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IN THE SUPERIOR COURTS OF THE COWETA JUDICIAL CIRCUIT
STATE OF GEORGIA

15 FEB 12 AM 8:23

CARROLL, COWETA, HEARD, MERIWETHER & TROUP COUNTIES, CLERK
COWETA COUNTY, GA

STANDING ORDER NUMBER 7

IN RE: DISCOVERY IN CRIMINAL CASES

In any criminal case in the Coweta Judicial Circuit in which the Defendant provides written notice to the prosecuting attorney that such Defendant elects to have the provisions of O.C.G.A. § 17-6-1 et seq. apply to his or her case, the following discovery shall be exchanged between the State and the Defendant within the time limits established by law or specifically ordered by the Court:

A. INDICTMENT OR ACCUSATION AND LIST OF WITNESSES.

The prosecuting attorney shall furnish a copy of the indictment or accusation and a list of witnesses (that may be supplemented as set forth hereafter) to the Defendant.

B. RECIPROCAL DISCOVERY.

(1) Prosecution's Disclosures. The prosecuting attorney shall disclose to the Defendant and make available for inspection, copying, or photographing:

- (a) Any relevant written or recorded statements

made by the Defendant, or copies thereof, within the possession, custody or control of the state or prosecution and that portion of any written record containing the substance of any relevant oral statement made by the Defendant, whether before or after arrest, in response to interrogation by any person then known to the Defendant to be a law enforcement officer or member of the prosecuting attorney's staff.

(b) The substance of any other relevant oral statement made by the defendant, before or after arrest, in response to interrogation by any person then known by the defendant to be a law enforcement officer or member of the prosecuting attorney's staff if the state intends to use that statement at trial.

(c) The substance of any other relevant written or oral statement made by the defendant while in custody, whether or not in response to interrogation.

(d) Statements of coconspirators that are attributable to the defendant and arguably admissible against the defendant at trial.

(e) A copy of the defendant's Georgia Crime Information Center criminal history, if any, as is within the possession, custody, or control of the state or prosecution.

(f) Books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof and to inspect and photograph buildings or places which are within the possession, custody, or control of the state or prosecution and are intended for use by the prosecuting attorney as evidence in the prosecution's case-in-chief or rebuttal at the trial or were obtained from or belong to the defendant. Evidence that is within the possession, custody, or control of the Forensic Sciences Division of the Georgia Bureau of Investigation or other laboratory for the purpose of testing and analysis may be examined, tested, and analyzed at the facility where the evidence is being held pursuant to reasonable rules and regulations adopted by the Forensic Sciences Division of the Georgia Bureau of Investigation or the laboratory where the evidence is being held. Notwithstanding the foregoing, any books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof which are within the possession, custody, or control of the state or prosecution and are intended for use by the prosecuting attorney as evidence in the prosecution's case-in-chief or rebuttal at the trial of any violation of Part 2 of Article 3 of Chapter 12 of Title 16,

shall be allowed to be inspected by the Defendant but shall not be allowed to be copied.

(g) Any report of any physical or mental examinations and of scientific tests or experiments, including a summary of the basis for the expert opinion rendered in the report, or copies thereof, if the state intends to introduce in evidence in its case-in-chief or in rebuttal the results of the physical or mental examination or scientific test or experiment. If the report is oral or partially oral, the prosecuting attorney shall reduce all relevant and material oral portions of such report to writing. The prosecution is not required to disclose any other material, note, or memorandum relating to the psychiatric or psychological treatment or therapy of any victim or witness.

(h) Any evidence in aggravation of punishment that the state intends to introduce in sentencing.

(2) Defendant's Disclosures. The Defendant shall disclose to the prosecuting attorney and make available for inspection, copying, or photographing:

(a) All books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or

copies or portions thereof and to inspect and photograph buildings or places, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in the defense's case-in-chief or rebuttal at the trial.

(b) All reports of any physical or mental examinations and of scientific tests or experiments, including a summary of the basis for the expert opinion rendered in the report, or copies thereof, if the Defendant intends to introduce in evidence in the defense's case-in-chief or rebuttal the results of the physical or mental examination or scientific test or experiment. If the report is oral or partially oral, the Defendant shall reduce all relevant and material oral portions of such report to writing. Nothing in this Code section shall require the disclosure of any other material, note, or memorandum relating to the psychiatric or psychological treatment or therapy of any Defendant or witness.

(c) No later than five days before the trial commences, a list of witnesses that the defendant intends to call as a witness in the presentence hearing. No later than the announcement of the verdict of the jury or if the defendant has waived a jury trial at the time the verdict is published by the court, the Defendant shall

produce for the opposing party any statement of such witnesses that is in the possession, custody, or control of the Defendant or the Defendant's counsel that relates to the subject matter of the testimony of such witnesses unless such statement is protected from disclosure by the privilege contained in paragraph (5), (6), (7), or (8) of subsection (a) of O.C.G.A. § 24-5-501.

C. CONTINUING DUTY.

If prior to or during trial a party discovers additional evidence or material previously requested or ordered which is subject to discovery or inspection under this article, such party shall promptly notify the other party of the existence of the additional evidence or material and make this additional evidence or material available as provided in this article. Upon a sufficient showing that a discovery required by this article would create a substantial threat of physical or economic harm to a witness, the 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 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 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 court subject to further order of the court and to be made available to the appellate court in the event of an appeal.

D. ALIBI WITNESSES.

In the event the Defendant intends to offer a defense of alibi to an indictment or accusation in which the date of the offense is a material averment, the Defendant shall serve upon the prosecuting attorney a written notice of the Defendant's intention to offer a defense of alibi, without the requirement that the prosecuting attorney make a written demand. Such notice by the Defendant shall state the specific place or places at which the Defendant claims to have been at the time of the alleged offense and the names, addresses, dates of birth, and telephone numbers of the witnesses, if known to the Defendant, upon whom the Defendant intends to rely to establish such alibi unless previously supplied. In the event the date of the offense is not a material averment of the indictment or accusation, the prosecuting attorney shall give the notice required by O.C.G.A. § 17-16-5(a) and the time limits imposed by the statute shall control.

