

FEDERAL DEFENDER
DISCOVERY AND INVESTIGATION

PREPARING YOUR CASE: There are two main ways that you and your attorney get the information you need to defend your case: discovery and investigation.

WHAT IS DISCOVERY? "Discovery" is the process of getting information from the other side in a court case. You will also hear the word "discovery" used to describe evidence against you that the prosecutor must give to your attorney. The discovery process lets your attorney get the information he or she needs in order to defend you.

WHAT TYPE OF DISCOVERY DOES THE PROSECUTOR HAVE TO GIVE MY ATTORNEY? The government has to give your attorney copies of any documents that they plan to use against you at trial, or that are important to the preparation of your defense; any test results; and any statements you made to law enforcement. Your attorney will also be allowed to look at any physical evidence that the government plans to use against you. Basically, the prosecutor has to let you and your attorney see almost all of the evidence that would be used against you at a trial.

WHEN DO WE GET DISCOVERY? The first thing your attorney may do after your detention hearing is ask the prosecutor, in writing, for discovery. Then your attorney, and maybe an investigator, will review that discovery with you. The discovery will give us an idea about the strength of the case against you. Decisions about what motions to bring, what investigation to do, and whether or not to try for a plea bargain, often depend on what's in the discovery.

DEFENSE INVESTIGATION: Independently of the discovery process, your lawyer and other members of your legal team will explore whether you have any possible defenses. They will also explore other issues that could affect your case. In some cases, but not all, this requires investigation.

Your lawyer will determine whether your case needs investigation. Investigation varies widely from case to case, and can include locating and interviewing witnesses, examining scenes, having physical evidence tested, getting expert opinions,

etc.

If investigation is needed, an investigator from our office may do much of the work, such as interviewing witnesses. A paralegal may organize information and prepare exhibits to help your case. You, your lawyer, investigator, and paralegal are a team. Any of these people may visit you to discuss your case. What you say to them is completely confidential. Please cooperate with all of them, so that we can do the best job possible in defending you!

Not every case needs an investigator. Your attorney will explain to you what investigation is appropriate for your case.

DO WE HAVE TO GIVE DISCOVERY TO THE PROSECUTOR? ANYTHING YOU TELL YOUR ATTORNEY, INVESTIGATOR, OR OTHER FEDERAL DEFENDER EMPLOYEE IS PRIVILEGED, AND WILL NEVER BE DISCLOSED TO THE PROSECUTOR OR ANYONE ELSE, except with your permission. If your case goes to trial, however, your attorney will have to show the prosecutor any evidence you will use in your case, and any test results that will be used at the trial. During the investigation of your case, your legal team will take care to protect all information you give them. Your attorney will explain as you go along which information has to be shared with the prosecutor.