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Subject: Discovery and Disclosure Practices -- Update

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All:

Over the last several months, the executive staff has been giving a great deal of thought to ways in which we can enhance the Office's effectiveness in satisfying our discovery and disclosure obligations. Although that process is continuing, I want to provide you with an update about some measures that we are implementing immediately, based on feedback we received from you and your unit chiefs.

First, I am pleased to announce that we will maintain a standing Disclosure Committee to help the Office navigate our discovery and disclosure challenges on an ongoing basis. The Disclosure Committee will be led by co-chair ██████████, and its members will be ██████████.
██████████.

Second, we have enlisted a Technology Working Group to evaluate possible approaches to improving our technological and administrative support for your work, in close consultation with ██████████ and our IT staff. That group is led by ██████████, and its members are ██████████.

Third, we recognize that the substantive work of each unit may present particular discovery challenges. To ensure that AUSAs are familiar with the particular issues that may arise with respect to the work of a particular unit, unit chiefs will provide training for new AUSAs who arrive in their unit as part of the onboarding process, with an emphasis on the subject-matter-specific discovery and disclosure issues that they are likely to encounter as part of the unit's work.

Fourth, in advance of charging senior unit cases, AUSAs will conduct agency case file reviews to ensure we have full visibility on material subject to disclosure—and are not relying solely on agents to surface materials subject to disclosure. While this will not be required in all junior unit cases, agency file reviews should be conducted in General Crimes and Narcotics cases where unit chiefs deem it appropriate. The Disclosure Committee will be overseeing the development of agency-specific checklists to help facilitate the review, but in the meantime AUSAs should use their best judgment.

Fifth, prosecution memos must contain a robust discussion of discovery issues and defense theories as a pre-requisite for approval by chiefs in the first instance and ultimately deputy chief signoff. The Disclosure Committee will be developing guidance for areas that should be covered—but, in the meantime, AUSAs and chiefs should use their best judgment.

Sixth, when AUSAs leave senior units they will discuss case transition planning with the unit chiefs and the Criminal Chief, and memorialize the case transition planning in a memorandum addressing the status of all of their cases and specifying which cases they will be retaining and which will be reassigned. These memos will require approval by both the old and new unit chiefs and will be reviewed by the Criminal Chief.

Seventh, in those rare instances when SAUSAs are approved for a particular case, they will complete all DOJ discovery training requirements and SDNY disclosure training as part of their onboarding process before they can begin work as a SAUSA. We will require certification of the completion of all required training as part of the SAUSA onboarding process. The Criminal Division Manual will be revised to reflect this policy.

Some of these practices are already being followed by some units and some AUSAs. Going forward, they will be the practice of the entire Office. We hope that these practices, amplified by the forthcoming guidance from the Disclosure Committee, will provide AUSAs with useful tools and better position us to discharge our disclosure obligations.

As always, we welcome and appreciate your feedback. If you have thoughts or suggestions about how these practices are working, or these issues generally, please share them with your unit chiefs, any member of the Disclosure Committee or Technology Working Group, or the executive staff.