E. STATEMENTS OF WITNESSES.

The prosecution and the Defendant shall produce for the

opposing party any statement of any witness that is in the possession, custody, or control of the state or prosecution or in the possession, custody, or control of the Defendant or the Defendant's counsel that relates to the subject matter concerning the testimony of the witness that the party in possession, custody, or control of the statement intends to call as a witness at trial or at such post-indictment pretrial evidentiary hearing.

The prosecuting attorney and the Defendant's attorney shall furnish to the opposing counsel as an officer of the court, in confidence, the names, current locations, dates of birth, and telephone numbers of that party's witnesses, unless for good cause the judge allows an exception to this requirement, in which event the counsel shall be afforded an opportunity to interview such witnesses prior to the witnesses being called to testify. The prosecuting attorney shall not be required to furnish the home address, date of birth, or home telephone number of a witness who is a law enforcement officer. Instead, in such cases, the prosecuting attorney shall furnish to the defense attorney the law enforcement officer's current work location and work phone number.

F. OFFICE OF THE PUBLIC DEFENDER.

This Standing Order is deemed to be invoked in each case in which a Defendant is represented by a member of the Coweta Judicial Circuit Public Defender.

The following motions are deemed filed by the Public Defender in all felony cases:

(1) Notice of Defendant's Election to Proceed Under O.C.G.A. § 17-16-1 et seq.

(2) Motion for Discovery of Statements of the Defendant.

(3) Motion to Obtain Discovery of Statements Made by Witnesses for the State.

(4) Defendant's Request for Information Described in O.C.G.A. § 17-16-8.

(5) Demand for the Production of the Accused's Criminal History Pursuant to O.C.G.A. § 17-16-4(a)(2).

(6) Demand for Inspection, Analysis and Copies of Photographs, Documents and Other Tangible Evidence.

(7) Demand for the Inspection, Analysis and Testing of Scientific Evidence.

(8) Discovery Motion and Motion to Require the

Prosecution to Disclose Evidence Favorable to the Defendant under
Brady v. Maryland.

(9) Notice to Produce.

(10) Motion for Disclosure of Similar or Extrinsic Act Evidence and for Pretrial Hearing to Determine Admissibility of any Acts alleged by the State to be Related Acts.

(11) Motion to Require the State to Reveal any Agreement entered between the State and any Prosecution Witness that could conceivably Influence Testimony.

The following motions are deemed filed by the Public Defender in all misdemeanor cases:

(1) Notice of Defendant's Election to Proceed Under O.C.G.A. § 17-16-20 et seq.

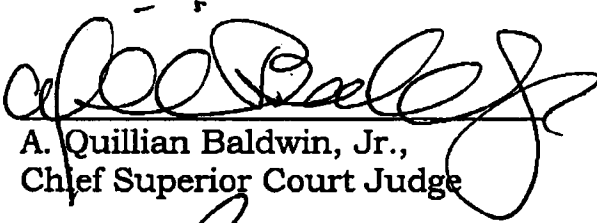
(2) Defendant's Request for Information Described in O.C.G.A. § 17-16-21, OCGA 17-16-22 and OCGA 17-16-23.


Copies of the foregoing motions deemed to be filed by the Office of the Public Defender are attached to this Standing Order as Exhibits 1 through 13.

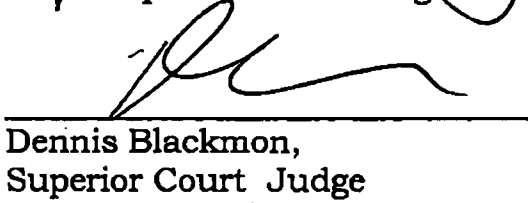
All other provisions of this Standing Order not in conflict with this paragraph (i.e., *F. OFFICE OF THE PUBLIC DEFENDER.*) shall likewise

apply to the Office of the Public Defender.

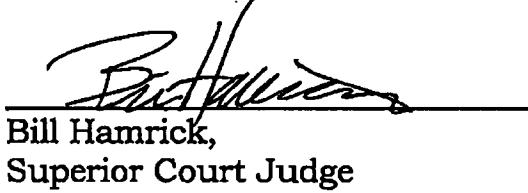
SO ORDERED this 12 day of Feb, 2017⁵.

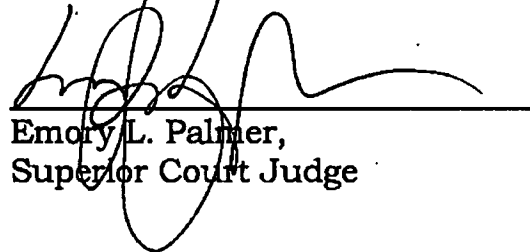

A. Quillian Baldwin, Jr.,
Chief Superior Court Judge


John T. Simpson,
Superior Court Judge


Dennis Blackmon,
Superior Court Judge


Jack Kirby,
Superior Court Judge


Bill Hamrick,
Superior Court Judge


Emory L. Palmer,
Superior Court Judge

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

CASE NO. _____

DEFENDANT

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**NOTICE OF DEFENDANT'S ELECTION TO
PROCEED UNDER O.C.G.A. § 17-16-1 ET SEQ.**

Defendant hereby provides written notice, pursuant to O.C.G.A. § 17-16-2(a), that DEFENDANT elects to have the provisions of O.C.G.A. § 17-16-1 et seq. apply to this case, including but not limited to the demand for Copy of Indictment or Accusation and List of Witnesses pursuant to OCGA §17-16-3. Motion for Disclosure and Inspection pursuant to OCGA §17-16-4, Motion for Statement of Witnesses pursuant to OCGA §17-6-7, and List of Names and Information pursuant to OCGA §17-16-8. In the event the charges do not include felonies, then Defendant hereby invokes the provisions of OCGA §17-16-20 et. seq., including but not limited to Demand for Copy of Accusation and List of Witnesses pursuant to OCGA §17-16-21, Copy of Statement While in Police Custody pursuant to OCGA §17-16-22, and a Demand for copy of Written Scientific Reports pursuant to OCGA §17-16-23.

