STATE OF CONNECTICUT
DIVISION OF CRIMINAL JUSTICE

POLICIES AND PROCEDURES

OFFICE OF THE CHIEF STATE'S ATTORNEY

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AUTHORIZED:

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I. Statement of Purpose

The Division of Criminal Justice (DCJ) recognizes that providing a defendant with discovery is one of the ways that the state ensures a just result in every case and protects the defendant's constitutional right to a fair trial. It is therefore the policy of the DCJ that prosecutors shall, in a timely fashion, comply with all disclosure obligations imposed by the federal and state constitution, statutes, court rules, Connecticut Prosecution Standards, and as otherwise ordered by the court. In complying with disclosure obligations, prosecutors shall also protect the legitimate privacy interests and the safety of law enforcement agency employees, victims, witnesses, and members of the public.

Section II of DCJ Policy 512 provides an overview of the state's discovery obligations including discussions of: (A) general disclosure obligations; (B) timing of disclosures; (C) witness disclosures; (D) witness statements, law enforcement reports, and affidavits; (E) special considerations regarding identifying informants; (F) disclosures relating to jailhouse witnesses; (G) disclosures relating to prior uncharged sexual misconduct in sexual assault prosecutions; and (H) reciprocal discovery. Section III of the policy sets forth guidelines for: (A) gathering discovery materials; (B) documenting disclosures; (C) redacting non-discoverable material, objecting to discovery requests, seeking protective orders, and providing copies of discovery material to defendants; and (D) addressing untimely disclosures.

DCJ Policy 512 governs discovery obligations generally. An important aspect of the state's discovery obligations is the obligation to disclose exculpatory and impeachment evidence in accordance with Brady v. Maryland, 373 U.S. 83, 87 (1963) and Giglio v. United States, 405 U.S. 150, 154-55 (1972). The disclosure of exculpatory and impeachment evidence, however, is subject to different constitutional requirements. The Division's policy relating to the disclosure of exculpatory and impeachment material is set forth separately in DCJ Policy 512a. Where materials otherwise subject to disclosure also constitute exculpatory or impeachment evidence, the constitutional principles and rules governing disclosure of exculpatory or impeachment evidence take precedence and the disclosure of such evidence is governed by DCJ Policy 512a.

II. Overview of Disclosure Obligations

The following provides an overview and general guidance regarding disclosure obligations but is not intended to serve as a comprehensive resource. Prosecutors must familiarize themselves with the applicable statutory and Practice Book provisions

governing disclosure obligations and relevant case law, and the "Discovery" section of the Connecticut Prosecution Standards. In addition, courts have discretion to modify the timing and substance of disclosure obligations, and prosecutors are expected to comply with the final disclosure orders imposed by the court in their individual cases.

A. General Disclosure Obligations

In addition to constitutional requirements, the state's disclosure obligations are governed by statute, the Practice Book, the Connecticut Prosecution Standards, and court order. The rules regarding discovery in criminal cases are set forth in Chapter 40 of the Practice Book, General Statutes §§ 54-86, 54-86a through 54-86e, 54-86k, 54-86m, and 54-86o, and Connecticut Prosecution Standards 4-8.1 through 4-8.7 and related commentary.[1]

Pursuant to Practice Book § 40-11, in addition to exculpatory and impeachment evidence, the prosecuting authority must disclose:

> (1) Any books, tangible objects, papers, photographs, or documents within the possession, custody or control of any governmental agency, which the prosecuting authority intends to offer in evidence in chief at trial or which are material to the preparation of the defense or which were obtained from or purportedly belong to the defendant;
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> (2) Copies of the defendant's prior criminal record, if any, which are within the possession, custody, or control of the prosecuting authority, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting authority;
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> (3) Any reports or statements of experts made in connection with the offense charged including results of physical and mental examinations and of scientific tests, experiments or comparisons which are material to the preparation of the defense or are intended for use by the prosecuting authority as evidence in chief at the trial;
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> (4) Any warrant executed for the arrest of the defendant for the offense charged, and any search and seizure warrants issued in connection with the investigation of the offense charged;

[1] In addition to the discovery obligations addressed herein, Practice Book § 37-2 and General Statutes § 54-86a(d) also provide for limited disclosures that must be made prior to arraignment. In accordance with those provisions, prior to arraignment, the prosecuting authority must provide the defendant or defense counsel with a copy of any affidavit or report submitted to the court for the purpose of making a probable cause determination or for determining the conditions of a defendant's release. The court has discretion to limit the disclosure of any such affidavit or report upon a motion by the prosecutor and good cause shown.

