

OFFICIAL

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CONNECTICUT PRACTICE BOOK

(Revision of 1998)

CONTAINING

RULES OF PROFESSIONAL CONDUCT

CODE OF JUDICIAL CONDUCT

RULES FOR THE SUPERIOR COURT

RULES OF APPELLATE PROCEDURE

APPENDIX OF FORMS

NOTICE REGARDING OFFICIAL JUDICIAL BRANCH FORMS

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such counsel's side of the case or for the performance of his or her official duties, and shall be subject to such other terms and conditions as the judicial authority may provide. Without the prior approval of the prosecuting authority or the court, defense counsel and his or her agents shall not provide copies of materials disclosed pursuant to Section 40-13A to any person except to persons employed by defense counsel in connection with the investigation or defense of the case.

(b) The prosecuting authority is not required to disclose to an unrepresented defendant the names and addresses required by Section 40-13 unless the court orders disclosure upon a finding of need which cannot reasonably be met by other means. Before other materials are disclosed or provided to an unrepresented defendant pursuant to this chapter, the prosecuting authority may request and the court may order that the materials remain in the defendant's exclusive custody to be used only for the purpose of conducting the case, subject to such terms, conditions and restrictions that the court, in its discretion, may impose. The court shall also inform the unrepresented defendant that violation of an order issued under this subsection is punishable as a contempt of court.

(P.B. 1978-1997, Sec. 739.) (Amended June 22, 2009, to take effect Jan. 1, 2010.)

Sec. 40-11. Disclosure by the Prosecuting Authority

(Amended June 22, 2009, to take effect Jan. 1, 2010.)

(a) Upon written request by a defendant filed in accordance with Section 41-5 and without requiring any order of the judicial authority, the prosecuting authority, subject to Section 40-40 et seq., shall promptly, but no later than forty-five days from the filing of the request, unless such time is extended by the judicial authority for good cause shown, disclose in writing the existence of, provide photocopies of, and allow the defendant in accordance with Section 40-7, to inspect, copy, photograph and have reasonable tests made on any of the following items:

(1) Any books, tangible objects, papers, photographs, or documents within the possession, custody or control of any governmental agency, which the prosecuting authority intends to offer in evidence in chief at trial or which are material to the preparation of the defense or which were obtained from or purportedly belong to the defendant;

(2) Copies of the defendant's prior criminal record, if any, which are within the possession, custody, or control of the prosecuting authority, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting authority;

(3) Any reports or statements of experts made in connection with the offense charged including results of physical and mental examinations

and of scientific tests, experiments or comparisons which are material to the preparation of the defense or are intended for use by the prosecuting authority as evidence in chief at the trial;

(4) Any warrant executed for the arrest of the defendant for the offense charged, and any search and seizure warrants issued in connection with the investigation of the offense charged;

(5) (A) Any written, recorded or oral statements made by the defendant or a codefendant, before or after arrest to any law enforcement officer or to a person acting under the direction of or in cooperation with a law enforcement officer concerning the offense charged; or

(B) Any relevant statements of coconspirators which the prosecuting authority intends to offer in evidence at any trial or hearing.

(b) In addition to the foregoing, the prosecuting authority shall disclose to the defendant, in accordance with any applicable constitutional and statutory provisions, any exculpatory information or materials that the prosecuting authority may have, whether or not a request has been made therefor.

(P.B. 1978-1997, Sec. 741.) (Amended June 22, 2009, to take effect Jan. 1, 2010; amended June 12, 2015, to take effect Jan. 1, 2016.)

Sec. 40-12. Discretionary Disclosure Directed to Prosecuting Authority

Upon written request by a defendant filed in accordance with Section 40-7 the judicial authority may direct the prosecuting authority to disclose in writing to the defendant and make available for inspection, photographing, copying and reasonable testing any other relevant material and information not covered by Section 40-11 which the judicial authority determines on good cause shown should be made available.

(P.B. 1978-1997, Sec. 742.)

Sec. 40-13. Names of Witnesses; Prior Record of Witnesses; Statements of Witnesses

(Amended June 22, 2009, to take effect Jan. 1, 2010.)

