

DATE: October 21, 2016

TO: ALL DEFENSE ATTORNEYS
PRACTICING IN JOHNSON COUNTY

FROM: DALE HANNA, DISTRICT ATTORNEY, AND
BILL MOORE, COUNTY ATTORNEY

RE: CHANGES TO MEMORANDUM DATED DECEMBER 30, 2013
REGARDING DISCOVERY - SB 1611 (AMENDING ARTICLE
39.14 CCP)

Dear Fellow Attorney:

This letter is intended to instruct, advise and inform all defense attorneys practicing in Johnson County of the new changes to the E-Discovery portal for the District and County Attorneys' Offices. The attached procedures and policies will remain in effect, but the addition of a new software program in Johnson County has changed the way you will view discovery in the future. The following contains changes to the E-Discovery Guidelines only:

E-Discovery Guidelines

The District and County Attorneys' Offices have implemented the following guidelines regarding E-Discovery:

- The attorney of record on a criminal case will have electronic access to the state's file (excluding any attorney work product and criminal histories) through the E-Discovery portal which is located on the Johnson County website. Each prosecutor's office must have on file a letter of representation or a copy of your court appointment letter. Our offices cannot authorize access to electronic files without these documents.
- All attorneys will need to register with the new E-Discovery portal to view case information. Please follow the steps in the link below to register on the new

system. Once you have registered you will need to send an email to ediscovery@johnsoncountytexas.org and include a copy of your driver's license or government issued identification along with your bar card. These items will allow members of the District and County Attorneys' Offices to verify your identity. This portal will go live on November 1st, 2016. If you have any issues viewing your cases, please contact the prosecuting entity. Please add officeadmin@johnsoncountytexas.org to your contacts list in order to prevent items sent from the system from ending up in your spam or junk mail. Use of the E-Discovery portal enables the attorney of record to access his/her pending cases at any time and from any device with Internet access.

- The link for the District and County Attorney's Offices is <http://www.johnsoncountytexas.org/services/online-county-records/e-discovery-attorney-access>.
- Access cannot be given on any case not yet filed by the Johnson County Attorney's Office or to any case where the defendant has not been arrested.
- Access cannot be given on any case not yet indicted by the Johnson County District Attorney's Office or to any case where the defendant has not been arrested.
- Only the attorney of record for a defendant may access the E-Discovery portal for a particular criminal case. Should counsel find that he/she does not have access to a particular criminal case where counsel is of record, counsel may request access through one of the prosecutors' offices.
- Requests for access to the E-Discovery portal made on weekends, holidays, or after 5:00 pm on regular business days will not be processed until the next business day. Counsel's access to a case will remain open until disposition of the case or until counsel is no longer the attorney of record.
- In the event that defense counsel is inadvertently given access to a case for which he/she is not the attorney of record, counsel should refrain from accessing the case and immediately notify the Johnson County District Attorney's Office or the Johnson County Attorney's Office.
- It is defense counsel's sole responsibility to:

Review his/her case discovery through the E-Discovery portal;

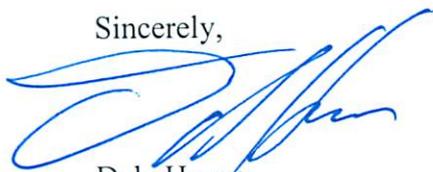
Review the discovery prior to any court hearings, status conferences or trials for any additions or updated information;
Advise the prosecutors' offices if counsel believes information is missing or incomplete;
Schedule an appointment to review any physical evidence;
Request a copy of any DVD/video if it is not available on the site; and
Advise the prosecutors' offices if there are any problems with access to the E-Discovery portal.

- Complying with 39.14 of the Code of Criminal Procedure, victim and witness information will be redacted prior to an electronic duplicate being made: address, telephone number, driver's license number, social security number, date of birth, and bank account information or any information that by reference would make it possible to identify a victim or witness. If our office fails to redact any information required to be redacted by Article 39.14, defense counsel is not relieved from complying with the limitations of the disclosure of information set forth in Article 39.14. The attorney for the defendant and his or her agents may not disclose any information to others, except as provided under Article 39.14.

NOTICE: Medical records, EMS records, Child Protective Services records, and any records relating to Child Advocacy Center will be made available for inspection by appointment with the prosecutors' offices.

For all requests, please allow 7-10 days for processing. Thank you in advance for your cooperation.

Sincerely,



Dale Hanna
District Attorney



Bill Moore
County Attorney



MEMORANDUM

DATE: DECEMBER 30, 2013

**TO: ALL DEFENSE ATTORNEYS
PRACTICING IN JOHNSON COUNTY**

**FROM: DALE HANNA, DISTRICT ATTORNEY, AND
BILL MOORE, COUNTY ATTORNEY**

RE: DISCOVERY - SB 1611 (AMENDING ARTICLE 39.14 CCP)

Dear Fellow Attorney:

This letter is intended to instruct, advise and inform all defense attorneys practicing in Johnson County of the new changes to Article 39.14 of the Texas Code of Criminal Procedure regarding mandatory discovery in criminal proceedings in Texas. The 83rd Texas Legislature in 2013 passed SB 1611 which has made major changes to criminal discovery requirements. These changes go into effect on January 1, 2014, and will be applicable to all criminal cases and investigations that take place on and after that date.