> (5)(a) Any written, recorded or oral statements made by the defendant or a codefendant, before or after arrest to any law enforcement officer or to a person acting under the direction of or in cooperation with a law enforcement officer concerning the offense charged; or (b) Any relevant statements of coconspirators which the prosecuting authority intends to offer in evidence at any trial or hearing.

P.B. § 40-11(a); see also General Statutes § 54-86a. If the state intends to offer the results of a DNA analysis into evidence, prosecutors must notify the opposing party, in writing, of the intent to offer the analysis and provide or make available to the defense copies of the profiles and the report or statement to be introduced. General Statutes § 54-86k(c).

In addition to the above, Practice Book § 40-12 is a catch-all provision allowing for disclosure of "any other relevant material and information not covered by Section 40-11." Unlike § 40-11, however, disclosure of additional information or materials under § 40-12 is only required if the court directs such disclosure after determining "on good cause shown" that such information or materials should be made available.

Prosecutors should always recall that a criminal trial, in the end, is a search for the truth and that prosecutors often have access to information that a defendant may not be able to obtain otherwise. In furtherance of the prosecutor's unique obligation to seek justice consistent with the law and evidence, prosecutors must disclose to the defense any potentially material oral or written evidence known to the state that the state intends to offer in its case-in-chief, whether or not exculpatory, as soon as reasonably practicable.[2] See State v. Dabate, 351 Conn. 458-62 & nn.20-21, __ A.3d __ (2025); see also Conn. Prosecution Standard 4-8.1.

Finally, prosecutors are not required to disclose: (1) reports, memoranda or other internal documents made by a prosecuting authority or by law enforcement officers in connection with the investigation or prosecution of the case; (2) legal research; or (3) records, correspondences, reports or memoranda to the extent that they contain the opinions, theories or conclusions of the prosecuting authority. P.B. § 40-14; Conn. Prosecution Standard 4-8.7. In addition, prosecutors should keep in mind that some material contained within the state's file may not be subject to disclosure due to statutory protection (e.g., family relations reports), court order, or applicable privilege. In close cases,

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[2] A determination regarding the materiality or potential materiality of information or evidence known to the state often may not readily be made, particularly when a prosecutor is unaware of the defense the defendant intends to present at trial. Nonetheless, it is the intent of this policy to encourage prosecutors to disclose such information or evidence to the defendant at the earliest possible point in time. Any questions concerning disclosure should be directed to a prosecutor's supervisor and State's Attorney or Deputy Chief State's Attorney.

prosecutors should seek the assistance of their supervisor and State's Attorney and request an in camera examination of materials where appropriate.

B. Timing of Disclosures

Most disclosures must be made no later than forty-five days from the date the defendant requests disclosure, without the requirement of any court order. Thus, with the exception of exculpatory and impeachment evidence, the disclosure requirements set forth in Chapter 40 of the Practice Book are generally contingent upon a request by the defendant. But see General Statutes § 54-86k (disclosure of results of DNA analysis must be made twenty-one days before proceeding in which such evidence will be offered). While such requests are routinely made, prosecutors are encouraged to disclose materials that are discoverable even in the absence of a request. Doing so is consistent with the prosecutor's role as administrator of justice and protects convictions from future collateral attacks based on claims of ineffective assistance of counsel. When doing so would not endanger the safety of any person or undermine legitimate privacy or investigatory interests, prosecutors are encouraged to make disclosures as early as possible and in advance of any deadlines.

Disclosure obligations are on-going and prosecutors should ensure that they are alert to any developments occurring up to and through trial that impact discovery obligations and promptly disclose any discoverable information that was not previously disclosed. P.B. § 40-3; Conn. Prosecution Standard 4-8.2.

C. Witness Disclosures

Practice Book § 40-13(a) requires the disclosure of the names and addresses of the witnesses that the prosecution intends to call in its case-in-chief. In addition, § 40-13(a) requires the prosecution to "make a reasonable affirmative effort to obtain a record of the witness' felony convictions and pending misdemeanor and felony charges and shall disclose any such convictions and pending charges to the defendant."