Respectfully submitted,

Counsel for Defendant

EXHIBIT "1"

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

CASE NO. _____

DEFENDANT

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MOTION FOR DISCOVERY OF STATEMENTS OF THE DEFENDANT

COMES NOW, the Defendant in the above-captioned matter, and pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution; Article I, Section I, Paragraphs 1, 2, 11, 12, 14, 16 and 17 of the Georgia Constitution; O.C.G.A. § 17-16-4(a)(1) (formerly § 17-7-210); and other applicable law, hereby moves this Court to ORDER the State to provide the defense, within TEN days, with copies of any and all statements made by DEFENDANT, including but not limited to: (1) written versions of any and all oral statements; (2) other accounts, reports, notes or summaries of any and all oral statements; (3) copies of any and all written statements; (4) audio cassette copies of any and all audio-taped statements; and (5) video cassette copies of any and all videotaped statements. Additionally, Defendant moves the Court to BAR the State from using any such statements at trial for any purpose in the event that said statements are not revealed to the defense within ten (10) days.

In support of this motion, DEFENDANT states the following:

1.

DEFENDANT is charged in the above-styled case.

EXHIBIT "2"

2.

Under O.C.G.A. § 17-16-4 (a)(1), a criminal defendant is entitled to: (a) copies of any written or recorded statement made by him in response to interrogation by any law enforcement personnel; (b) that portion of any written record containing the substance of any relevant oral statement made by him in response to interrogation by any law enforcement personnel; and (c) “the substance of any other relevant oral statement” made in response to interrogation by law enforcement personnel if the state intends to use it at trial. O.C.G.A. § 17-16-4(a)(1).

3.

Additionally, a criminal defendant is entitled to any other statements made by him while in custody, including statements made to inmates or other non-law enforcement personnel. Bell v. State, 179 Ga. App. 491, 347 S.E.2d 321 (1986).

4.

The prosecutor’s duty to disclose extends to all statements within the “possession, custody, or control” of either his office or any law enforcement agency or other state agency. O.C.G.A. § 17-16-4(a)(1). The prosecutor also has a duty to investigate whether the Defendant made any statements and, if so, to reveal those statements to the defense. See Gilbert v. State, 193 Ga. App. 283, 38 S.E.2d 581 (1989).

5.

The state is barred from using at trial any custodial statement which has not been provided upon a timely request. See McKenny v. State, 204 Ga. App. 411, 419 S.E.2d 82 (1992) (conviction reversed where prosecution used statement of Defendant not furnished in compliance with written demand); Byars v. State, 198 Ga. App. 793, 403 S.E.2d 82

(1991) (same); Davis v. State, 198 Ga. App. 375, 401 S.E.2d 581 (1991).

6.

This motion is made under the authority of Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); Naupre v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959); Davis v. Alaska, 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed.2d 347 (1974); United States v. Agurs, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976); Giles v. Maryland, 386 U.S. 66, 87 S.Ct. 793, 17 L.Ed.2d 737 (1967); and United States v. Noe, 821 F.2d 604 (11th Cir. 1987), as well as the constitutional and statutory authority cited above.

WHEREFORE, DEFENDANT requests that this Court:

1.

Order the state to provide to the defense written versions of any and all oral statements by DEFENDANT; copies of any accounts, reports, notes or summaries containing statements by DEFENDANT or references to statements by DEFENDANT; any and all written statements by DEFENDANT; audio cassette tape copies of any and all audio-taped statements by DEFENDANT; and videotape copies of any and all videotaped statements by DEFENDANT;

2.

Order that such statements be provided within ten (10) days;

3.

Order that any statement not produced pursuant to this order be barred from use for any purpose by the state at trial;

4.

Schedule this motion for a hearing, if necessary; and

5.

Grant such other relief as is just and proper.

Respectfully submitted,

Counsel for Defendant

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**MOTION TO OBTAIN DISCOVERY OF STATEMENTS
MADE BY WITNESSES FOR THE STATE**

COMES NOW, the Defendant in the above-captioned case, and pursuant to the Sixth, Eighth and Fourteenth Amendments to the United States Constitution; Article I, Section I, Paragraphs 1, 2, 14, and 17 of the Georgia Constitution; O.C.G.A. § 17-16-7; and other applicable law, hereby moves this Court to ORDER the State to provide the defense, at least 10 days prior to the first pretrial evidentiary hearing, with any and all statements which are made by witnesses whom the state intends to call at any pretrial hearing or at trial, as well as any and all statements which are made by witnesses whom the state does not intend to call but which involve the subject matter of testimony of witnesses it does intend to call. Additionally, DEFENDANT moves this Court to BAR the State: 1. from calling at trial or at any pretrial hearing any witness who has made a statement not revealed to the defense; and 2. from using at trial or pretrial any part of the testimony of a witness that involves subject matter touched upon in a statement made by an uncalled witness and not revealed to the defense.

In support of this motion, DEFENDANT states as follows:

EXHIBIT "3"

1.

DEFENDANT is charged in the above-styled case.

2.

O.C.G.A. § 17-16-7 requires the state to produce for the defense “any statement of any witness that is in the possession, custody, or control of the state or prosecution... that relates to the subject matter concerning the testimony of a witness that the party in possession, custody, or control of the statement intends to call as a witness at trial or at [a] post-indictment pre-trial evidentiary hearing.” *Id* This language encompasses statements by witnesses whom the state intends to call at trial or any pretrial hearing [hereinafter “first hand statements”], as well as statements by uncalled witnesses which involve the subject matter of testimony of witnesses who will be called either at trial or pretrial [hereinafter “second hand statements”].

3.

The prosecutor’s duty to disclose extends to any statements within the possession, custody or control of either the office of the prosecuting attorney or any law enforcement agency involved in the investigation of the case. O.C.G.A. § 17-16-1(1); Giglio v. United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972).

4.

The “statement” of a witness includes any written or recorded statement that has been signed or otherwise adopted or approved by the witness, O.C.G.A. § 17-16-1(2)(A), as well as any “substantially verbatim recital” of any oral statement attributed to the witness, O.C.G.A. § 17-16-1(2)(B), or any summary account of a statement contained in

a memorandum, report or other written document. O.C.G.A. § 17-16-1(2)(C).

5.

The state is obligated to provide the defense with both “first hand” and “second hand” statements, which include, but are not limited to: copies of verbatim or substantially verbatim written versions of any and all oral statements; copies of written summaries contained in written documents, of any and all oral or written statements; audio cassette copies of any and all audio-taped statements; and video cassette copies of any and all videotaped statements. The only statements that the state is not required to disclose are those that do not relate to the subject matter of any witness’ testimony.

