

DISCLOSURE OF UNUSED MATERIAL - CRIMINAL PROCEDURES AND INVESTIGATIONS ACT 1996 CODES OF PRACTICE	
1.	<p>PURPOSE</p> <p>The aim of this policy is to ensure that Security Managers know and understand the Investigation Procedures in relation to the Disclosure of Unused Material as described in the Criminal Procedures and Investigations Act 1996 Codes of Practice, which must be adhered to by all Consignia staff undertaking investigations.</p>
2.	<p>LINK TO ACCOUNTABILITIES</p> <p>Security Managers</p>
3.	<p>POLICY</p>
3.1	<p>INTRODUCTION</p> <ul style="list-style-type: none"> The rules relating to the disclosure of unused material to the Defence are laid down in the Criminal Procedures and Investigations Act 1996. In light of the Human Rights Act 1998 the Attorney General has issued new Guidelines on the disclosure of unused material. The Guidelines clarify the responsibilities of Investigators, Disclosure Officers, Prosecutors and Defence Practitioners. A criminal investigation is defined by the Code as an investigation with a view to it being ascertained whether a person should be charged with an offence or whether a person charged with an offence is guilty of it. This will include:- <ul style="list-style-type: none"> (i) Investigations into crimes that have been committed. (ii) Investigations whose purpose is to ascertain whether a crime has been committed, with a view to the possible institution of criminal proceedings and (iii) Investigations which begin in the belief that a crime may be committed, for example observations from the watching gallery, or by CCTV or covert camera with a view to the possible institution of criminal proceedings. <p>The Guidelines relating to Prosecutors and Prosecution Advocates are included to ensure Investigators understand the role played by both those parties in the Procedures.</p>
3.2	<p>GENERAL PRINCIPLES</p> <p>Investigators and Disclosure Officers</p> <ul style="list-style-type: none"> An Investigator is a person involved in the conduct of a criminal investigation involving Consignia. All Investigators have a responsibility for carrying out the duties imposed on them under this Code, including in particular recording information, and retaining records of information and other material. Investigators and Disclosure Officers must be fair and objective and must work together with prosecutors to ensure that disclosure obligations are met. A failure to take action leading to proper disclosure may result in a wrongful conviction. It may alternatively lead to a successful abuse of process argument or an acquittal against the weight of the evidence. In discharging their obligations under the statute, code, common law and any operational instructions, investigators should always err on the side of recording and retaining material where

DISCLOSURE OF UNUSED MATERIAL - CRIMINAL PROCEDURES AND INVESTIGATIONS ACT 1996 CODES OF PRACTICE

they have any doubt as to whether it may be relevant. An example is the detail of every test, successful or otherwise, which must be revealed to Consignia Legal Services on forms CS006C or CS006D and if necessary on CS006E. This also includes details of any test made to the honesty of other members of staff during the course of the investigation. All written notes etc. made during testing operations will need to be listed on the forms CS006C, CS006D and if necessary on form CS006E.

- The Disclosure Officer is the person responsible for examining material retained during an investigation, revealing material to Legal Services during the investigation and any criminal proceedings resulting from it, and certifying to Legal Services that he has done this. Normally the Investigator and the Disclosure Officer will be the same person. In complex cases the Officer in charge of an investigation may be separate from the Disclosure Officer. Any reference to the Disclosure Officer will therefore accordingly include the Investigator.
- Disclosure Officers, or their deputies, must inspect, view or listen to all material that has been retained by the Investigator, and the Disclosure Officer must provide a personal declaration to the effect that this task has been done. The obligation does not apply, however, in the circumstances where out of an abundance of caution, Investigators seize large volumes of material which may not, because of its source, general nature or other reasons, seem likely ever to be relevant. In such circumstances, the Investigator may consider that it is not an appropriate use of resources to examine such large volumes of material seized on a precautionary basis. If such material is not examined by the Investigator or Disclosure Officer, and it is not intended to examine it, but the material is nevertheless retained, its existence should be made known to the accused in general terms at the primary stage and permission granted for its inspection by him or his legal advisers.
- **A Section 9 statement will be completed by the Investigating Officer or Disclosure Officer describing the material by general category and justifying it not having been examined. This statement will itself be listed as unused material and automatically disclosed to the Defence.**
- In meeting the obligations in paragraph 6.9 and 8.1 of the Code, it is crucial that descriptions by Disclosure Officers in non-sensitive schedules are detailed, clear and accurate. The descriptions may require a summary of the contents of the retained material to assist the prosecutor to make an informed decision on disclosure. The same applies to sensitive schedules, to the extent possible without compromising the confidentiality of the information.
- Disclosure Officers must specifically draw material to the attention of the Prosecutor for consideration where they have any doubt as to whether it might undermine the prosecution case or might reasonably be expected to assist the Defence disclosed by the accused.
- Disclosure Officers must seek the advice and assistance of prosecutors when in doubt as to their responsibility, and must deal expeditiously with requests by the prosecutor for further information on material which may lead to disclosure.
- An individual must not be appointed as Disclosure Officer, or continue in that role, if that is likely to result in a conflict of interest, for instance, if the Disclosure Officer is the victim of the alleged crime which is the subject of criminal proceedings. The advice of a more Senior Officer must always be sought if there is doubt as to whether a conflict of interest precludes an individual acting as the Disclosure Officer. If thereafter the doubt remains, the advice of a Prosecutor should be sought.

