

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1973

By: Williams

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2021, Section 2002, which relates to the
9 Oklahoma Criminal Discovery Code; clarifying and
10 including additional evidentiary disclosure
11 requirements for prosecutors; and providing an
12 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 22 O.S. 2021, Section 2002, is
15 amended to read as follows:

16 Section 2002. A. Disclosure of Evidence by the State.

17 1. ~~Upon request of the defense, the state~~ The prosecution shall
18 disclose to the defense and permit the defense to discover, inspect,
19 copy, photograph, and test all items and information that relate to
20 the subject matter of the case and that are in the possession,
21 custody, and control of the prosecution or persons under the
22 direction or control of the prosecution including, but not limited
23 to the following:

24 a. ~~the names and addresses of witnesses which the state~~
~~intends to call at trial, together with their~~

1 ~~relevant, written or recorded statement, if any, or if~~
2 ~~none, significant summaries of any oral statement~~
3 adequate contact information for all persons other
4 than law enforcement personnel whom the prosecutor
5 knows to have evidence or information relevant to any
6 offense charged or to any potential defense thereto,
7 including a designation by the prosecutor as to which
8 of those persons may be called as witnesses,

9 b. the name and work affiliation of all law enforcement
10 personnel whom the prosecutor knows to have evidence
11 or information relevant to any offense charged or to
12 any potential defense thereto, including a designation
13 by the prosecutor as to which of those persons may be
14 called as witnesses, as well as all reports made ~~in~~
15 connection with ~~by~~ these individuals in reference to
16 the ~~particular~~ case,

17 c. any written or recorded statements and the substance
18 of any oral statements made by the accused or made by
19 a codefendant to a public servant engaged in law
20 enforcement activity or a person then acting under the
21 direction of the person or in cooperation with the
22 person,

23 d. any reports or statements made by experts in
24 connection with the particular case, including results

- 1 of physical or mental examinations and of scientific
2 tests, experiments, or comparisons,
- 3 e. any books, papers, documents, photographs, tangible
4 objects, buildings or places which the prosecuting
5 attorney intends to use in the hearing or trial or
6 which were obtained from or belong to the accused,
- 7 f. any record of prior criminal convictions of the
8 defendant, or of any codefendant, ~~and~~
- 9 g. Oklahoma State Bureau of Investigation (OSBI) rap
10 sheet/records check on any witness listed by the state
11 or the defense as a witness who will testify at trial,
12 as well as any convictions of any witness revealed
13 through additional record checks if the defense has
14 furnished Social Security numbers or date of birth for
15 their witnesses, except OSBI rap sheet/record checks
16 shall not provide date of birth, Social Security
17 number, home phone number or address,
- 18 h. all tapes or other electronic recordings, including
19 all electronic recordings of 9-1-1 telephone calls
20 made or received in connection with the alleged
21 criminal incident, and a designation by the prosecutor
22 as to which of the recordings under the provisions of
23 this subparagraph the prosecution intends to introduce
24 at trial or at a pretrial hearing,

1 i. all reports, documents, records, data, calculations,
2 or writings including, but not limited to, preliminary
3 tests, screening results, bench notes, and analyses
4 performed or stored electronically concerning physical
5 or mental examinations, or scientific tests or
6 experiments or comparisons, relating to the criminal
7 action or proceeding which were made by or at the
8 request or direction of a public servant engaged in
9 law enforcement activity or which were made by a
10 person whom the prosecutor intends to call as a
11 witness at trial or a pretrial hearing, or which the
12 prosecution intends to introduce at trial or a
13 pretrial hearing. Information under the provisions of
14 this subparagraph includes, but is not limited to,
15 laboratory information management system records
16 relating to such materials, any preliminary or final
17 findings of nonconformance with accreditation,
18 industry or governmental standards or laboratory
19 protocols, and any conflicting analyses or results by
20 laboratory personnel regardless of the final analysis
21 or results of the laboratory. If the prosecution
22 submitted one or more items for testing to, or
23 received results from, a forensic science laboratory
24 or similar entity not under the direction or control

1 of the prosecution, the court, on motion of a party,
2 shall issue subpoenas or orders to such laboratory or
3 entity to cause materials under this subparagraph to
4 be made available for disclosure. The prosecution
5 shall not be required to provide information related
6 to the results of physical or mental examinations or
7 scientific tests, experiments or comparisons, unless
8 and until such examinations, tests, experiments, or
9 comparisons have been completed,

10 j. all evidence and information including that which is
11 known to the police or other law enforcement agencies
12 acting on behalf of the government in the case that
13 tends to:

- 14 (1) negate the guilt of the defendant as to a charged
15 offense,
- 16 (2) reduce the degree of or mitigate the culpability
17 of the defendant as to a charged offense,
- 18 (3) support a potential defense to a charged offense,
- 19 (4) impeach the credibility of a testifying
20 prosecution witness,
- 21 (5) undermine evidence of the identity of the
22 defendant as a perpetrator of a charged offense,
- 23 (6) provide a basis for a motion to suppress
24 evidence, or

1 (7) mitigate punishment.