O.C.G.A. § 17-16-7.

This provision is analogous to the federal Jencks Act, 18 U.S.C. §3500, requiring that the government produce, upon defendant’s request, any statements made to law enforcement personnel by government witnesses. A crucial difference is that, under the Georgia provision, the state’s duty to disclose is absolute and is not contingent upon the defense requesting such statements.

6.

The state should be barred, both at trial and in pretrial hearings:

(a) from calling and eliciting testimony from any witness whose statement it does not disclose to the defense;

(b) from using any portion of any witness’ testimony that involves subject matter discussed in statements made by uncalled witnesses and not revealed to the defense. Cf. McKenny v. State. 204 Ga. App. 411, 419 S.E.2d 731 (1992) (conviction reversed where prosecutor used statement of defendant not furnished pursuant to

discovery statute); United States v. Noe. 821 F.2d 604 (11th Cir. 1987) (conviction reversed where government impeached defendant-witness with undisclosed statement); Monroe v. Blackburn. 607 F.2d 148 (5th Cir. 1979) (failure to disclose witness' prior statement violated due process); Davis v. Heyd. 479 F.2d 446 (5th Cir., 1973) (withholding witness' prior statement violated due process).

7.

This motion is made under the authority of Brady v. Maryland. 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) and Napue v. Illinois. 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959), as well as the statutory and constitutional authority cited above.

WHEREFORE, DEFENDANT requests that this Court:

1.

Order the state to provide the defense with written versions, written summaries, and/or written, substantially verbatim accounts of any oral statement (a) made by witness it intends to call at trial or any pretrial evidentiary hearing, or (b) made by witness it does not intend to call but involving the subject matter of testimony by a witness it does intend to call; written statements made by all such witnesses; audio cassette copies of statements made by witnesses; and, video cassette copies of statements made by all such witnesses;

2.

Order that such statements be provided no later than TEN (10) days prior to the first pretrial evidentiary hearing, and if a statement is made after that first hearing, order that it be produced no later than TEN (10) days prior to the next evidentiary hearing, or if there are no more evidentiary hearings, then no later than 60 days prior to trial;

3.

Exclude the testimony of any witness — both at trial and at any evidentiary hearing -- whose statement is not provided to the defense pursuant to this order; or if the undisclosed statement is made by a witness whom the state does not intend to call, exclude that portion of the called witness' testimony that involves subject matter covered by the uncalled witness' statement;

4.

Schedule a hearing on this motion, if necessary; and

5.

Grant such other relief as is just and proper.

Respectfully submitted,

Counsel for Defendant

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**DEFENDANT'S REQUEST FOR INFORMATION
DESCRIBED IN O.C.G.A. § 17-16-8**

Defendant hereby requests in writing that the State furnish to counsel for the Defendant all information required to be disclosed under O.C.G.A. § 17-16-8. This request encompasses the State's witness list, including witness' full name, date of birth, Social Security number, telephone and witness' address or location. The Defendant makes this request pursuant to O.C.G.A. § 17-16-8 and also under the provisions of Article 1, Section 1, Paragraph 14 of the Georgia Constitution. The Defendant further requests that the Court order that this information be furnished to counsel for the Defendant no later than ten days before trial, or as the Court directs.

Respectfully submitted,

Counsel for Defendant

EXHIBIT "4"

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

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CASE NO. _____

DEFENDANT

**DEMAND FOR PRODUCTION OF THE ACCUSED'S
CRIMINAL HISTORY PURSUANT TO O.C.G.A. §17-16-4(a)(2)**

DEFENDANT, having elected to have the provisions of O.C.G.A. § 17-16-1 et seq. apply to DEFENDANT's case, hereby requests in writing that the State produce to the defense a copy of the Defendant's Georgia Crime Information Center Criminal History, as required by O.C.G.A. § 17-16-4(a)(2).

Respectfully submitted,

Counsel for Defendant

EXHIBIT "5"

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**DEMAND FOR INSPECTION, ANALYSIS AND COPIES OF
PHOTOGRAPHS, DOCUMENTS AND OTHER TANGIBLE EVIDENCE**

DEFENDANT, having elected to have the provisions of O.C.G.A. § 17-16-1 et seq. apply to his/her case, hereby requests in writing that the State disclose and produce to the defense for inspection, copying, photographing, examination, testing or analysis, as required by O.C.G.A. § 17-16-4(a)(3), all books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, materials, items, buildings, places or information as described in O.C.G.A. § 17-16-4(a)(3).

Respectfully submitted,

Counsel for Defendant

EXHIBIT "6"

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**DEMAND FOR THE INSPECTION, ANALYSIS AND TESTING OF
SCIENTIFIC EVIDENCE**

DEFENDANT, having elected to have the provisions of O.C.G.A. § 17-16-1 et seq. apply to his/her case, respectfully demands the following:

(1) Copies of any written scientific reports in the possession of the prosecution which will be introduced in whole or in part against the Defendant by the prosecution in its case-in-chief or in rebuttal or were obtained from or belonged to DEFENDANT. O.C.G.A. § 17-16-4(a)(3). *DEFENDANT gives notice of intent to invoke the exclusionary provision of O. C. G.A. § 17-16-6 in the event that there is a failure to timely comply with this demand. See, Alexander v. State, 203 Ga. App. 375, 416 S.E.2d 762 (1992) (DA served a handwritten statement indicating that a trace of cocaine was found at site, but did not furnish lab report. Lab report was available and case was reversed).*

(2) The results of all scientific tests or experiments or studies made in connection with the above-styled case and copies of any reports, whether or not the State intends to introduce said items into evidence upon the trial of this case. O.C.G.A. § 17-16-4, the Fifth and Sixth Amendments to the Constitution of the United States and Article I, Section I, Paragraphs I, H, VI, XII and XIV of the Constitution of the State of Georgia.