(a) Upon written request by a defendant filed in accordance with Section 41-5 and without requiring any order of the judicial authority, the prosecuting authority, subject to Section 40-40 et seq., shall promptly, but no later than forty-five days from the filing of the request, unless such time is extended by the judicial authority for good cause shown, disclose to the defendant the names and, subject to the provisions of subsections (f) and (g) of this section, the addresses of all witnesses that the prosecuting authority intends to call in his or her case-in-chief. The prosecuting authority shall additionally make a reasonable affirmative effort to obtain a record of the witness'

felony convictions and pending misdemeanor and felony charges and shall disclose any such convictions and pending charges to the defendant.

(b) Upon written request by the prosecuting authority, filed in accordance with Section 41-5 and without requiring any order of the judicial authority, the defendant, subject to Section 40-40 et seq., shall promptly, but no later than forty-five days from the filing of the request, unless such time is extended by the judicial authority for good cause shown, disclose to the prosecuting authority the names and, subject to the provisions of subsection (g) of this section, the addresses of all witnesses whom the defendant intends to call in the defendant's case-in-chief and shall additionally disclose to the prosecuting authority any statements of the witnesses other than the defendant in the possession of the defendant or his or her agents, which statements relate to the subject matter about which each witness will testify.

(c) No witness shall be precluded from testifying for any party because his or her name or statement or criminal history was not disclosed pursuant to this rule if the party calling such witness did not in good faith intend to call the witness at the time that he or she provided the material required by this rule. In the interests of justice the judicial authority may in its discretion permit any undisclosed individual to testify.

(d) The provisions of this section shall apply to any additional testimony presented by any party as rebuttal evidence pursuant to Section 42-35 (3) and the statements and criminal histories of such witnesses shall be provided to the opposing party before the commencement of any such rebuttal testimony.

(e) The fact that a witness' name or statement is provided under this section shall not be a ground for comment upon a failure to call a witness.

(f) Notwithstanding any provision of this section, the personal residence address of a police officer or correction officer shall not be required to be disclosed except pursuant to an order of the judicial authority after a hearing and a showing that good cause exists for the disclosure of the information.

(g) Upon written request of a party and for good cause shown, the judicial authority may order that the address of any witness whose name was disclosed pursuant to subsections (a) or (b) of this section not be disclosed to the opposing party.

(P.B. 1978-1997, Sec. 743.) (Amended June 22, 2009, to take effect Jan. 1, 2010; amended June 12, 2015, to take effect Jan. 1, 2016.)

Sec. 40-13A. Law Enforcement Reports, Affidavits and Statements

Upon written request by a defendant and without requiring any order of the judicial authority, the prosecuting authority shall, no later than forty-five days from receiving the request, provide photocopies of all statements, law enforcement reports and affidavits within the possession of the prosecuting authority and his or her agents, including state and local law enforcement officers, which statements, reports and affidavits were prepared concerning the offense charged, subject to the provisions of Sections 40-10 and 40-40 et seq.
(Adopted June 22, 2009, to take effect Jan. 1, 2010.)

Sec. 40-14. Information Not Subject to Disclosure by Prosecuting Authority

Subject to Sections 40-13 and 40-13A and except for the substance of any exculpatory material contained herein, Sections 40-11 through 40-14 do not authorize or require disclosure or inspection of:

(1) Reports, memoranda or other internal documents made by a prosecuting authority or by law enforcement officers in connection with the investigation or prosecution of the case;

(2) Legal research;

(3) Records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of a prosecuting authority.
(P.B. 1978-1997, Sec. 746.) (Amended June 22, 2009, to take effect Jan. 1, 2010.)

Sec. 40-15. Disclosure of Statements; Definition of Statement

The term "statement" as used in Sections 40-11, 40-13 and 40-26 means:

(1) A written statement made by a person and signed or otherwise adopted or approved by such person; or

(2) A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by a person and recorded contemporaneously **with the** making of such oral statement.
(P.B. 1978-1997, Sec. 749.)

Sec. 40-16. Request for Recess by Defendant upon Receipt of Statement

Whenever any statement is delivered to a defendant pursuant to Section 40-13, the judicial authority in its discretion, upon application of the defendant, may recess the proceedings for such time as it may determine to be reasonably required for the examination of such statement by the defendant and his or her preparation for its use in the trial.

(P.B. 1978-1997, Sec. 754.)