2 Information under the provisions of this division
3 shall be disclosed whether or not such information is
4 recorded in tangible form and irrespective of whether
5 the prosecutor credits the information,

6 k. a summary of all promises, rewards and inducements
7 made to, or in favor of, persons who may be called as
8 witnesses, as well as requests for consideration by
9 persons who may be called as witnesses and copies of
10 all documents relevant to a promise, reward or
11 inducement, and

12 l. a list of all tangible objects obtained from or
13 allegedly possessed by the defendant or a codefendant.
14 The list shall include a designation by the prosecutor
15 as to which objects were physically or constructively
16 possessed by the defendant and were recovered during a
17 search or seizure by a public servant or an agent
18 thereof, and which tangible objects were recovered by
19 a public servant or an agent thereof after allegedly
20 being abandoned by the defendant. If the prosecution
21 intends to prove the possession by the defendant of
22 any tangible objects by means of a statutory
23 presumption of possession, the prosecution shall
24 designate such intention as to each such object. If

1 reasonably practicable, the prosecution shall also
2 designate the location from which each tangible object
3 was recovered. There shall also be a right to
4 inspect, copy, photograph, and test the listed
5 tangible objects.

6 2. Duties of the prosecution. The ~~state~~ prosecutor shall
7 ~~provide~~ make a diligent, good faith effort to ascertain the
8 existence of material or information discoverable under paragraph 1
9 of subsection A of this section and to cause such material or
10 information to be made available for discovery where it exists but
11 is not within the possession, custody or control of the prosecutor;
12 provided, that the prosecutor shall not be required to obtain by
13 subpoena duces tecum material or information which the defendant ~~any~~
14 ~~evidence favorable to the defendant if such evidence is material to~~
15 ~~either guilt or punishment~~ may thereby obtain.

16 3. The prosecuting attorney's obligations under this standard
17 extend to:

- 18 a. material and information in the possession or control
19 of members of the prosecutor's staff and those who
20 report to the prosecutor's staff,
- 21 b. any information in the possession of law enforcement
22 agencies that regularly report to the prosecutor of
23 which the prosecutor should reasonably know, and
24

1 c. any information in the possession of law enforcement
2 agencies who have reported to the prosecutor with
3 reference to the particular case of which the
4 prosecutor should reasonably know.

5 4. a. If the state intends to introduce testimony of a
6 jailhouse informant, the state shall disclose at least
7 ~~ten (10)~~ thirty (30) days prior to trial:

8 (1) the complete criminal history of such informant,
9 including any dismissed charges,

10 (2) any deal, promise, inducement or benefit that the
11 state or law enforcement agency has made or may
12 make in the future to the jailhouse informant in
13 connection with the testimony of such informant,

14 (3) the specific statements or recordings made by the
15 suspect or defendant and the time, place and
16 manner of the disclosure to the jailhouse
17 informant,

18 (4) all other filed cases in which the state intended
19 to introduce the testimony of the jailhouse
20 informant in connection with a deal, promise,
21 inducement or benefit, the nature of the deal,
22 promise, inducement or benefit, and whether the
23 testimony was admitted in the case,
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1 (5) whether at any time the jailhouse informant
2 recanted the testimony or statement, and if so, a
3 transcript or copy of such recantation, if any,
4 and
5 (6) any other information relevant to the credibility
6 of the informant.

7 b. Each district attorney's office shall maintain a
8 central record that tracks each case in which the
9 state intended to introduce the testimony of the
10 jailhouse informant against a suspect or defendant in
11 connection with a deal, promise, inducement or
12 benefit, the nature of the deal, promise, inducement
13 or benefit and whether such testimony or statements
14 were admitted in the case. Such record shall be sent
15 to the District Attorneys Council which shall maintain
16 a statewide record of such information. Records
17 maintained pursuant to this paragraph shall only be
18 accessible to prosecutors and shall not be subject to
19 the Oklahoma Open Records Act. By September 15 of
20 each year, the District Attorneys Council shall
21 publish an annual report of aggregate, de-identified
22 data regarding the total number of cases tracked
23 pursuant to this section, and the number of cases
24 added during the previous fiscal year pursuant to this

1 section by each district attorney's office. A copy of
2 the report shall be distributed to the Governor, the
3 President Pro Tempore of the Senate, the Speaker of
4 the House of Representatives and the chairs of the
5 Senate and House Judiciary Committees.

6 c. For purposes of this paragraph, "jailhouse informant"
7 means a person who provides, or who the prosecutor
8 intends to provide, testimony about admissions or
9 other relevant information made to him or her by the
10 suspect or defendant while both persons were detained
11 or incarcerated in a penal institution.

12 5. Supplemental discovery for the defendant. The prosecution
13 shall disclose to the defendant a list of all misconduct and
14 criminal acts of the defendant not charged in the information, or
15 previously amended informations, which the prosecution intends to
16 use at trial for purposes of:

- 17 a. impeaching the credibility of the defendant, or
18 b. as substantive proof of any material issue in the
19 case.

20 In addition, the prosecution shall designate whether it intends to
21 use each listed act for impeachment or as substantive proof.