EXHIBIT "7"

(3) The disclosure of any fingerprint, DNA or fiber sample analysis and, if such analysis was performed;

(a) the results of all tests (including fingerprint and ballistics), experiments or comparisons performed on any and all materials, objects, or property seized from the Defendant, or from other persons places or objects searched and/or seized during the course of the investigation. Also, the complete report made by any scientist or expert who either performed or was responsible for performing these tests, comparisons or experiments, including such information as the [1] description of the object tested, [2] exemplars or standards which the item was compared to, [3] tests performed, [4] procedures followed for each test, [5] work sheets, and [6] chain of custody for each item, [7] a summary of the basis for the expert opinion rendered in the report. O.C.G.A. §17-16-4(a)(3), the 6th Amendment to the Constitution of the United States of America, Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia; Eason v. State, 260 Ga. 445, 396 S.E.2d 492 (1990) (a basic principle of scientific testing is that careful records of test procedures and results be scrupulously maintained); Box v. State, 187 Ga. App. 260, 370 S.E.2d 28 (1988) (case reversed where state failed to provide exact numerical quantity of drug tested); Durden v. State 187 Ga. App. 154, 369 S.E.2d 764 (1988) (*any* evidence of a scientific test offered by the state in its case-in-chief or in rebuttal is subject to discovery).

(b) Any documentation regarding *the attempt* to perform any scientific test (fingerprint, ballistics, etc.), or procedure (identification, etc.) that may not have been completed or where the attempt to perform the test or procedure failed for some technical or other reason. O.C.G.A. § 17-16-4(a)(3), the 6th Amendment to the Constitution of the United States of America, Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia, Eason v. State, 260 Ga. 445, 396 S.E.2d 492 (1990) (right to subpoena all the work product of a

chemist); Foster v. California, 394 U.S. 440, 442 (1969) (case reversed where prosecution failed to disclose that witness failed to identify defendant the first time he confronted him and defendant was identified only after a second and third lineup).

(4) The disclosure of any polygraph examination(s), and if such disclosure is affirmative, the results of such tests performed on any witness or potential witness which may be beneficial and useful to the Defendant to establish reasonable doubt or for purposes of impeachment. Defendant also requests the name, address and phone number of the polygraph operator or operators. O.C.G.A. § 17-16-4(a)(3), the 6th Amendment to the Constitution of the United States of America; Article I, Section I, Paragraph XIV, and Taylor v. State, 172 Ga. App. 408, 323 S.E.2d 212 (1984) (reversible error where written report of polygraph examination not timely provided to defense after O.C.G.A. § 17-7-211 request).

(5) The disclosure of any results or reports of physical or mental evaluations as in O.C.G.A. §17-16-4(a)(4).

(6) A summary of the basis for any expert opinion rendered in a report which the State intends to introduce in evidence in its case-in-chief or rebuttal.

(7) Examine, test and analyze all evidence which the state intends to use in evidence in its case-in-chief or rebuttal or which was obtained from or belonged to Defendant. O.C.G.A. §17-16-4(a)(3).

(8) The Defendant reserves the right to:

- a) seek further discovery regarding the nature, extent and procedures utilized in any laboratory testing and the qualifications of any entity or individual performing such tests; and,
- b) challenge the procedure or technique utilized in any scientific procedure pursuant to Harper v. State, 249 Ga. 519, 292 S.E.2d 389 (1982) (trial court may make a determination whether a

scientific procedure or technique has reached a scientific stage of verifiable certainty from evidence presented to it); Caldwell v. State, 260 Ga. 278, 393 S.E.2d 436 (1990) (allows trial court during a Harper review to also determine whether the scientific procedures were performed in an acceptable manner).

Respectfully submitted,

Counsel for Defendant

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**DISCOVERY MOTION AND MOTION TO REQUIRE THE
PROSECUTION TO DISCLOSE EVIDENCE FAVORABLE TO THE
DEFENDANT UNDER BRADY v. MARYLAND**

DEFENDANT moves the Court for an Order to require the prosecutor to make a pretrial production of the information hereafter specified.

This information is sought pursuant to the Due Process Clause of the Georgia Constitution (Article I, Section I, Paragraph I of the Constitution of the State of Georgia) and the Fifth Amendment to the Constitution of the United States of America, made applicable to the States through the Fourteenth Amendment to the Constitution of the United States of America, as well as Article I, Section I, Paragraph XII of the Constitution of the State of Georgia (guaranteeing indigent defendants the appointment of counsel and opportunity to prepare a defense). See Coates v. Lawrence, 46 F.Supp 414 (S.D. Ga), aff'd, 131 F.2d 110(5th Cir. 1942)*, cert. denied, 318 U.S. 759, 63 S.Ct. 532, 87 L.Ed.2d 1132 (1943).

Further, if this material is not produced, the Defendant's counsel will not be able to effectively represent the Defendant in this case, and thus the Defendant will be denied the right to counsel and the right to confront witnesses, both of which are guaranteed under the provisions of Article I, Section I, Paragraph XIV of the Constitution of the State of Georgia, and the Sixth

EXHIBIT "8"

Amendment to the United States Constitution, made applicable to the States through the Fourteenth Amendment to the Constitution of the United States of America.

Additional authority for specific requests are noted where appropriate.

I. Prefatory Statement

This motion addresses numerous items which may or may not be applicable to this case because Georgia provides no comprehensive discovery in criminal cases. Since there is no discovery, counsel will not know whether certain requested items even exist without a preliminary response to this motion. Therefore, the Defendant may file additional motions depending upon the state's response to the various requests for disclosure of preliminary information.

Specifically, the Defendant requests:

II. Discovery Requests

(1) The addresses and telephone numbers for all persons interviewed during the investigation, whose statements could be deemed exculpatory to the Defendant - whether or not they are to be called as a witness for the State. Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) (right to discovery of exculpatory material); Hicks v. State, 232 Ga. 393, 207 S.E.2d 30 (1974) (recognizing the applicability of Brady to state prosecutions).

(2) Copies of any statements made by any witness in this case. Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (right to discovery of exculpatory material), Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 and Giglio v. United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972) (convictions reversed where witness testified falsely and defense not provided with prior inconsistent statement), Giles v. Maryland, 386 U.S. 66, 87 S.Ct. 793, 17 L.Ed.2d 737 (case remanded to determine if witness committed perjury in a rape case),

Rini v.State, 235 Ga. 60, 218 S.E.2d 811 (1975) (trial court erred in overruling defendant's motion for production at trial of the statements of witnesses).