There are several important exceptions to this rule and other considerations to be aware of when disclosing information regarding witnesses. First, pursuant to § 40-13(f), the personal addresses of police and corrections officers are exempt from disclosure absent a court order following a hearing and showing of good cause by the defendant. Second, § 40-10 provides that "the prosecuting authority is not required to disclose to an unrepresented defendant the names and addresses required by Section 40-13 unless the court orders disclosure upon a finding of need which cannot reasonably be met by other means." In addition, even when a defendant is represented, § 40-13(g) provides that "[u]pon written request and for good cause shown, the judicial authority may order that the address of any witness whose name has been disclosed . . . not be disclosed to the opposing party." Prosecutors should remain vigilant in protecting the safety of witnesses and perform any necessary redactions or seek a court order limiting disclosure where appropriate and necessary. See Section III.C., infra.

Finally, General Statutes §§ 54-86d and 54-86e govern the confidentiality of victim information in sexual assault and other specifically delineated crimes. Prosecutors must ensure that any disclosures made in cases governed by these statutes are compliant with the applicable statutory provisions. The policies and procedures regarding obtaining protective orders and objecting to disclosures are discussed infra in Section III.C.

Initial witness disclosures are generally made at a time when it may be difficult to know with certainty every witness that may be necessary at trial. Practice Book § 40-13(c) provides that no witness will be precluded from testifying "because his or her name or statement or criminal history was not disclosed pursuant to this rule if the party calling such witness did not in good faith intend to call the witness at the time that he or she provided the material required by this rule. In the interests of justice the judicial authority may in its discretion permit any undisclosed individual to testify." Nevertheless, when appropriate, prosecutors should err on the side of inclusiveness when making witness disclosures. Amending a witness disclosure to remove an unnecessary witness is less likely to create an issue than amending to add additional witnesses. If, however, additional witnesses are subsequently identified, prosecutors should promptly update the witness disclosure.

D. Witness Statements, Law Enforcement Reports, and Affidavits

In addition to names and addresses of witnesses, Practice Book § 40-13A requires the disclosure of "photocopies of all statements, law enforcement reports and affidavits within the possession of the prosecuting authority and his or her agents, including state and local law enforcement officers, which statements, reports and affidavits were prepared concerning the offense charged . . . ." The term "statement" is defined in Practice Book § 40-15 and includes written statements "made by a person and signed or otherwise adopted or approved by such person" as well as "stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by a person and recorded contemporaneously with the making of such oral statement." Disclosures pursuant to § 40-13A must be made within forty-five days of a written request by the defendant.

General Statutes § 54-86b also provides that, upon a motion by the defendant, a court may order the disclosure of witness statements after a witness testifies.[3] If the prosecution fails to provide such statements, the court "shall strike from the record the testimony of the witness and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared."

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[3] In practice, § 54-86b has been rendered effectively obsolete by the requirement of Practice Book § 40-13A that the state turn over all statements in its possession or in the possession of its agents, including law enforcement, that were prepared concerning the offense charged.

E. Special Considerations Regarding Informants

If an informant is going to testify as a state's witness in a criminal trial, the normal rules for witness disclosures apply. In cases where the state is not going to call an informant as a witness, there is no fixed rule as to when the prosecution must disclose the identity of an informant. Rather, in accordance with Roviaro v. United States, 353 U.S. 53 (1957) and its progeny, whether disclosure is required depends on the circumstances of each case, including the nature of the crime charged, the possible defenses, and the importance of the informant's identity to the defendant's ability to present a defense.