Upon indictment or the filing of an information and receipt of a letter of representation or Order of Appointment our offices will provide discovery in one of four ways.

1. **Open File Policy:** There will be no change as to the ability of the defense attorneys to come by our offices to review files. Our open file policies still remain in effect.
2. **Digital Copy:** If you wish for the case file to be copied onto a digital device, a written request will need to be sent to the prosecutor's office containing the defendant's name, defendant's date of birth, offense title, and offense date. In order to accommodate, a blank CD, DVD or flash drive will need to be

provided to the prosecutor's office at the time of request and a self-addressed stamped padded envelope if you desire the copy to be mailed to you. Our policies regarding the transfer of digital images in case files (ie: DWI in-car or intoxilizer videos) remains the same.

3. **Paper Copy:** The third method will be paper copies of the file. If you choose to utilize this option, we will charge you at the rate prescribed by law in the same manner as Open Record Requests: .10 per page, \$1.00 per CD/DVD and \$15.00 per hour preparation time for records exceeding 51 pages.
4. **Online E-Discovery:** Defense attorneys will have the ability to access and view all case files through an online E-Discovery portal. This portal is located on the Johnson County website (www.johnsoncountytexas.org) and titled E-Discovery.

E-Discovery Guidelines

The District and County Attorney's Offices have implemented the following guidelines regarding E-Discovery:

- The attorney of record on a criminal case will have electronic access to the state's file (excluding any attorney work product and criminal histories) through the E-Discovery portal which is located on the Johnson County website. Each prosecutor's office must have on file a letter of representation or a copy of your court appointment letter along with a signed Terms and Conditions (see attached). Our offices cannot authorize access to electronic files without these documents.
- Defense Counsel will be required to register with the Johnson County District Attorney's Office and the Johnson County Attorney's Office to use the E-Discovery portal. The registration process requires the attorney's bar number and e-mail address. Use of the E-Discovery portal enables the attorney of record to access his/her pending cases at any time and from any device with Internet access.
- Defense counsel will access the E-Discovery portal by entering his/her e-mail address and a password obtained from the prosecutors' offices. When signing

on to the portal for the first time, for security reasons, it is best to change the password.

- The link for the District Attorney's office is <http://ira.johnsoncountytexas.org/aty/cgiaty114d.html>. The link for the County Attorney's office is <http://ira.johnsoncountytexas.org/aty/cgiaty114c.html>.
- Access cannot be given on any case not yet filed by the Johnson County Attorney's Office or to any case where the defendant has not been arrested.
- Access cannot be given on any case not yet indicted by the Johnson County District Attorney's Office or to any case where the defendant has not been arrested.
- Only the attorney of record for a defendant may access the E-Discovery portal for a particular criminal case. Should counsel find that he/she does not have access to a particular criminal case where counsel is of record, counsel may request access through one of the prosecutors' offices.
- Requests for access to the E-Discovery portal made on weekends, holidays, or after 5:00 pm on regular business days will not be processed until the next business day. Counsel's access to a case will remain open until disposition of the case or until counsel is no longer the attorney of record.
- In the event that defense counsel is inadvertently given access to a case for which he/she is not the attorney of record, counsel should refrain from accessing the case and immediately notify the Johnson County District Attorney's Office or the Johnson County Attorney's Office.
- It is defense counsel's sole responsibility to:
 - Review his/her case discovery through the E-Discovery portal;
 - Review the discovery prior to any court hearings, status conferences or trials for any additions or updated information;
 - Advise the prosecutors' offices if counsel believes information is missing or incomplete;
 - Schedule an appointment to review any physical evidence;
 - Request a copy of any DVD/video if it is not available on the site; and
 - Advise the prosecutors' offices if there are any problems with access to

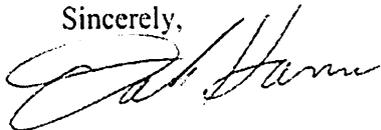
the E-Discovery portal.

- Complying with 39.14 of the Code of Criminal Procedure, victim and witness information will be redacted prior to an electronic duplicate being made: address, telephone number, driver's license number, social security number, date of birth, and bank account information or any information that by reference would make it possible to identify a victim or witness. If our office fails to redact any information required to be redacted by Article 39.14, defense counsel is not relieved from complying with the limitations of the disclosure of information set forth in Article 39.14. The attorney for the defendant and his or her agents may not disclose any information to others, except as provided under Article 39.14.