(3) The disclosure of any line-up, photographic array or other identification or identification related procedure that involved any witness or prospective witness, and if such disclosure is in the affirmative, all documents, sketches, pictures or photographic arrays which have been made by, or shown to, any witness or prospective witness in this or any companion case. Fourth, Fifth and Sixth Amendments to the Constitution of the United States of America, Article I, Section I, Paragraphs I, XII, XIV and XVI of the Constitution of the State of Georgia, Manson v.Brathwaite, 432 U.S. 98, 114 (1977) (once the defendant establishes some sort of suggestivity in the identification process, court weighs the "corrupting effect of the suggestive identification" against the likelihood that the witness nonetheless made a reliable identification) (even where suggestivity is weak, court should still inquire into reliability - the linchpin in determining the admissibility of identification testimony). See also, Neil v. Biggers, 409 U.S. 188 (1972) (each case must be considered on its own facts).

(4) Any report or reports prepared by any law enforcement officer(s) in accordance with O.C.G.A. § 17-4-20.1(c) (Family Violence Act). The Defendant is entitled to these reports pursuant to O.C.G.A. § 17-4-20.1 (d) and 19-13-1.

(5) The description of all item(s) of physical evidence which the prosecution anticipates using in the trial of the Defendant. Disclosure of the existence of such items is necessary so that counsel can determine whether a motion for pretrial access is necessary to guarantee the Defendant's right to a fair trial. Parks v. State, 254 Ga. 403, 330 S.E.2d 686 (1985) (disclosure of a witness' statement occurred at trial. ["The appropriate standard to be applied ... is whether the disclosure came so late as to prevent the defendant from receiving a fair trial." [Cit.] United

States v. Sweeney, 688 F.2d 1131, 1141 (7th Cir. 1982)].

(6) The make, serial number, sales and ownership history of any firearm which the prosecution may attempt to link to the Defendant or otherwise relate to this case. Fifth and Sixth Amendments to the Constitution of the United States of America; Article I, Section I, Paragraphs I, XII, and XIV of the Constitution of the State of Georgia.

(7) The disclosure of any photographic evidence, and if the state intends to seek the admission of any such evidence, that counsel be allowed an opportunity to review the same in advance of trial to determine whether a pretrial hearing is necessary to decide whether they are unnecessarily prejudicial or inflammatory. Fifth and Sixth Amendments to the Constitution of the United States of America; Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Ramey v. State, 250 Ga. 455, 298 S.E.2d 503 (1983) (n.l, the use of photographs should be limited to only those which are relevant and illustrative of the issues); Brown v. State, 250 Ga. 862, 302 S.E.2d 347 (1983) (standard for admitting autopsy photographs); Osborne v. Wainwright, 720 F.2d 1237 (11th Cir. 1983) (claim of fundamental unfairness is a federal constitutional issue and not a state evidentiary issue).

(8) Disclosure of the identity of any informant utilized by the state in this case. Brady v Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); Thornton v. State, 231 S.E.2d 729 (1977) (trial court erred in failing to conduct a hearing to determine informant's status); Roviaro v. United States, 353 U.S. 53, 77 S.Ct. 623, 1 L.Ed.2d 639 (1957) (state's interest in protecting informant must be weighed against the right of the defendant to a full and fair opportunity to defend himself); Sowers v. State, 194 Ga. App. 205, 390 S.E.2d 110 (1990) (trial court erred in failing to conduct a hearing where the informant was the only person in a position to refute officer's version of occurrence).

(9) Disclose whether any physical, documentary, photographic, scientific, electronic or other potential evidence has been destroyed. Jordan v. State 247 Ga. 328, 276 S.E.2d 224 (1981) (“Only if evidence is carefully preserved during the early stages of investigation will disclosure be possible later,”) citing United States v. Bryant, 439 F.2d 642 (D.C. Cir. 1971)]. Arizona v Youngblood, 488 U.S. 51, 109 S.Ct. 333, 102 L.Ed.2d 281 (1988) (failure to preserve evidence - bad faith test).

(10) Disclose whether any agent of the prosecution, informer, or anyone else at the direction of the prosecution, has talked with or communicated with the Defendant since the return of this indictment or while the Defendant was in custody. If so, identify each individual and the circumstances surrounding the contact. Maine v. Moulton, 474 U.S. 159, 106 S.Ct. 477, 88 L.Ed.2d 481 (1985) (informer placed in indicted subjects jail cell. to elicit information - incriminating statements made to informer after right to counsel had attached should have been ruled inadmissible at trial).

(11) Disclose whether any evidence which the State will seek to introduce at trial was created, evaluated, generated or enhanced by the use of computers, and if so, disclose if the state will make available to the Defendant, the software or computer program(s) evaluate, generate or enhance such evidence. Fifth and Sixth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I, XII, and XIV of the Constitution of the State of Georgia.

(12) The full names and addresses of all persons who have given information to the prosecuting attorney or law enforcement officers relating to the arrest of the Defendant and the charges against him/her. Fifth and Sixth Amendments to the. Constitution of the United States of America and Article I, Section I, Paragraphs I, II, VI, XII and XIV of the Constitution of the

State of Georgia.

(13) The names and addresses of all unindicted co-conspirators. Fifth and Sixth Amendments to the Constitution of the United States of America and Article I, Section I, Paragraphs I, II, VI, XII and XIV of the Constitution of the State of Georgia.

(14) There may be other items and matters of evidence, information and data in existence that are not enumerated aforesaid, and of which DEFENDANT is unaware. DEFENDANT now requests and demands that he/she be afforded with any and all evidence and information, whether specifically delineated and listed herein or not, which is known or may become known, or which through due diligence may be learned from the investigating officers or the witnesses or persons having knowledge of this case, which is exculpatory in nature or favorable to the accused or which may lead to exculpatory or favorable material, or which might serve to mitigate punishment. This includes any evidence impeaching or contradicting the testimony of prosecution witnesses, or instructions to prosecution witnesses not to speak with or disclose the facts of the case with defense counsel. Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1968); United States v. Giglio, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1972); Holbrook v. State, 162 Ga. App. 400, 401, 291 S.E.2d 729 (1982) (exculpatory witness statements are subject to disclosure under Brady); Sellers v. Estelle, 651 F.2d 1074, 1077, n.6 (5th Cir. 1981) (withholding of such reports constitute reversible error).