When an informant is merely acting as a "tipster" and is not a witness to the charged offense, disclosure of the informant's identity is generally not required. Nevertheless, even when an informant is a tipster, disclosure of his or her identity may be required if the potential testimony "'is relevant and helpful to the defense of an accused or is essential to a fair determination of a cause . . . .'" (Emphasis omitted.) State v. Hernandez, 254 Conn. 659, 666-67, 759 A.2d 79 (2000) (quoting Roviaro, 353 U.S. at 60-61). Once the state has invoked the informant's privilege, it is the defendant's burden to show that the balance of the evidence falls in favor of disclosure. To obtain disclosure, a defendant may show that disclosure of the informant's identity is essential to the defense. Mere speculation that the informant's information will be helpful to the defense is not sufficient to mandate disclosure. "Disclosure is essential to the defense where nondisclosure could hamper the defendant's right to a fair trial, such as where the informant is a key witness or participant in the crime charged, someone whose testimony would be significant in determining guilt or innocence." (Internal quotation marks and citation omitted.) State v. Jackson, 239 Conn. 629, 636-37, 687 A.2d 485 (1997).

Although disclosing the mere existence of an informant may often be part of the required disclosures in a particular case, it is the policy of the DCJ to avoid disclosing the identity of any informant whenever possible. Disclosing the identity of an informant may endanger the safety of the informant and undermine other investigations in which they may be involved. In addition, failing to protect the identity of informants may have a chilling effect on the willingness of members of the public to assist law enforcement. As such, prosecutors should generally only disclose the identity of an informant if it is necessary in the interests of justice or if ordered to do so by the court. If the identity of an informant is going to be disclosed, prosecutors should notify their supervisor and the law enforcement agents who obtained the information from the informant before making the disclosure.

F. Disclosure Obligations Relating to Jailhouse Witnesses

General Statutes § 54-86o sets forth disclosure requirements relating to jailhouse witnesses. Section 54-86o(d) defines a jailhouse witness as "a person who offers or provides testimony concerning statements made to such person by another person with whom he or she was incarcerated, or an incarcerated person who offers or provides testimony concerning statements made to such person by another person who is

suspected of or charged with committing a criminal offense." This definition does not include someone who is testifying about observed events. State v. Bruny, 342 Conn. 169, 205, 269 A.3d 38 (2022).

In cases involving jailhouse witnesses, General Statutes § 54-86o requires disclosure of the following:

> (1) The complete criminal history of any such jailhouse witness, including any charges pending against such witness, or which were reduced or dismissed as part of a plea bargain;
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> (2) The jailhouse witness's cooperation agreement with the prosecutorial official and any benefit that the official has provided, offered or may offer in the future to any such jailhouse witness;
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> (3) The substance, time and place of any statement allegedly given by the defendant to a jailhouse witness, and the substance, time and place of any statement given by a jailhouse witness implicating the defendant in an offense for which the defendant is indicted;
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> (4) Whether at any time the jailhouse witness recanted any testimony subject to the disclosure and, if so, the time and place of the recantation, the nature of the recantation and the name of any person present at the recantation; and
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> (5) Information concerning any other criminal prosecution in which the jailhouse witness testified, or offered to testify, against a person suspected as the perpetrator of an offense or defendant with whom the jailhouse witness was imprisoned or otherwise confined, including any cooperation agreement with a prosecutorial official or any benefit provided or offered to such witness by a prosecutorial official.

General Statutes § 54-86o requires a prosecutor to confirm whether he or she will be relying on the testimony of a jailhouse witness and if so, make the disclosures set forth above within forty-five days of a written request from the defendant. Thus, like many of the disclosure requirements in the Practice Book, the disclosure requirements in § 54-86o are contingent upon a written request by the defendant. Nevertheless, in cases where the state intends to rely on the testimony of a jailhouse witness, the prosecutor should ensure compliance with the requirements of § 54-86o even in the absence of a request from the defense.

Section 54-86o(c) provides the court with authority to limit the disclosure of information relating to jailhouse witnesses to defense counsel only and restrict the defendant or others from viewing the information if the court finds that disclosure "may result in the possibility of bodily harm to the jailhouse witness." Prosecutors should seek protective

orders pursuant to these provisions when necessary and appropriate. See Conn. Prosecution Standard 4-8.6.

G. Disclosure Obligations Relating to Prior Uncharged Sexual Misconduct in Sexual Assault Prosecutions

In sexual assault prosecutions, prosecutors must recall that, if the state intends to introduce evidence of prior uncharged sexual misconduct pursuant to § 4-5(b) of the Connecticut Code of Evidence involving a person other than the victim(s), the state is required to comply with the notice, disclosure, and offer of proof requirements set forth in Practice Book § 40-13B. Specifically, the state must provide notice to the defendant of its intent to use such evidence as soon as practicable, but in no event less than fifteen days before trial or at such later time as the judicial authority may direct for good cause. A copy of the state's notice must be filed with the clerk of the court.

