statements made pursuant to CCP §38.22, recorded Grand Jury Testimony, and all video and audio recordings that record statements of the defendant. Telephone conversations initiated by the defendant from custody should be discovered independently of this Order. Defense counsel shall bear the cost of copying.

Witness List:

- A. Furnish: A list of witnesses the State anticipates calling during the State's case-in-chief.

Promises to Accomplices and State Witnesses:

- A. Disclose: Any payment, promise of immunity, leniency or preferential treatment made to any codefendant, accomplice or prospective witness for the State.

Reports:

- A. Permit Inspection and Copying: of written EMT or Paramedic reports pertaining to the Defendant to be introduced at trial.
- B. Disclose: existence of written medical, psychiatric or mental records of defendant to be introduced at trial. This does NOT require that inspection or copying of such records be permitted.
- C. Discovery of medical records pertaining to the treatment of victims will be addressed outside the scope of this order.

Photographs, Charts, and Diagrams:

- A. Permit Inspection and Copying: of any photographs of the defendant to be introduced at trial.
- B. Discovery of any photographs or video recordings of victims will be addressed outside the scope of this Standard Discovery Order.

Physical Evidence:

- A. Permit the Inspection and Photographing: of any items of physical evidence seized from the defendant or any codefendant.
- B. Permit the Inspection and Photographing: of any physical evidence the State intends to introduce at trial.
- C. Permit the Inspection and Photographing: of any contraband, weapons, or instruments of criminal activity seized or acquired by the State or its agents in the investigation of the alleged offense.
- D. Any removal of physical evidence from the custody of the State or independent testing of physical evidence will be addressed outside the scope of this Standard Discovery Order.

Criminal History:

- A. Criminal History of Defendant:
 - a. Disclose: Any prior convictions of Defendant of which the State intends to introduce evidence for any purpose.
 - b. Disclose: Any prior bad acts of Defendant of which the State intends to introduce evidence for any purpose, including the county in which and the date on which the alleged act was committed.
- B. Criminal History of State Witnesses:
 - a. Disclose: Any prior criminal history of anticipated State's witnesses which would be admissible for impeachment under the Texas Rules of Evidence and which is known to the District Attorney.

Exculpatory and Mitigating Evidence:

- A. Disclose: Any evidence favorable to the defendant or mitigating as to defendant's punishment.

II. Witness Statements: The Court orders that the State furnish, after the testimony of any witness for the State, any written or recorded statement of that witness pertaining to the alleged offense of which the attorney for the State is aware, except for recorded interviews of child witnesses, which will be addressed outside the scope of this Standard Discovery Order.

III. Notice of Expert Witnesses: The Court orders that both the State and the Defendant disclose, at least twenty (20) working days prior to the scheduled trial date, the name and address of any person either party may use at trial to present evidence under TRE 702, 703, and 705. If the State provides Defendant with a copy of a police report, such report will serve as notice that any law enforcement officer named in such report may give opinion testimony on matters for which the particular officer may be qualified.

IV. Business Records: The Court orders that both the State and the Defendant, at least twenty (20) days prior to the scheduled trial date, disclose and permit the inspection and copying of any business records to be introduced at trial.

V. General Comments: Although not required by law, the State is encouraged to furnish the defendant with offense reports, witness statements, and reports prepared by agents of the State. However, written statements of witnesses and work product of counsel and their investigators and their notes or reports are excluded from discovery under CCP 39.14(a) unless their disclosure is constitutionally required, e.g. *Brady*, *Giglio*, etc. Nevertheless, any recorded prior statement of any witness, for the State or the Defendant, which pertains to the alleged offense must be available for opposing counsel at the conclusion of the witness' testimony.

VI. Scope of this Order: The defendant shall exercise due diligence to contact the State to arrange a mutually convenient time to comply with this order *as soon as practicable*. The State shall exercise due diligence to comply with this Order *as soon as practicable*. Both parties shall comply with this order not later than ten (10) working days prior to the scheduled trial date (twenty (20) days for paragraphs III and IV.), absent a showing of good cause. Both parties shall promptly amend information provided under this order if additional information is subsequently discovered, and nothing in this order shall be construed to render such newly discovered evidence inadmissible.

The State is not required to permit the removal of any item covered in this Order. Compliance with this Order shall be in the presence of a representative of the State. Defense counsel is responsible for the costs which are not incidental to compliance with this Order.

This order does not cover privileged matters or work product unless such disclosure is constitutionally required, e.g. *Brady*, etc. Any dispute related to compliance with this Order should be brought to the Court's attention immediately.

Counsel for the State and counsel for the defendant have a continuing duty to immediately reveal to opposing counsel all newly discovered information or other material within the scope of this Order. This Order is deemed sufficient to satisfy the discovery requests of both the defendant and the State. Should additional discovery be necessary the defendant and/or the State shall file a written motion addressing ONLY matters not covered in this Order. Any such motion must be presented in accordance with CCP 28.01.

SIGNED AND ENTERED ON this ___ day of _____, 20____.

Judge Presiding