III. Request for In Camera Inspection

DEFENDANT requests that the Court make an *in camera* inspection of the prosecution's entire file to determine whether or not the Defendant is entitled to listen to, inspect, copy or read, prior to trial, all or any portion of the State's file. Williams v. Dutton, 400 F.2d 797 (5th Cir. 1968)** (trial court ordered to make *in camera* inspection of file subsequent to denial of Brady

motion); Tribble v. State, 248 Ga. 274, 280 S.E.2d 352 (1981) (trial court required to conduct an *in camera* inspection of the state's file if the defense makes a request after the state responds to a Brady motion).

IV. Relief Requested

WHEREFORE, DEFENDANT respectfully requests:

(a) That a hearing be held on this motion in order that the proper foundation may be laid as to what evidence, information and data is in the possession of the State and prosecution, and that the State be directed to make such disclosures immediately;

(b) That the Court make an *in camera* inspection of the State's file and, with regard to those items not voluntarily disclosed by the prosecution, and that all items not disclosed be properly identified and examined *in camera* by the Court, and that the Court turn over to defense counsel all such material which the Court finds to be favorable to the Defendant as to innocence or sentencing;

(c) That, unless the parties can agree to a mutually convenient time and place for the examination of any physical evidence, the Court order the State to make available for inspection and examination to counsel for the Defendant, all physical evidence that is subject to disclosure pursuant to this motion.

(d) That counsel for the Defendant, in addition to being allowed to examine any documents subject to disclosure, be provided with copies of the same or, in the event that the state will not agree to the same,

(e) That the court allow the Defendant ten (10) days from the date of the hearing on this motion, within which to file additional pretrial motions addressing those issues which cannot be resolved by consent.

(f) That the duty of the state to disclose pursuant to this motion, or any order of this Court, be continuing up and until and through the trial.

Respectfully submitted,

Counsel for Defendant

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

NOTICE TO PRODUCE

TO: _____ County District Attorney's Office

You are hereby notified to produce and have upon the trial of the above-styled case and at all hearings on said case and from time to time, and term to term, hereafter until this case is finally concluded, the following items, documents, records and papers:

1. Copies of any written waiver of any rights or judicial process executed or alleged to be executed by DEFENDANT.

2. Copies of all reports of any scientific tests or experiments or studies made in connection with the above styled case.

3. All fingerprint documents and reports related to the case.

4. The criminal records of all persons whom the state intends to call as a witness in the trial of DEFENDANT.

5. All written and recorded statements and all summaries or memoranda of any oral or written statements made by DEFENDANT.

6. All diagrams, sketches, and pictures which have been made by or shown to any witness or prospective witness in this case so that they may be used as evidence on behalf of the

EXHIBIT "9"

Defendant. Sims v. State, 251 Ga. 877, 311 S.E.2d 161 (1984).

7. The arrest warrant for DEFENDANT, if applicable.
8. Copy or copies of any search warrant(s), affidavits supporting the same and returns relating to this case.
9. Copies of all inventory documents which catalog items seized from the Defendant, including property and currency, obtained by the prosecution voluntarily, by seizure, or by process pursuant to the Defendant's arrest or during the investigation of this case.
10. Copy or copies of any statement of co-conspirator(s) or co-defendant(s) exculpatory or mitigating to DEFENDANT.
11. Copy or copies of any statements made by any witness in this case.
12. Copy or copies of any grant(s) or promise(s) of immunity to witnesses for the state.
13. Copy or copies of any testimony known to be false.
14. Copy of the arrest or incident report(s) relating to DEFENDANT and this case.
15. Copy or copies of any exculpatory statements of witness or non-witnesses known to the prosecution. Holbrook v. State, 162 Ga. App. 400, 291 S.E.2d 729 (1982).
16. Any photo array displayed to any witness or potential witness.
17. Any report or reports prepared by any law enforcement officer(s) in accordance with O.C.G.A. § 17-4-20.1 (c) (Family Violence Act). O.C.G.A. §§ 17-4-20.1 (d) and 19-13-1.
18. Copies of all contact sheets, Form 452 notes, transcripts of interviews, notes of interviews, and records concerning [alleged victim], including all prior allegations of molestation by [alleged victim] or against [alleged victim], whether involving [defendant] or any other person in any file maintained by the Department of Family and Children Services.

This notice to produce is brought pursuant to O.C.G.A. §24-13-27, made applicable to criminal cases by O.C.G.A. §24-13-20 and Brown v. State, 238 Ga. 98, 231 S.E.2d 65 (1976); the Fourth Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States of America; Article I, Section I, Paragraphs I, 11, XII, XIII and XIV of the Constitution of the State of Georgia.

The Defendant is absolutely entitled to any of the above items that are exculpatory in nature or which “create a reasonable doubt as to the Defendant’s guilt. See, Wilson v. State, 246 Ga. 62, 268 S.E.2d 895 (1980); Smith v. State, 248 Ga. 507, 284 S.E.2d 406 (1981).

Further, in a criminal case a notice to produce pursuant to O.C.G.A. §24-13-27... may compel the production of books, documents or tangible things in the State’s possession “where such books, etc., would be admissible and are needed for use as evidence on behalf of the defendant.” Sweetenburg v. State, 197 Ga. App. 36, 397 S.E.2d 451 (1990).

Where a motion is made and the prosecutor does not make the specified material available to defense counsel, the trial judge should make an in camera inspection of the material sought. On motion by the Defendant the material examined in camera should either be sealed and filed, or an inventory or record of the examined material made, so as to permit appellate review. Id.

The items requested are to be used either as direct evidence by the Defendant in during the presentation of the case-in-chief or for purposes of impeachment.

