

CAUSE NO. _____

STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
_____	§	179 th JUDICIAL DISTRICT

STANDING DISCOVERY ORDER ON COPYING AND PRODUCTION OF BODY WORN VIDEO CAMERA FOOTAGE

THE COURT ORDERS the Harris County District Attorney's Office and its agent, the _____, the arresting agency in this matter, that captured video footage from any Body Worn Cameras (BWC) during the arrest and investigation of this case against the Defendant, specifically, the _____ is ordered, to copy or make available either a digital copy or physical copy, and produce the same, to the defense counsel and the Harris County District Attorney's Office.

The BWC in the case pending before the court relate to the following information:

Defendant:

Defendant DOB:

Defendant SPN:

Officer:

Date of Offense:

Offense Number:

Offense:

Address of Incident:

Case Type: Felony

ADA email#:

ADA Phone#:

Defense Attorney E-mail address:

Defense attorney Phone #

_____, is **ORDERED** to produce to digitally copy and digitally produce the below any and all body worn documentation to the Harris County District Attorney's Office and the Defendant's attorney as directed below:

1. For the purpose of this order a Body Worn Camera (BWC) is to be defined as a recording device that is capable of recording or transmitting to be recorded remotely, video and audio; and worn on the person of a peace officer, which includes being attached to the officer's clothing.
2. For purposes of this Order, digital recordings consist of video footage, which may include audio, captured by the BWC and stored digitally.

It is further **ORDERED** that any evidence within the scope of the items above be provided to defendant's attorney in the form of a physical or digital link. Any physical copy shall be made available for pickup at the Harris County Attorney's Office on or before 5:00p.m. on the 21st day after the signing of this order or any such time as agreed upon by the Attorney of record for the Defendant and the Harris County District Attorney's Office.

It is further **ORDERED** that this order is continuing and the State will immediately notify and make available to the Defendant's attorney any subsequent discoverable matter within the scope of the above granted items within 48 hours of the time it learns of or obtains such discoverable matter or within 10 days before jury selection, whichever is sooner. The admissibility of any subsequent discoverable matter disclosed 9 days or less before trial shall be determined in a hearing before the trial court, or by agreement.

It is further **ORDERED** that any items herein not produced in violation of this order shall be and are excluded from evidence in this case if offered by the State.

It is further **ORDERED** that testimony concerning the items not produced in violation of this order or the information contained in those items shall be and are excluded from evidence in this case if offered by the State.

It is further **ORDERED** that any physical copies of video produced in response to this order shall be produced free of cost. If the recipient demands a physical copy as opposed to a digital version, any law enforcement agency, or person or entity having a contract with such law enforcement agency, shall be allowed as a copy cost that amount, and only that amount, that is allowable under the Texas Public Information Act for copying the documents required to be produced by this order.

It is further **ORDERED** that under the authority of *Brady v. Maryland*, 373 US 83; 83 S.Ct. 1194 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), *Kyles v. Whitley*, 514 U.S. 419 (1995) (“[t]he individual prosecutor has a duty to learn of any

favorable evidence known to the others acting on the government's behalf in the case, including the police"), and their progeny, all evidence favorable to the Defendant is to be produced. Additionally, as per Tex. Code Crim. Pro. art. 39.14(h), the state shall disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged.

Additionally, as per the Texas Disciplinary Rules of Professional Conduct Rule 3.09(d), ("Duties of District Attorneys" requires that "[t]he prosecutor in a criminal case shall: make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense...") evidence that tends to negate guilt or mitigate the offense shall be disclosed. Said evidence is to be produced with 72 hours of its discovery.

It is further **ORDERED** that the attorney requesting this discovery must notify the agency in possession of the BWC within 2 days of (1) the entry of a guilty plea; (2) if the case is set for a plea; or (3) the dismissal of the criminal proceeding. The lawyer for the defendant shall obtain a copy of this order not later than 24 hours after it is signed and shall immediately transmit it to the agency in possession of the BWC and defense counsel shall provide proof of service.

Dated _____

Judge Ana Martinez
179th Criminal District Court
Harris County, Texas