

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1317

By: Humphrey

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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,  
24



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,

1 or photograph, any material and relevant evidence within the  
2 possession or control of the defendant or counsel for the defendant  
3 that is discoverable under subparagraphs f, g, h, j, and l, of  
4 paragraph 1 of subsection A of this section, which the defendant  
5 intends to introduce at trial or a pretrial hearing, and the names,  
6 addresses, birth dates, and all statements, written or recorded or  
7 summarized in any writing or recording of those persons, other than  
8 the 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, for testimony relating  
6 to any mental disease, mental defect, or other  
7 condition bearing upon his mental state at the time  
8 the offense was allegedly committed, together with the  
9 witness' statement of that fact, if the statement is  
10 redacted by the court to preclude disclosure of  
11 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 access at any reasonable  
20 times and in any reasonable manner to inspect, photograph, copy, or  
21 have reasonable tests made upon any book, paper, document,  
22 photograph, or tangible object which is within the defendant's  
23 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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12 60-1-10834 GRS 01/01/25

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