Along with such notice, the state is required to provide the defendant a disclosure identifying each proposed witness by name and date of birth; copies of such witnesses' statements, if any; and a summary of their expected testimony. Any proposed witness whose identity is subject to the protections of the confidentiality provisions of General Statutes § 54-86e must be identified in accordance with the statute. See P.B. § 40-13B

Thereafter, at trial, the state must make an offer of proof outside the presence of the jury of each such witness's proposed trial testimony. A variance between the offer of proof and the state's disclosure "shall" not serve as the basis for excluding such testimony if the court, in its discretion, determines that such variance is immaterial or has not unfairly surprised the defense. P.B. § 40-13B.

H. Reciprocal Discovery

A number of Practice Book sections create reciprocal discovery obligations on the defense, requiring the defendant to disclose certain materials and provide notice of their intent to rely on certain defenses. P.B. §§ 40-13(b), 40-17 through 40-19, 40-21 through 40-23, 40-26, 40-27, and 40-32 through 40-39; Conn. Prosecution Standard 4-8.5. A defendant's obligation to make disclosures is generally contingent upon a written request or motion filed by the prosecutorial authority. Prosecutors should ensure that they are making written requests and/or filing motions, in accordance with the procedures set forth in Practice Book §§ 40-7 and 41-5, when appropriate, in order to trigger the defendant's disclosure obligations.

III. Procedures for Complying with Disclosure Obligations

A. Custody and Control of the Prosecuting Authority

When compiling materials required for disclosure, the state's disclosure obligations extend not only to the prosecutor trying the case but also to members of the prosecution team. DCJ Policy 512a sets forth a detailed definition of the prosecution team and the

legal principles by which the knowledge and possession of materials by other members of the prosecution team will be imputed to a prosecutor. While these principles were developed in the context of disclosure of exculpatory and impeachment evidence, prosecutors should apply these same considerations to gathering other materials the prosecuting authority is obligated to disclose.

In addition, if a prosecutor is in possession of materials that are relevant to a second prosecutor's case, the second prosecutor has an obligation to disclose those materials, regardless of whether they had actual knowledge that such materials exist. See State v. Hargett, 343 Conn. 604, 275 A.3d 601 (2022). Accordingly, prosecutors must be diligent and ensure that they are sharing information if they become aware of evidence that may be relevant to other prosecutions.

Prosecutors are encouraged to begin compiling materials that may be subject to disclosure as early as practicable during the prosecution process.

B. Documenting Compliance with Disclosure Obligations

Practice Book § 40-7 requires a disclosing party to file a notice with the court certifying that a response to a disclosure request was served and the date and manner of service. In addition to this requirement, prosecutors are encouraged to document their compliance with disclosure obligations in writing, either in a letter or an e-mail to the defense, specifically identifying what has been disclosed to the defendant and when it was disclosed. Documenting in writing what has been disclosed to the defendant and when it was disclosed assists the prosecutor with ensuring that they have complied with their discovery obligations and provides a record in the event of any discovery dispute.

In many cases, prosecutors may maintain an "open file" policy allowing the defense to have access to the case file. An "open file" policy is often beneficial and can advance the interests of justice, but prosecutors cannot rely on such a policy to satisfy their disclosure obligations. Rather, prosecutors must independently ensure that they have complied with their discovery obligations and responded to the defendant's discovery requests. See, e.g., State v. Skakel, 276 Conn. 633, 702, n.69, 888 A.2d 985 (2006) ("[A]lthough we encourage the use of open file policies and recognize that this practice may increase the efficiency and the fairness of the criminal process ... [w]e ... [nevertheless] urge parties not to consider implementation of an open file policy as satisfaction of the defendant's discovery requests or the state's constitutional obligation to disclose exculpatory materials." [Internal quotation marks omitted]).

