



KERN COUNTY DISTRICT ATTORNEY
O F F I C E M E M O R A N D U M

To: District Attorney – All Staff

From: Lisa S. Green
District Attorney

Date: September 4, 2012

Subject: Discovery Policy

The discovery responsibilities of a deputy district attorney are outlined in *Brady v. Maryland* (1963) 373 U.S. 83 and Evidence Code section 1054, et seq. All attorneys are expected to provide discovery consistent with the principles discussed in case law and statutes.

Attorneys should follow established discovery procedures wherein an attorney provides discovery to the discovery clerk for copying and distribution to the defense. Upon completion, a discovery receipt will be provided to the attorney, documenting what was given, the date it was given and to whom it was given. This receipt ensures that the deputy district attorney has a written record of discovery, which can be referenced should the need arise.

In light of these established procedures, the Kern County District Attorney's Office does not have an "open file" policy wherein defense attorneys can come in and inspect a case file in order to determine what documents are in our file. An "open file" policy is discouraged for the following reason. If a defense attorney reviews a file and indicates either verbally or in writing that he/she has a copy of everything in our file, if a subsequent discovery dispute arises, there is no documentation to prove what was actually in our file at the time of inspection.

Nothing in the foregoing prohibits an attorney from promulgating a discovery tracking system that is more detailed than the foregoing.