22 6. Reciprocal discovery for the prosecution. The defendant
23 shall, subject to constitutional limitations, disclose to the
24 prosecution and permit the prosecution to discover, inspect, copy or

1 photograph, any material and relevant evidence within the possession
2 or control of the defendant or counsel for the defendant that is
3 discoverable under subparagraphs f, g, h, j, and l of paragraph 1 of
4 subsection A of this section, which the defendant intends to
5 introduce at trial or a pretrial hearing, and the names, addresses,
6 birth dates, and all statements, written or recorded or summarized
7 in any writing or recording of those persons, other than the
8 defendant, whom the defendant intends to call as witnesses at a
9 trial or a pretrial hearing.

10 7. Redactions permitted. Either party may redact Social
11 Security numbers and tax numbers from disclosures under the
12 provisions of this section.

13 8. Presumption of openness. There shall be a presumption in
14 favor of disclosure when interpreting the provisions of this
15 section.

16 B. Disclosure of Evidence by the Defendant.

17 1. Upon request of the state, the defense shall be required to
18 disclose the following:

- 19 a. the names and addresses of witnesses which the defense
20 intends to call at trial, together with their
21 relevant, written or recorded statement, if any, or if
22 none, significant summaries of any oral statement,
- 23 b. the name and address of any witness, other than the
24 defendant, who will be called to show that the

1 defendant was not present at the time and place
2 specified in the information or indictment, together
3 with the witness' statement to that fact,

4 c. the names and addresses of any witness the defendant
5 will call, other than himself or herself, for
6 testimony relating to any mental disease, mental
7 defect, or other condition bearing upon his or her
8 mental state at the time the offense was allegedly
9 committed, together with the witness' statement of
10 that fact, if the statement is redacted by the court
11 to preclude disclosure of privileged communication.

12 2. A statement filed under subparagraph a, b or c of paragraph
13 1 of subsection A or B of this section is not admissible in evidence
14 at trial. Information obtained as a result of a statement filed
15 under subsection A or B of this section is not admissible in
16 evidence at trial except to refute the testimony of a witness whose
17 identity subsection A of this section requires to be disclosed.

18 3. Upon the prosecuting attorney's request after the time set
19 by the court, the defendant shall allow him or her access at any
20 reasonable times and in any reasonable manner to inspect,
21 photograph, copy, or have reasonable tests made upon any book,
22 paper, document, photograph, or tangible object which is within the
23 defendant's possession or control and which:
24

- 1 a. the defendant intends to offer in evidence, except to
2 the extent that it contains any communication of the
3 defendant, or
- 4 b. is a report or statement as to a physical or mental
5 examination or scientific test or experiment made in
6 connection with the particular case prepared by and
7 relating to the anticipated testimony of a person whom
8 the defendant intends to call as a witness, provided
9 the report or statement is redacted by the court to
10 preclude disclosure of privileged communication.

11 C. Continuing Duty to Disclose.

12 If, prior to or during trial, a party discovers additional
13 evidence or material previously requested or ordered, which is
14 subject to discovery or inspection under the Oklahoma Criminal
15 Discovery Code, such party shall promptly notify the other party,
16 the attorney of the other party, or the court of the existence of
17 the additional evidence or material.

18 D. Time of Discovery.

19 Motions for discovery may be made at the time of the district
20 court arraignment or thereafter; provided that requests for police
21 reports may be made subject to the provisions of Section 258 of this
22 title. However, a request pursuant to Section 258 of this title
23 shall be subject to the discretion of the district attorney. All
24 issues relating to discovery, except as otherwise provided, will be

1 completed at least ten (10) days prior to trial. The court may
2 specify the time, place and manner of making the discovery and may
3 prescribe such terms and conditions as are just.

4 E. Regulation of Discovery.

5 1. Protective and Modifying Orders. Upon motion of the state
6 or defendant, the court may at any time order that specified
7 disclosures be restricted, or make any other protective order. If
8 the court enters an order restricting specified disclosures, the
9 entire text of the material restricted shall be sealed and preserved
10 in the records of the court to be made available to the appellate
11 court in the event of an appeal.

12 2. Failure to Comply with a Request. If at any time during the
13 course of the proceedings it is brought to the attention of the
14 court that a party has failed to comply with this rule, the court
15 may order such party to permit the discovery or inspection, grant
16 continuance, or prohibit the party from introducing evidence not
17 disclosed, or it may enter such other order as it deems just under
18 the circumstances.

19 3. The discovery order shall not include discovery of legal
20 work product of either attorney which is deemed to include legal
21 research or those portions of records, correspondence, reports, or
22 memoranda which are only the opinions, theories, or conclusions of
23 the attorney or the attorney's legal staff.

1 F. Reasonable cost of copying, duplicating, videotaping,
2 developing or any other cost associated with this Code for items
3 requested shall be paid by the party so requesting; however, any
4 item which was obtained from the defendant by the state of which
5 copies are requested by the defendant shall be paid by the state.
6 Provided, if the court determines the defendant is indigent and
7 without funds to pay the cost of reproduction of the required items,
8 the cost shall be paid by the Indigent Defender System, unless
9 otherwise provided by law.

10 SECTION 2. This act shall become effective November 1, 2025.

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