C. Redacting Non-Discoverable Material, Objecting to Discovery Requests, Seeking Protective Orders, and Providing Copies of Discovery Material to Defendants

When portions of certain materials are discoverable and other portions are not, a prosecutor should make good faith efforts to redact the non-discoverable portions in a

way that does not cause confusion or prejudice the accused. See Conn. Prosecution Standard 4-8.4. In prosecutions for certain sexual assault and family violence crimes, the names and addresses of the victim "and such other identifying information pertaining to such victim as determined by the court" must be redacted from public disclosure but shall be made available to the accused in the same manner and time as such information is made available to persons accused of other criminal offenses. See General Statutes §§ 54-86d & 54-86e. While most personally identifiable information may be disclosed to the defense in discovery, particularly sensitive or confidential information, such as social security numbers, should be redacted from any otherwise disclosable document. In addition, prosecutors should redact the Federal Bureau of Investigation number and the requestor's name included in any criminal history provided to the defense.

Both the prosecuting authority and the defendant can object to disclosure requests. Practice Book § 40-8 sets forth the procedures for objecting to a disclosure request. In addition, Practice Book §§ 40-40 through 40-43 set forth the procedures for obtaining a protective order limiting the disclosure of certain information. Although prosecutors must ensure that they are disclosing to the defense all of the evidence to which the defense is entitled, prosecutors should not hesitate to object to improper disclosure requests or seek protective orders when appropriate.

Practice Book § 40-10, entitled "Custody of Materials," provides certain restrictions on discovery materials furnished to defense counsel and unrepresented defendants. With respect to law enforcement reports, affidavits, and statements disclosed to defense counsel pursuant to Practice Book § 40-13A, the rule provides that "[w]ithout the prior approval of the prosecuting authority or the court, defense counsel or his or her agents shall not provide copies of materials disclosed pursuant to Section 40-13A to any person except to persons employed by defense counsel in connection with the investigation or defense of the case." P.B. § 40-13A(a). While this language creates a presumption in favor of limited disclosure, it does not establish or justify a blanket prohibition against represented defendants obtaining copies of discovery materials. Likewise, subsection (b) of § 40-10, which relates to discovery materials given to unrepresented defendants, does not establish or justify a blanket prohibition. Rather, this subsection provides for specific restrictions on discovery materials: (1) A prosecutor is not required to disclose the names and addresses otherwise required by § 40-13 unless the court orders disclosure upon a finding of need which cannot be met by other means; and (2) prior to providing or disclosing materials to an unrepresented defendant pursuant to Chapter 40, the prosecutor may request an order of the court that the materials remain in the defendant's exclusive custody to be used only for the purpose of conducting the case, and that a violation of the order is punishable as contempt of court.

The Division recognizes that certain factors militate in favor of disclosing appropriately redacted copies of discovery material to defendants, who have a constitutional right to present a defense and assist in their defense. The effect that the prompt exchange of

discovery material has on the efficiency of the judicial system as a whole also cannot be discounted. Nevertheless, these factors must be balanced against the legitimate safety risks posed to victims and witnesses by the dissemination of discovery material and the state's interests in maintaining the integrity of its cases and deterring witness tampering and intimidation. The Division is especially mindful of the cases in which persons have been intimidated or murdered because of their status as witnesses or victims in a criminal case.

In furtherance of striking a reasonable balance between the competing interests outlined above, it is the policy of the Division that, upon request by defense counsel to provide copies of discovery material to a represented defendant and an assertion of compelling need, or upon request from an unrepresented defendant for copies of discovery material, the State's Attorney or his or her designee shall conduct an independent, case-by-case review and make appropriate requests and arguments for restrictions on disclosure of discovery. In addition to the factors enumerated in Practice Book § 40-41, in conducting this review, the prosecutor shall take into consideration the following non-exhaustive set of factors:

(1) the crimes charged and the overall nature of the case;

(2) the relationship of the defendant to all individuals involved;

(3) the protection of any and all victim(s), witness(es), co-defendant(s) and informant(s) involved, as well as their family and friends, from physical and emotional injury, death, assaults, harassment, and any other type of criminal conduct;

(4) the overall protection of the integrity of the justice system;

(5) the specific reasons asserted by the defendant's attorney, describing in detail, why he or she would be unable to adequately prepare his or her defense without being allowed to provide copies of discovery to the defendant or certain other identified parties, noting that bare assertions, without specific and compelling reasons, will not suffice;

(6) that unrepresented defendants, unlike a represented defendant who has the ability to review the substance of the materials with his or her attorney, must be given access to materials to adequately prepare their defense;

(7) the specific reasons asserted by an unrepresented defendant, describing in detail, why he or she would need the names and addresses of certain individuals in order to adequately prepare his or her defense, noting that bare assertions, without specific and compelling reasons, will not suffice;

(8) any limitations or restrictions that could be imposed by the court, in an effort to meet the compelling needs of a defense attorney or unrepresented defendant, that

would adequately protect the integrity of the justice system, and the various persons involved in each individual criminal case, should further disclosure be ordered.

