

## Cuyahoga County Court of Common Pleas Local Rule 23.1 - Criminal Discovery

The purpose of this Rule is to promote the fairest and most expeditious administration of criminal justice consistent with the requirements of the Ohio Rules of Criminal Procedure, the United States and Ohio Constitutions, and the Ohio Revised Code. This Rule, promulgated pursuant to Ohio Supreme Court Superintendence Rule 5, shall be so construed and applied as to minimize delay, unnecessary expense, and all other impediments to a just and expeditious determination of criminal cases.

(A) Within one week following the initial pretrial conference scheduled pursuant to Rule 23 of these Rules, and upon demand by defendant's counsel, the Prosecutor assigned to the case shall deliver to counsel for the defendant a "discovery packet". Counsel for the Defendant shall acknowledge receipt of the packet in writing.

- (B) The discovery packet shall include:
- (1) All police reports.
  - (2) All statements of defendant, co-defendants and witnesses.
  - (3) Names and addresses of all witnesses.
  - (4) All laboratory and hospital reports.
  - (5) Criminal records of defendant, co-defendants, and all witnesses.

(C) Any materials set forth in subsections (B) (1) – (3) may be redacted by the Prosecutor to the extent necessary to protect the identity of any person if there is good reason to believe that disclosure could pose a risk of harm<sup>1</sup> to such person or could threaten an ongoing criminal investigation. In such case disclosure of the identity of such person may be ordered by the Court only upon a showing of good cause. ["In addition to the items required to be provided by this Rule, the Prosecutor may include in the discovery packet any witness statements, including those of the victim(s)"]<sup>2</sup>.

(D) The police reports and witness statements supplied in the discovery packet shall not be used for cross-examination of any witness unless properly qualified under Rule 16(B)(1)(g), Ohio Rules of Criminal Procedure and Rule 613, Ohio Rules of Evidence.

(E) Execution of demand and receipt, and acceptance of the discovery packet by counsel for defendant, automatically obligates counsel for the defendant to provide reciprocal discovery as provided in Rule 16(C), Ohio Rules of Criminal Procedure, forthwith.

(F) All discovery hereunder shall be continuing in nature and shall be supplemented forthwith upon receipt of additional information. Unless otherwise ordered by the Court for good cause, all exchanges of supplemental discovery shall be completed no later than seven days before date of trial. Matters not provided by either side to the other, in violation of this Rule, shall not be used at trial without leave of Court for good cause shown.

(G) In any case in which counsel for the defendant(s) has been granted leave to withdraw, and new counsel assigned or retained, it shall be the duty of the successor counsel to obtain promptly from prior counsel all discovery previously provided by the Prosecutor, as well as the results of any investigation and other materials prepared by said former counsel, and to ensure that all requested discovery has been timely provided to the State.

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<sup>1</sup> In order to track the specific language of Ohio Criminal Rule 16(B)(1)(e), it is proposed that "pose a risk of harm to such person" be replaced by the following: "...may subject the witness or others to physical or substantial economic harm or coercion".

<sup>2</sup> This sentence was included in an earlier draft of the Rule, but should be deleted as inconsistent with the specific provision in Par. (B)(2).