

IN THE DISTRICT COURT §
266TH JUDICIAL DISTRICT §
ERATH COUNTY, TEXAS §

STANDARD DISCOVERY ORDER
(Effective May 1, 2004)

The District Attorney's office has adopted an Open File Policy beginning on May 1, 2004, which necessitates the modification of the Court's standing order for discovery. Accordingly in all criminal cases now or hereafter pending in this Court, the State, through the office of its District Attorney, is ordered to produce and make available to the Defendant through his attorney at the office of said District Attorney for inspection and copying, and without the necessity of the filing of a motion for discovery or production thereof, the following, if applicable, to-wit:

(1) The names, and addresses/telephone numbers where known, of all persons who are believed to have any knowledge of the facts giving rise to this prosecution, indicating which of said persons might be called by the State as witnesses at the trial of this cause. Such listing of anticipated witnesses should particularly include any persons who have been interrogated or arrested in conjunction with the investigation of the offense alleged in the indictment herein and all peace officers who participated in the investigation of such offense.

(2) The criminal arrest and conviction records, if any, of the Defendant, the victim, if any, and of all witnesses who will testify for the State of Texas in this cause, with exception of any certified peace officers. Please note that copies of

these criminal history printouts are furnished to you for your use in the preparation of your client's defense and may not be disseminated or published for any other purpose.

Provided, further, no information obtained pursuant to this Order shall be used or disclosed in violation of Art. 57.03 of the Texas Code of Criminal Procedure which protects the confidentiality of files and records of victims of sexual crimes.

(3) The nature of any agreement between the State or other governmental agency and any prospective witness in this cause which could in any manner affect the testimony, attitude or conduct of the witness, including particularly any agreement not to prosecute the witness for criminal acts or to recommend a particular punishment in the disposition of a criminal case.

(4) All tangible things which constitute or contain evidence material to any matter involved in this cause and which are within the possession, custody or control of the State or any of its agencies unless otherwise required by this order, including particularly:

- (a) Documents or papers belonging to the Defendant;
- (b) Books, accounts and letters;
- (c) Photographs, diagrams, drawings, plats, maps, or video tapes of the scene or events, or audio tapes of the events of the offense alleged in this case.
- (d) Impressions of any fingerprints, palm prints, foot prints, or tire tracks, which were obtained from the scene of, or any object involved in, the offense alleged in the indictment;

- (e) Any weapon or instrument believed to have been used by the Defendant in the commission of the offense alleged in the indictment;
- (f) Any contraband substance found or alleged to be in the possession of the Defendant;
- (g) Any video tape of the victim of the alleged offense sought by the State to be offered under Art. 38.071 of the Texas Code of Criminal Procedure and Texas Rule of Criminal Evidence 801 (e)(1)(D);
- (h) The results of any chemical or scientific identification or comparison test performed by the State in connection with this case, including a full description of all items and substances tested, and the conclusions drawn by the person performing the test;
- (i) Offense and Arrest Reports prepared by law enforcement in the investigation of the alleged offense;
- (j) Witness statements made during the investigation of the alleged offense; and
- (k) All confessions, incriminating statements and *res gestae* statements purportedly made by the Defendant, including all writings, memos, notes and reports that refer to such confessions or statements;

provided, that if the District Attorney shall be of the opinion that any tangible thing is or contains his work product, such items shall be produced only to the Court for in-camera inspection, whereupon the Court may determine the same not to be within the scope of this Order.

(5) Any exculpatory evidence within the knowledge of the District Attorney. The District Attorney is further ordered to instruct any witness called by him to bring into Court and have available for examination by defense counsel any prior writings of the witness concerning the matter involved in this cause and any other materials used by the witness to refresh his memory prior to testifying.

(6) Notice of other crimes, wrongs or acts of the Defendant permitted by Rule 404(b) of the Texas Rules of Evidence that the State desires to use upon the trial of the case.

(7) Notice as required by Article 37.07(3)(g) of the Texas Code of Criminal Procedure of any extraneous crime or bad act of the Defendant that has not resulted in a final conviction in a court of record or a probated or suspended sentence.

(8) Notice of the intent to use certified copies.

(9)(a) In all criminal cases now or hereafter pending in this Court, each party, State and Defendant, by and through its attorney is hereby ordered to produce and make available to the other party, without the necessity of the filing of a motion, the disclosure notice required by Art. 39.14(b) of the Texas Code of Criminal Procedure by disclosing in writing the name(s) and address(es) of each person the party may use to present evidence under Rules 702, 703 and 705 of the Texas Rules of Evidence upon the trial of this cause and such notice shall be provided no later than twenty (20) days before the date of the trial begins herein unless waived by the other Party.

(b) Either party challenging an expert witness or testimony to be offered by the opponent, must file a pretrial motion for a Daubert/Kelly hearing in conformity

with Art. 28.01 C.C.P. to be held by this Court at least 10 days prior to trial or at such other time as the Court shall determine.

This order shall be an ongoing one so that the District Attorney shall be required to make available to the Defendant's attorneys any new evidence coming into his possession or knowledge which is required to be produced under this order by placing it in his file for inspection by the attorney for the Defendant.

The purpose of this Order is to eliminate the necessity of pretrial hearings or the filing of pretrial motions relating to the matters covered hereby and does not in any way affect the right of the State, upon good cause shown, to file a motion seeking to modify this order in an appropriate case, or the right of the Defendant to file such other motions regarding pretrial discovery and/or production as he shall deem necessary and advisable on matters not covered by this Order.

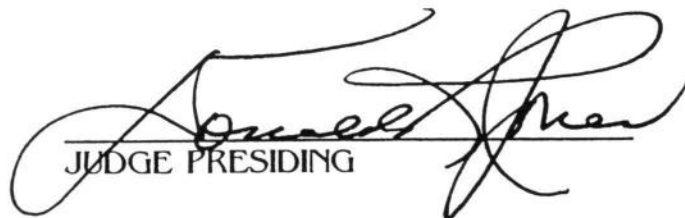
This amended order is effective May 1, 2004, and shall remain in full force and effect until altered, modified, or rescinded by the Court.

SIGNED this 21st day of May, 2004.

FILED FOR RECORD
AT _____ O'CLOCK _____ M

MAY 21 2004

Wanda Pinder


JUDGE PRESIDING