

DISCOVERY in Criminal Cases

A defense lawyer will receive documents and other evidence from the DA's office, referred to as discovery. After reviewing what the District Attorney shares, a defense attorney can request additional evidence from the DA's office and/or conduct their own investigation.

The person being charged has a right to review the discovery and other evidence. There are however limits on attorneys handing out copies. Discovery often has confidential information, such as the names of potential witnesses, that the DA and the courts want to protect.

Common Documents in Discovery:

"75-48" Incident Report

- Hand-written at the scene.
- Very basic information.
- This report is closest in time to the incident.
- This report is filled out for every stop and radio call.

"75-483": Witness statement taken by the police. It's written in the form of a question and answer and is in the words of the witness. 483's may include statements from the following:

- Complainant / victim.
- Eyewitnesses.
- Arresting officer being interviewed by a detective.
- Confession / Statement by the person charged or a co-defendant.

PARS (Police Arrest Report Summary)

- Document that summarizes the allegations, charges, and circumstances of arrest.
- The PARS is what is generally relied upon in bail determinations.
- Sections of PARS
 - Arrest type: SA means on site arrest, other type is warrant arrest
 - Facts of the case. Summarizes This is what the bail magistrate has.
 - List of charges. These are the police's best guess, but the charges are decided by the DA after the arrest. The charges listed by police won't always match up with the prosecutor's charges, which is normal.
- List of co-defendants with the same DC #. The district control number is specific to the incident, not the person. Multiple people charged with the same allegation will have the same DC number.
- Identification of the victim(s) [Note: identifying information is often crossed out ('redacted').]

Physical evidence: Physical evidence -- such as a weapon, drugs, or items recovered from the scene -- can be inspected by an attorney upon request / court order. Documents created related to physical evidence include:

- Property Receipts - A document created every time evidence is taken into police custody, with a short description and unique number.
- Seizure analysis - In a drug case, this is a lab report showing whether a substance is an illegal drug.
- Evidence Control Logs -- Logs the movement of physical evidence between departments and when being tested / examined.

Photos: May include photos of crime scene, any weapons, or of injuries.

Reports from Analysis / Examinations, which may include:

- Autopsies
- DNA
- Fingerprints
- Drug analysis

Examples of time-sensitive additional evidence an attorney may seek:

- 911 call – will be destroyed if not preserved / requested by attorney
 - Calls to the police are recorded but the recordings are only kept for 30 days. A subpoena to police within 30 days should lead to preservation of the evidence.
- Video footage from security cameras (on the street / outside stores / neighbors houses)
 - Footage may not be saved and, if it may be helpful, should be identified and subpoenaed as soon as possible.
- *Note -- There are strategic considerations to discuss with an attorney when preserving and/or obtaining copies of calls and videos. If they may obtain information that is incriminating, requesting them will likely mean the prosecution will have the evidence as well.*

Reviewing Discovery / Evidence

- Ask WHO, WHAT, WHERE, WHEN, WHY, and HOW
- Develop a People list - Individuals involved in the case, including all officers and witnesses.
- Read for a timeline
 - Time of incident
 - Time officer arrived
 - Time arrest is made
- Identify all locations involved in the incident.
- Look for discrepancies and where evidence is consistent.

- Think about additional evidence that may be available:
 - Do reports mention people or other reports that are not included?
 - Do they lead to ideas of who else may have information regarding the incident?
 - Could there be surveillance videos?