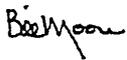
NOTICE: Juvenile cases will not be entered into the E-Discovery portal and thus juvenile records will not be available for online viewing. In addition, medical records, EMS records, Child Protective Services records, and any records relating to Child Advocacy Center will be made available for inspection by appointment with the prosecutors' offices.

Please let each office know which option you choose to utilize. For all requests, please allow 7-10 days for processing. Because this is a new procedure, we welcome any suggestion from the defense bar that will help improve or streamline our new discovery procedures. Thank you in advance for your cooperation.

Sincerely,



Dale Hanna
District Attorney



Bill Moore
County Attorney

**TERMS AND CONDITIONS FOR USE OF THE JOHNSON COUNTY
ONLINE CASE SEARCH BY DEFENSE COUNSEL
DISTRICT ATTORNEY'S OFFICE**

The Johnson County District Attorney's Office has permitted electronic access to criminal discovery by defense attorneys as a part of our current open file policy. All criminal cases will be electronically accessed through a web access point on the Johnson County website (www.johnsoncountytexas.org).

The attorney of record on a criminal case will have electronic access to the State's file (excluding any attorney work product and criminal histories) through the E-Discovery portal on the Johnson County website. This open file policy is offered strictly as a courtesy to defense counsel in order to satisfy the State's duty to disclose any exculpatory or mitigating evidence and in anticipation of any standard discovery order pursuant to Article 39.14 of the Texas Code of Criminal Procedure.

Any disclosure of information through the E-Discovery portal on the Johnson County website is strictly for discovery purposes and does not constitute a public disclosure under any state or federal public information act, including, but not limited to, the Texas Public Information Act and the Freedom of Information Act.

You are asked to carefully read the Terms and Conditions before contacting the Johnson County District Attorney's Office in order to register to use the system. By completing registration and receiving a password, you are indicating that you agree with all the terms and conditions of its use.

The information contained within the E-Discovery portal is CONFIDENTIAL and is disclosed to defense counsel for the sole purpose of preparing the Defendant's case and with the expectation that any of the information garnered will not be used improperly. Defense counsel is strictly forbidden to:

- Disseminate information to any person for any purpose beyond what is necessary to effectively represent the defendant;
- Utilize this information to harass, threaten, or otherwise intimidate victims and/or witnesses; and/or
- Provide printed copies of electronic discovery to any person outside of defense counsel's employment.

Defense counsel accepts sole responsibility to ensure that none of the information obtained from the E-Discovery portal is used or disseminated improperly. Defense counsel accepts responsibility to advise all his/her employees or agents of the limits and restrictions contained within this agreement, with respect to the use of the E-Discovery portal and to ensure that all employees and agents abide by the terms and conditions contained herein.

POLICIES AND PROCEDURE FOR ACCESS

Defense Counsel will be required to register with the Johnson County District Attorney's Office to use the E-Discovery portal. The registration process requires the attorney's bar number, e-mail address and a password.

Use of the E-Discovery portal enables the attorney of record to access his/her pending cases any time and from any computer with Internet access.

Defense counsel will access the E-Discovery portal by entering his/her e-mail address and a password. In the event counsel believes his/her password has been compromised, counsel must immediately:

1. Change the password; and
2. Notify the Johnson County District Attorney's Office of the compromised password.

Access cannot be given to any case not yet indicted with the Johnson County District Attorney or to any case where the defendant has not been arrested. Access to a particular case will only be given once Counsel has notified the Johnson County District Attorney's Office that counsel is attorney of record by providing a letter of representation or if an Order of Court Appointed Counsel has been received. Only the attorney of record may access the E-Discovery portal for a particular criminal case. Should counsel find that he/she does not have access to a particular criminal case where counsel is of record, counsel may request access through the Johnson County District Attorney's Office. Requests made on weekends, holidays, or after 5:00 pm on regular business days will not be processed until the next business day. Counsel's access to a case will remain open until disposition of the case or until counsel is no longer the attorney of record. In the event that defense counsel is inadvertently given access to a case for which he/she is not the attorney of record, counsel should refrain from accessing the case and immediately notify the Johnson County District Attorney's Office.

It is defense counsel's sole responsibility to:

1. Review his/her case discovery through E-Discovery portal;
2. Review the discovery prior to any court hearings, status conferences, or trials for any additions or updated information;
3. Advise the Johnson County District Attorney's Office if counsel believes information is missing or incomplete;
4. Schedule an appointment to review any physical evidence;
5. Request a copy of any DVD/Video; and
6. Advise the Johnson County District Attorney's office if there are any problems with access to the E-Discovery portal.

NOTICE: Medical Records, EMS Records, Child Protective Services Records, and any records relating to the Child Advocacy Center will be made available for inspection by appointment with the Johnson County District Attorney's Office. These records may be reflected in E-Discovery portal but they will not be viewable.

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Juvenile cases will not be entered into the E-Discovery portal and thus juvenile records will not be available for viewing. Juvenile Discovery will be made available by appointment with the Johnson County Attorney's office.