

B

- Bad faith/good faith 9, 15, 26-27, 31, 36
- Batson v. Kentucky* 55
- Brady v. Maryland* 2, 4, 10, 14, 15
 - Code of Criminal Procedure art. 2.01 38
 - Favorable prong 10-11, 13-14, 18-19
 - Intent prong 31
 - Likelihood of different result 11, 13, 20
 - Materiality prong 20-21, 26
 - Three-part test 13, 20
 - Violation of duty, test 20-22, 26, 28-32
- Breath samples 7

C

- Character evidence 56
- Code of Criminal Procedure Article 2.01 38
- Constitutional duties 2, 38
- Continuance 46
- Criminal history 56, 60-62

D

- Disbarment 34, 41
- Disciplinary rules (*see* “*State Bar disciplinary rules*”)
- Discovery 6, 8, 11, 13, 35, 43-63
 - Code of Criminal Procedure art. 28.01 46
 - Code of Criminal Procedure art. 39.14 45-46, 48-49, 51
 - Work product 51
 - Continuance 46, 48
 - Copying 44
 - Deadline 45
 - Defense burden 45
 - Delay 21-22
 - Frivolous 22
 - Good cause 45
 - Information in defense possession 14, 18
 - Inspection of “tangible things not privileged” 44-46
 - Accounts 44
 - Books 44
 - Good cause 45
 - Letters 44
 - Materiality 44
 - Photographs 44
 - Public records 45
 - Witness statements 44
 - Work product 44, 49
 - Limits 46
 - No general right 35
 - Notice 56-63
 - Case-in-chief evidence 57
 - Code of Criminal Procedure art. 37.07 56-63
 - Character testimony 56
 - Criminal history 56, 60-62
 - Extraneous offenses 56, 57, 59-61, 63
 - Gang affiliation 56, 62
 - Reputation testimony 56-57
 - Victim-impact evidence 57
 - Code of Criminal Procedure art. 38.37 56-59, 62-63
 - Deadline 60-61
 - Enhancements 59-62
 - Indictments 59, 62
 - Open-file policy 59

- Punishment evidence 56-57, 60, 63
- “Reasonable” 59-61, 63
- Requests 6, 11, 13, 58-59
- Texas Rule of Evidence 404(b) 56-60, 63
- “Timely” 58-61
- Time requirements 60-61
- Written 59-60

- Surprise 46, 61
- Withholding evidence 46
- Witnesses 47-49, 50, 60
 - Continuing burden of disclosure 48
 - Defendant’s duty 47, 49
 - Experts 48-49
 - Non-experts 47
 - Ruling required 48
 - Violation 49
- Work-product privilege 44, 49-55
 - Agents 50
 - Crime-scene photos 50
 - Exceptions 53-55
 - Batson* objections 55
 - Exculpatory evidence 53
 - Selective prosecution 54
 - Fact work product 50-51
 - In camera* inspection 52
 - Internal files or papers of prosecutor 50
 - Offense reports 50
 - Opinion work product 50-51
 - Photographs 50
 - Prosecutor’s file 50
 - Pure work product 50, 52
 - Scientific reports 50
 - Texas Rules of Civil Procedure 50
 - Waiver 52-53
 - Witness preparation interviews 50
 - Witness statements 50

Disclosure

- Of evidence 2, 5, 7, 9, 37-40
 - (*see also* “*Discovery*” and “*Evidence*”)
- Open-file policy 7, 59
- Prosecutors’ duty 2, 5, 7-12
 - Three-part test 13, 20
 - Violation 12, 13
- Requests for 6
- Standard 9
- Threshold 8
- Violation of duty 12, 13, 20-22, 26, 28-32
- Witness information 7, 8, 10, 23, 24, 44, 47-49, 50, 60
- Work-product (*see* “*Work-product privilege*”)

Dismissal 29

Disqualification of prosecutors 35

Double jeopardy 29-32

- Due process** 2-3, 5, 7, 9, 12, 13, 28
 - Removal of prosecutor 35
 - State Bar rules violation 41

E

Equal Protection 54, 55

Error, harmless 11

Evidence

- Access to 12
- Character 56
- Constitutional duties 2

Criminal history 56, 60-62
 Disclosure 2, 5
 (see also "Disclosure")
 Exculpatory 6, 8, 11, 16, 19, 21-23, 37-40
 Work-product exception 53
 Extraneous offenses 56, 57, 59-61, 63
 Favorable 2, 6, 10, 11, 13, 14, 18, 19, 23-25
 Gang affiliation 56, 62
 Guilt-innocence 18, 57
 Impeachment 8, 17, 19, 21
 Inadmissible 25, 36-37
 Inculpatory 10
 Material 2, 5, 6, 8-11, 14, 18, 20-23, 25, 26, 28, 32, 37, 44
 Mitigating 18-19
 Preservation 7-9, 25-28, 36-37, 44
 Prior convictions 19
 Public domain 16, 45
 Punishment 11, 18-19
 Relevant 11
 Reputation 56-57
 Suppressed 2, 3
 Victim-impact evidence 57
 Withheld 46
 Exculpatory evidence 6, 8, 11, 16, 19, 21-23, 37-40
 State Bar rules 37-38
 Work-product exception 53
 Expert witnesses 23-24, 48-49
 Extraneous offenses 56, 57, 59-61, 63