Where the prosecutor agrees that defense counsel may provide copies of discovery material to a represented defendant, defense counsel shall provide the prosecutor with redacted copies of the discovery material for the prosecutor to review and approve for disclosure prior to defense counsel turning over the copies to the defendant.

Prosecutors have an obligation to protect the legitimate privacy interests and the safety of law enforcement agents, victims, witnesses, and members of the public. Accordingly, in furtherance of our obligations, prosecutors should be vigilant to ensure that the requested disclosures are permitted under the law, and when necessary, should object to improper requests and seek appropriate limitations to prevent further dissemination of confidential and/or protected information. See, e.g., C.G.S. §§ 54-86d, 54-86e & 54-86m; P.B. §§ 40-10, 40-13 (f), 40-13 (g), and 40-40 through 40-43; Conn. Prosecution Standard 4-8.6.

D. Addressing Untimely Disclosures

Practice Book § 40-5 sets forth various remedies available to the court to address a party's failure to comply with disclosure obligations. These remedies include, but are not limited to: (1) a court order requiring compliance; (2) granting of additional time or a continuance; (3) relieving the moving party of their reciprocal disclosure obligations; (4) excluding evidence; (5) declaring a mistrial; (6) dismissing the charges; (7) imposing appropriate sanctions on counsel, a party, or both; (8) entering any other order the court deems proper. The trial court has broad discretion to fashion an appropriate sanction for failing to comply with disclosure obligations based on its consideration of all of the relevant circumstances, including the reason why the disclosure was not made, the extent of any prejudice to the opposing party, and the feasibility of a continuance to rectify any prejudice. See, e.g., State v. Respass, 256 Conn. 164, 186, 770 A.2d 471 (2001). Suppression of evidence, declaring a mistrial, or dismissing charges are severe penalties that are not invoked lightly. See, e.g., State v. Festo, 181 Conn. 254, 265, 435 A.2d 38 (1980).

In order to avoid issues associated with non-compliance, prosecutors should be diligent in gathering discovery materials and ensuring that they make timely and complete disclosures. In the event that an untimely disclosure occurs, however, prosecutors should take appropriate steps to rectify any prejudice to the defense from the late disclosure. When appropriate, prosecutors are encouraged to consent to reasonable continuances following an untimely disclosure. In certain circumstances, the failure to allow the defense a reasonable continuance in response to an untimely disclosure can constitute reversible error. State v. Jackson, 334 Conn. 793, 224 A.3d 886 (2020). Although a reasonable continuance is generally sufficient to remedy any prejudice from a late disclosure, that

may not always be the case, particularly where a defendant's speedy trial rights are implicated. State v. Hargett, 343 Conn. 604, 633, 275 A.3d 601 (2022). Accordingly, it is important for prosecutors to avoid untimely disclosures whenever possible.

[History: This policy was approved by the DCJ Advisory Board on October 4, 2023, and became effective October 6, 2023. Section III.C., setting forth the Division's policy concerning the provision of copies of discovery to represented and self-represented defendants, was revised in August 2024 and approved by the DCJ Advisory Board on September 4, 2024. On April 9, 2025, the Advisory Board approved further revisions to the policy including additional references to the Connecticut Prosecution Standards throughout; references to General Statutes § 54-86k(c) in Sections II.A. and II.B.; language in Section II.A. relating to prosecutors' discovery obligations vis-à-vis potentially material oral and written evidence and citation to State v. Dabate, 351 Conn. 428 (2025); new Section II.G. summarizing obligations under P.B. § 40-13B relating to prior uncharged sexual misconduct; and a new first paragraph in Section III.C. pertaining to redactions.]