Respectfully submitted,

Counsel for Defendant

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

CASE NO. _____

DEFENDANT

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**MOTION FOR DISCLOSURE OF SIMILAR OR EXTRINSIC ACT EVIDENCE AND
FOR PRETRIAL HEARING TO DETERMINE ADMISSIBILITY
OF ANY ACTS ALLEGED BY THE STATE TO BE
SIMILAR TRANSACTIONS WITH AUTHORITY**

DEFENDANT moves the Court for an order compelling the State to produce any similar or extrinsic act, general bad character or prior conviction evidence that the State anticipates attempting to introduce against the Defendant as proof of intent, motive, plan, scheme, bent of mind, and/or course of conduct or in cross-examination of the Defendant, should the Defendant testify at trial, as provided for in O.C.G.A. §24-4-404. Specifically, the Defendant seeks information pertaining to the identity of individuals and the dates and transactions alleged to be extrinsic act evidence or evidence of general bad character or prior convictions of the Defendant. The Defendant submits that disclosure of the evidence described by this motion is required by the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution as well as Article I, Section I, Paragraph I of the Constitution of the State of Georgia.

Prompt pretrial production of this type of evidence is in accordance with Uniform Superior Court Rule 31.1 and will enable the Defendant to prepare appropriate legal objections to the admissibility of such evidence, such as an objection establishing insufficient similarity or

EXHIBIT "10"

connection between the independent crime or misconduct and the offense for which the Defendant is presently on trial. The Defendant respectfully submits that there is no valid justification for non-disclosure at this juncture.

DEFENDANT further moves for a pretrial hearing, pursuant to Rule 31.3 of the Uniform Rules for the Superior Courts, to determine the admissibility of any alleged similar transaction(s) which the State will seek to introduce at trial against the Defendant.

Rule 31.3 provides, in pertinent part, that the Court "... shall hold a hearing at such time as may be appropriate, and may receive evidence on any issue of fact necessary to determine the request, out of the presence of the jury."

While Rule 31.3 does not mandate a pretrial hearing, it does require that the Court make its determination outside the presence of the jury. Counsel submits that a pretrial hearing would be in the interest of judicial economy in that the jury would not be inconvenienced by any extended presentation of evidence or argument. In addition, if the hearing is held pretrial, counsel will be able to provide the Court with briefs on any issue of law which may develop. Finally, the pretrial determination of admissibility would assist both the State and the Defendant in the organization and presentation of their respective cases.

The Georgia Court of Appeals in the recent case of Poole v. State, ~ 201 Ga. App. 554, 411 S.E.2d 562 (1991), noted, in dicta, that it "is preferable that the (31.3) hearing be held before trial." In the Poole case, the state's attorney made a reference in his opening statement to a prior drug distribution offense which, as of that time, had not been ruled admissible by the Court.

Although there was no error in that case because it was later determined that the act was admissible as a similar transaction, the possibility for mistrial clearly existed. Counsel suggests that a pretrial hearing would alleviate this type of predicament.

WHEREFORE, the Defendant requests that his motion for a pretrial hearing on this matter be granted.

Respectfully submitted,

Counsel for Defendant

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**MOTION TO REQUIRE THE STATE TO REVEAL ANY AGREEMENT ENTERED
INTO BETWEEN THE STATE AND ANY PROSECUTION WITNESS THAT COULD
CONCEIVABLY INFLUENCE HIS OR HER TESTIMONY**

DEFENDANT moves the Court for an Order requiring the State to reveal any agreement entered into between the District Attorney's office or any other law enforcement agency and any prosecution witness that could conceivably influence the witnesses' testimony. The credibility of prosecution witnesses will be an important issue in this case. The evidence of any understanding or agreement as to future prosecution or any other consideration is relevant to that issue.

DEFENDANT specifically requests that the prosecution disclose whether or not any witness, co-defendant or co-conspirator, in return for any consideration from the State in any form whatsoever, has agreed to testify, provide evidence or information leading to evidence, or in any other manner agreed to assist the State in the prosecution of this action. This would encompass any and all considerations or promises of consideration given to or made on behalf of coconspirators, whether indicted or unindicted, and any other government witness. By "consideration," the Defendant refers to absolutely anything of value or use, including but not limited to immunity, grants, witness fees, release on bail, release on bail without security, special witness fees, transportation assistance, assistance to members of witness' families or associates

EXHIBIT "11"

of witnesses, assistance or favorable treatment with respect to any criminal, tax, civil, forfeiture~ or administrative disputes or potential dispute with the State or the United States (including any possible probationary, parole or deferred prosecution situation), placement in a “witness protection program,” and anything else which could arguably create an interest or bias the witness in favor of the State or against the defense or act as an inducement to testify. or to color testimony. See, Giglio v. United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972) (evidence of expected leniency by a prosecution witness who is or could be charged or convicted of a crime is relevant to the question of his credibility); Jolley v. State, 254 Ga. 624, 331 S.E.2d 516 (1985) (state under a duty to reveal any agreement, even an informal one, with a witness concerning criminal charges pending against him); Allen v. State, 128 Ga. App. 361, 196 S.E.2d 660(1972) (good faith of the prosecutor, in that he did not know offer of leniency conveyed to witness is immaterial).

The refusal of the prosecution to reveal any said agreement constitutes a violation of the Fifth and Sixth Amendments to the Constitution of the United States and Article I, Section I, Paragraphs I, LI, XII and XIV of the Constitution of the State of Georgia.

Respectfully submitted,

Counsel for Defendant

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

CASE NO. _____

DEFENDANT

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**NOTICE OF DEFENDANT'S ELECTION TO
PROCEED UNDER O.C.G.A. §17-16-20 ET SEQ.**

DEFENDANT hereby provides written notice and elects to have the provisions of
O.C.G.A. § 17-16-20 et seq. ~. apply to this case.

Respectfully submitted,

Counsel for Defendant

EXHIBIT "12"

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

vs.

DEFENDANT

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CASE NO. _____

**DEFENDANT'S REQUEST FOR INFORMATION
DESCRIBED IN O.C.G.A. §17-16-21**

DEFENDANT hereby requests in writing that the State furnish to counsel for the Defendant all information required to be disclosed under O.C.G.A. § 17-16-21. This request encompasses the State's witness list, including witness' full name, date of birth, Social Security number, telephone and witness' address or location. The Defendant makes this request pursuant to O.C.G.A. § 17-16-21 and also under the provisions of Article 1, Section 1, Paragraph 14 of the Georgia Constitution. The Defendant further requests that the Court order that this information be furnished to counsel for the Defendant no later than ten days before trial, or as the Court directs.

Respectfully submitted,

Counsel for Defendant

EXHIBIT "13"