

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

IN RE: CRIMINAL DISCOVERY

Standing Order No. 2021-6

ORDER

Unless otherwise ordered by the Court:

Rule 16(a)(1), (b) & (c). Upon request by the defendant, the government must provide initial discovery required by Fed. R. Crim. P. 16(a)(1)(A), (B), (C), (D), and (E), no later than 14 days after arraignment. As set forth in Rule 16.1, within 14 days of arraignment, the parties shall confer and try to agree on a timetable and procedures for the remainder of the pretrial disclosures. Once the parties confer, they may ask the Court to determine or modify any aspects of the disclosures to facilitate preparation for trial. The government must provide all discovery required by Fed. R. Crim. P. 16(a)(1)(F) and (G) as soon as reasonably practicable, but in no event shall such production occur later than fourteen days before trial. The defendant must provide all discovery as required by Fed. R. Crim. P. 16(b)(1)(A) within 21 days of the government's request, and all discovery required by Fed. R. Crim. P. 16(b)(1)(B) and (C) no later than 14 days before trial. All parties must comply with Fed.R.Crim.P. 16(c) for discovery that comes into their possession after the deadline set forth above. The discovery schedule may be modified based on agreement of the parties or by order of the Court.

Exculpatory Information. The government must timely disclose all exculpatory information that is in its possession or known to the prosecution team. Exculpatory information is all evidence or information that tends to negate defendant's guilt or mitigate the offense, or that is favorable to defendant because it:

- Casts doubt on any essential element of any count in the indictment or information;
- Casts doubt on the admissibility of evidence that the government anticipates offering in its case-in-chief;
- Casts doubt on the credibility or accuracy of any evidence or testimony that the government anticipates offering in its case-in-chief; or
- Supports an argument for lesser punishment at sentencing.


Rule 16(a)(2). The government's obligation to disclose exculpatory information extends to information covered under Fed. R. Crim. P. 16(a)(2) regardless of whether that information is admissible.

Giglio Material. The government must timely disclose any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective witnesses. *United States v. Giglio*, 405 U.S. 150 (1972).

Privileged Material. If the government uses a filter team to segregate potentially privileged material from the prosecution team, it must disclose this to defendant in a timely manner to allow defendant the opportunity to request a court hearing on the adequacy of the procedure.

Electronic Surveillance Information. If the defendant is an aggrieved person as defined in 18 U.S.C. § 2510(11) or as "aggrieved" is used in 18 U.S.C. § 3504, the government must so advise the defendant and set forth the detailed circumstances thereof, unless disclosure is prohibited by law, or the information is classified, or protected by a court order.

IT IS SO ORDERED. Done on behalf of the Court on June 8, 2021.



MARCO A. HERNÁNDEZ
CHIEF U.S. DISTRICT JUDGE