PROSECUTORS GUIDELINES

DISCLOSURE OF UNUSED MATERIAL - CRIMINAL PROCEDURES AND INVESTIGATIONS ACT 1996 CODES OF PRACTICE						
	<ul style="list-style-type: none"> Prosecutors must do all they can to facilitate proper disclosure. Prosecutors must be alert to the need to provide advice to Disclosure Officers on disclosure issues and advise on disclosure procedure generally. Prosecutors must review schedules prepared by Disclosure Officers thoroughly and be alert to the possibility that material may exist which has not been revealed to them. Where the Prosecutors have reason to believe the Disclosure Officer has not discharged his obligation to inspect, view or listen to material they must request that it be done. Where a Prosecutor believes that material might undermine the prosecution case or assist the Defence case the Prosecutor must always inspect, view or listen to the material and satisfy themselves that the Prosecution can properly be continued. The Prosecutor should inform the Investigator if in their view reasonable and relevant lines of enquiry further exist. Prosecutors must ensure they record in writing all actions and decisions they make in discharging their disclosure responsibilities. Any doubts about what should be disclosed should be resolved in favour of disclosure. <p>PROSECUTION ADVOCATES</p> <ul style="list-style-type: none"> Prosecution Advocates must place themselves in a fully informed position to enable them to make decisions on disclosure. Upon receipt of instructions Prosecution Advocates should consider as priority all information provided regarding disclosure. Prosecution Advocate must continue to keep under review until the conclusion of the trial decisions regarding disclosure. Prior to commencement of a trial the Prosecuting Advocate should always make decisions on disclosure in consultation with those instructing him and it is desirable that the Disclosure Officer should also be consulted. <p>It is anticipated Prosecuting Counsel will in future take a far more robust approach to disclosure and Investigators should be aware of the Prosecutors and Prosecution Advocates role in disclosure to enable them to anticipate and prepare full schedules of disclosable material.</p>					
4.	Links to other reference material (policies, processes and procedures, etc.)					
4.1	Title	Author	Located	Version	Type	Policy No.
	Criminal Procedure & Investigations (Consignia Code of Practice)		Library Appendix 10	1996	Act	3.2/3.3/3.4 3.2/3.3
4.2	Police & Criminal Evidence (Section 78)			1984	Act	3.4
5.	Document details					
5.1	Author :					
5.2	Owner : Head of Corporate Security					

5.3	Audience:	Security Community	
5.4	Enquiry point :	Programme Manager, Law & Legislation, Corporate Security, 4th Floor, Impact House, 2 Edridge Road, CROYDON, CR9 1PJ	
5.5	Effective from :	May 2001	
5.6	Review date :	May 2002	
5.7	Last updated :		
6.	Assurance Details		
6.1	Name	Mike J Heath, Phil P Jones, Mike Devanny	
6.2	Business Unit	Legal Services, Corporate Security	
6.3	Assurance Date	4th May 2001	
7.	Final Review		
7.1	Approved by		
7.2	Documented (Hard Copy)	YES/NO	Location:
7.3	“ (Electronic)	YES/NO	Location: