

## **Rule 16. Discovery and Inspection**

(a) Governmental disclosure of evidence.

(1) Information subject to disclosure.

(A) Statement of respondent. Upon request of a respondent the Office of the Attorney General shall disclose to the respondent and make available for inspection, copying or photographing: any relevant written or recorded statements made by the respondent, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the Office of the Attorney General; that portion of any written recording containing the substance of any relevant oral statement made by the respondent whether before or after arrest in response to interrogation by any person then known to the respondent to be a government agent; and recorded testimony of the respondent before a grand jury which relates to the offense charged. The government shall also disclose to the respondent the substance of any other relevant oral statement made by the respondent whether before or after arrest in response to interrogation by any person then known by the respondent to be a government agent if the government intends to use that statement at the factfinding hearing.

(B) Prior record. Upon request of the respondent the government shall furnish to the respondent such copy of the respondent's prior juvenile record, it [if] any, as is within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the Office of the Attorney General.

(C) Documents and tangible objects. Upon request of the respondent, the Office of the Attorney General shall permit the respondent to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the government, and which are material to the preparation of the respondent's defense, or are intended for use by the government as evidence in chief at the factfinding hearing, or were obtained from or belong to the respondent.

(D) Reports of examinations and tests. Upon request of the respondent, the prosecutor shall permit the respondent to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the prosecutor, and which are material to the preparation of the defense or are intended for use by the government as evidence in chief at the trial.

(E) Expert witnesses. At the respondent's request, the Office of the Attorney General shall disclose to the respondent a written summary of expert testimony the Office of the Attorney General intends to use during its case in chief at trial. This summary must describe the expert witnesses' opinions, the bases and the reasons therefor, and the witnesses' qualifications.

(2) Information not subject to disclosure. Except as provided in paragraphs (A), (B) and (D) of subdivision (a)(1), this Rule does not authorize the discovery or inspection of reports, memoranda, or other internal government documents made by the prosecutor or other government agents in connection with the investigation or prosecution of the case, or of statements made by government witnesses or prospective government witnesses except as provided in *18 U.S.C. § 3500*.

(3) Grand jury transcripts. Except as provided in Rule 6 and paragraph (a)(1)(A) of this Rule, these Rules do not relate to discovery or inspection of recorded proceedings of a grand jury.

(b) The respondent's disclosure of evidence.

(1) Information subject to disclosure.

(A) Documents and tangible objects. If the respondent requests disclosure under paragraph (a)(1)(C) or (D) of this Rule, upon compliance with such request by the government, the respondent, on request of the government, shall permit the government to inspect and copy or photograph books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody or control of the respondent and which the respondent intends to introduce as evidence in chief at the trial.

(B) Reports of examinations and tests. If the respondent requests disclosure under paragraph (a)(1)(C) or (D) of this Rule, upon compliance with such request by the government, the respondent, on request of the government, shall permit the government to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the respondent, which the respondent intends to introduce as evidence in chief at the factfinding hearing or which were prepared by a witness whom the respondent intends to call at the factfinding hearing when the results or reports relate to the witness's testimony.

(C) Expert Witnesses. If the respondent requests disclosure under subparagraph (a)(1)(E) of this Rule and the Office of the Attorney General complies, the respondent, at the Office of the Attorney General's request, must disclose to the Office of the Attorney General a written summary of expert testimony the respondent intends to use as evidence at trial. This summary must describe the opinions of the witnesses, the bases and reasons therefor, and the witnesses' qualifications.

(2) Information not subject to disclosure. Except as to scientific or medical reports, this paragraph does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the respondent, or the respondent's attorneys or agents in connection with the investigation or defense of the case, or of statements made by the respondent, or by government or defense witnesses, or by prospective government or defense witnesses, to the respondent, the respondent's agents or attorneys.

(c) Continuing duty to disclose. If, prior to or during the factfinding hearing, a party discovers additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this Rule, the party shall promptly notify the other party or the other party's attorney or the judicial officer of the existence of the additional evidence or material.

(d) Regulation of discovery.

(1) Protection and modifying orders. Upon a sufficient showing the Family Court may at any time order that the discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate. Upon motion by a party, the Family Court may permit the party to make such showing, in whole or in part, in the form of a written statement to be inspected by the judge alone. If the Family Court enters an order granting relief following such an ex parte showing, the entire text of the party's statement shall be sealed and preserved in the records of the Family Court to be made available to the appellate court in the event of an appeal.

(2) Failure to comply with a request. If at any time during the course of the proceedings it is brought to the attention of the Family Court that a party has failed to comply with this Rule, the Family Court may order such party to permit the discovery or inspection, grant a continuance, or prohibit the party from introducing evidence not disclosed, or it may enter such other order as it deems just under the circumstances. The Family Court may specify the time, place and manner of making the discovery and inspection and may prescribe such terms and conditions as are just.

(e) Alibi witness. Discovery of alibi witnesses is governed by Rule 12.1 of the Rules of this Family Court.