F

False testimony 2
 Favorable evidence 2, 6

G

Gang affiliation 56, 62
 Good cause 45

H

Harmless error 11, 20
 Constitutional vs. T.R.App.P. test 20
 Hearings 3

I

In camera inspections 22-23
 Sworn pleadings 23
 Work-product 52
 Ineffective assistance of counsel 49

M

Material evidence 2, 5, 6, 8-11, 14, 18, 20-23, 25, 26, 28, 32, 37, 44
 Standard for "materiality" 6-7, 9-11, 20
 Mistrial 29-32

N

Non-disclosure (see "Disclosure")
 Notice 3, 56-63
 Case-in-chief evidence 57
 Code of Criminal Procedure art. 37.07 56-63
 Character testimony 56
 Criminal history 56, 60-62

Extraneous offenses 56, 57, 59-61, 63
 Gang affiliation 56, 62
 Reputation testimony 56-57
 Victim-impact evidence 57
 Code of Criminal Procedure art. 38.37 56-59, 62-63
 Deadline 60-61
 Enhancements 59-62
 Indictments 59, 62
 Open-file policy 59
 Punishment evidence 56-57, 60, 63
 "Reasonable" 59-61, 63
 Requests 6, 11, 13, 58-59
 Texas Rule of Evidence 404(b) 56-60, 63
 "Timely" 58-61
 Time requirements 60-61
 Written 59-60

O

Objection 46, 61
 Delay in disclosure 21
 Open-file policy 7, 15, 59

P

Perjury 2-4, 7
 Plea bargains 17
 Polygraph results 24
 Preservation of evidence 7-9
 Prosecutors
 Agents of the state 3, 5, 10, 14, 16, 27, 31, 50
 Attributed action 5
 Bad faith/good faith 9, 15, 26-27, 31, 36
 Preserving evidence 27
 Witness lists 47
 Clients 34
 Constitutional duties 2, 7-11, 34-35
 Discovery (see "Discovery")
 Discretion 11
 Disqualification 35
 Dual nature of duties 34-35
 Duty to disclose 2, 5, 7-12, 21, 23, 37-40
 (see also "Disclosure" and "Evidence")
 Affirmative duty to seek out favorable,
 material evidence 14
 Impeachment evidence 17, 19, 21, 23
 Inadmissible evidence 24
 Limits 15, 18
 Lost or destroyed evidence 25-28
 Notice (see "Notice")
 Plea bargains 17
 Prior convictions 19
 Seeking out information 14
 Significance of evidence 25
 Violation 12, 13-25, 32
 Executive Branch 34-35
 Judicial Branch 34-35
 Justice, duty to seek 38
 Material of which prosecutor is unaware 5, 14, 16, 27, 31
 Misconduct 6, 7
 Negligence 15
 Open-file policy (see "Open-file policy")
 Preservation of evidence (see "Evidence/Preservation")
 Public domain 16
 Removal 35
 Selective prosecution 54
 State Bar rules (see "State Bar disciplinary rules")

Third-party-held information 16
Work-product privilege (*see* “Discovery” and “Work-product privilege”)
Protective orders 37
Public Information Act 45

R

Removal of prosecutors 35
Request for disclosure 6, 59-59
(*see also* “Discovery requests”)
Reversal of conviction 12, 28, 41

S

Separation of powers 35-36
State action/actors 3, 5, 10, 14, 31
State Bar disciplinary rules 34-41
Disbarment 34, 41
Disqualification of prosecutors 35
Exculpatory or material “information” 37-38
“Habitual” violations 39
“Knowing” violations 40
Preservation of evidence 36
Protective orders 37
Removal of prosecutors 35
Reprimand 34, 41
Rule 3.04 36-37, 39
Rule 3.09 37-40
Rule 4.01 39
Separation of powers 35-36
“Tribunal” 37-40
Violations 41
Suppressed evidence 2, 3
(*see also* “Disclosure”)

T

Testimony, false 2-4
Tribunal 37-40

V

Victim-impact evidence 57

W

Witnesses 47-49, 50, 60
Continuing burden of disclosure 48
Defendant’s duty 47, 49
Experts 23-24, 48-49
Non-experts 47
Ruling required 48
Violation 49
Witness preparation interviews 50
Witness statements 50
Work-product privilege 44, 49-55
Agents 50
Crime-scene photos 50
Exceptions 53-55
Batson objections 55
Exculpatory evidence 53
Selective prosecution 54
Fact work product 50-51
In camera inspection 52
Internal files or papers of prosecutor 50

Offense reports 50
Opinion work product 50-51
Photographs 50
Prosecutor’s file 50
Pure work product 50, 52
Scientific reports 50
Texas Rules of Civil Procedure 50
Waiver 52-53
Witness preparation interviews 50
Witness statements 50