

IN THE 451ST DISTRICT COURT
IN AND FOR KENDALL COUNTY, TEXAS

DISCOVERY CONTROL ORDER FOR DISCOVERY AND ORDER FOR DISCLOSURE AND PROTECTION OF
CRIMINAL HISTORY RECORD INFORMATION & MEDICAL RECORDS COVERED BY HIPAA

The judge of the above referenced court in Kendall County, Texas enters the following orders to facilitate the exchange and disclosure of discoverable information in the possession of the State of Texas pursuant to Article 39.14 of the Texas Code of Criminal Procedure (hereinafter referred to as "Article 39.14"). These orders apply only to criminal cases filed in Kendall County, Texas.

ACCESS TO DISCOVERY

1. Attorneys are required to receive discovery through the Criminal District Attorney's discovery portal, TechShare. Discovery is deemed provided on the date it is made available to the defense attorney on TechShare.
2. Attorneys are required to sign up for the Criminal District Attorney's discovery portal, TechShare on or before the date of arraignment.
3. Attorneys should bring an electronic device capable of accessing TechShare to court with them on all court dates.
4. Anything the State is required to provide the defense attorney under any law is deemed served and provided on the date it is uploaded and made available to the defense attorney through TechShare.
5. **STANDING PROTECTIVE ORDER:** Any items marked CONFIDENTIAL on TechShare by the State, are not to be released, reproduced, or revealed in any manner to any individual or entity unless expressly permitted by the court. If the attorney for the defense believes the record should not be deemed confidential and/or should be made public (if also filed with the clerk as confidential), a motion should be made before the court requesting a hearing on the matter.
6. Items or evidence that must be provided but that cannot be reproduced or copied under the law must be viewed by the defense attorney in the Criminal District Attorney's office. It is the defense attorney's responsibility to make arrangements with the State to view evidence during normal business hours. The evidence is deemed provided on the date that the State notifies the defense that the evidence exists through TechShare. Inability to view the items/evidence before trial due to the failure of the defense attorney to request an appointment at least 7 days before trial will not be a sufficient basis for a motion for continuance. The State must make arrangements during normal business hours for the defense to view such items/evidence.
7. It is the defense attorney's responsibility to make sure all items can be accessed and downloaded at least 20 days before trial. If there are technical difficulties, the defense must immediately notify the Criminal District Attorney's Office and both parties must work in good faith to remedy any issue. Technical difficulties in accessing discovery will not be a sufficient basis for a motion for continuance if there has been no attempt to download discovery within 20 days from the date of trial.

CRIMINAL HISTORY RECORD INFORMATION

In order to ensure compliance with Section 411.084 of the Texas Government Code, the above-referenced court hereby orders the Kendall County Criminal District Attorney (hereinafter referred to as the "District Attorney") to disclose the criminal history record information of defendants in the criminal cases filed in the above referenced courts, and any criminal history record information of witnesses as required under Article 39.1 4(h), to the attorney of record for the defendant in the case pertaining to the file, or a designated defense participant. The above-referenced court further orders that defense attorneys receiving or using the information obtained by this order shall comply with the provisions of

Chapter 411 of the Texas Government Code and Article 39.14 relating to the use and dissemination of criminal history record information, and shall refrain from conduct that would constitute a violation of Section 411.085 of the Government Code. Nothing in this order requires the District Attorney to conduct further investigation or inquiry into criminal history record information unless further ordered by the above-referenced court or otherwise required bylaw.

PROTECTED HEALTH INFORMATION COVERED BY HIPAA

In order to ensure compliance with the Health Insurance Portability and Accountability Act (hereinafter referred to as "HIPAA") and the related privacy regulations found in the Code of Federal Regulations, the above referenced courts hereby order the District Attorney to disclose Protected Health Information related to criminal cases filed in the above referenced courts, whether of defendants or witnesses, in accordance with Article 39.14, to the attorney of record for the defendant in the case pertaining to the file, or a designated defense participant. The above referenced court further orders that defense attorneys receiving or using the information obtained by this order shall comply with the provisions of HIPAA, the related privacy rules, the Texas Health and Safety Code, the Texas Medical Records Privacy Act, and Texas Code of Criminal Procedure Article 39.14, regarding the use and dissemination of protected health information. Nothing in this order requires the District Attorney to conduct further investigation or inquiry into protected health information unless further ordered by the above-referenced courts or otherwise required by law.

SERVICE OF BUSINESS RECORDS ACCOMPANIED BY AFFIDAVIT UNDER TRE 902(10)

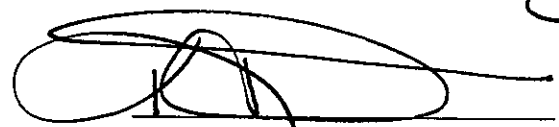
In order to facilitate compliance with 39.14 of the Texas Code of Criminal Procedure and Texas Rules of Evidence 902(10), and to allow for efficient and expedient production of records, the court orders that it is sufficient service for the State to electronically file notice of business records with the appropriate clerk and provide a copy of said notice to defense counsel. The court finds that a copy of the accompanying records are properly served on defense counsel if the records are uploaded and made available to defense counsel through the District Attorney's discovery portal. The service date shall be the date the discovery system event log shows the record was available to the attorney.

STANDING PROTECTIVE ORDERS FOR CONFIDENTIAL RECORDS

To protect confidential material, the court orders the District or County Clerk to put under seal any records that an attorney in a criminal case marks as CONFIDENTIAL, and release any such records only to the attorneys of record on said case. Any records marked CONFIDENTIAL are not to be released, reproduced, or revealed in any manner to any individual or entity unless expressly permitted by the court. If any party believes that a record should not be deemed confidential and/or should be made a public document, said party shall make a motion before this court requesting a hearing on the matter.

IT IS FURTHER ORDERED that the above orders are effective 9 day of January, 2020.

Date signed: January 9, 2020



Presiding Judge
451st District Court
Kendall County, Texas

FILED 1/9/20
at 8:45 o'clock A. M.

Susan Jackson, District Clerk
Kendall County, Texas

By: Susan Jackson Deputy