



DOUGLAS COUNTY SHERIFF'S OFFICE
POLICY AND PROCEDURE

SECTION NO. 164.00

Brady-Giglio Disclosure

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TITLE: **Brady-Giglio Disclosure**

EFFECTIVE DATE: New 04/15/2022

SHERIFF'S SIGNATURE:

I. PURPOSE

The purpose of this policy is to provide officers with the information necessary to properly fulfill the reporting requirements mandated under U.S. Supreme Court decisions including *Brady v. Maryland* 373 U.S. 83 (1963) and *Giglio v. U.S.* 405 U.S. 150 (1972).

II. BACKGROUND

The United States Constitution, under decisions of the United State Supreme Court and the Kansas Supreme Court, requires prosecutors to disclose to the defense evidence favorable to a defendant which is either exculpatory or impeaching and is material to guilt or punishment. It further requires disclosure of evidence that tends to impeach the character or testimony of the government's witness in a criminal trial. That duty of disclosure applies to evidence known to investigators and not the prosecutor. *See, e.g., Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Giglio v. United States*, 405 U.S. 150, 155 (1972); *United States v. Bagley*, 473 U.S. 667, 678 (1985), *Kyles v. Whitley*, 514 U.S. 419, 437 (1995); *State v. Warrior*, 294 Kan. 484, 506, 277 P.3d 1111, 1127 (2012).

III. POLICY

The Douglas County Sheriff's Office will conduct fair and impartial investigations of criminal matters and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. The Douglas County Sheriff's Office will assist the prosecution in its duties by providing it with information in the department's possession that is material and favorable to defense.

A. Investigation Reports & Witness Information

In preparing investigation reports, officers must include all evidence and facts reasonably believed to be material and either incriminatory or exculpatory. If such information is learned after the report is completed, the officer must prepare a supplemental report that is promptly provided to the prosecution. If an officer is unsure whether such information needs to be included and/or reported, they should consult with a supervisor.

Examples of information that must be included about witnesses (including law enforcement officers):

- Prior inconsistent statements about facts in the case;
- Agreements or promises made to witnesses in exchange for testimony;
- Information showing the witness's bias against an identifiable group or individual, including information showing that the witness has an interest in the outcome of the case;

B. Personnel Information

In addition, the Douglas County Sheriff's Office will provide the prosecutor the following information regarding Department personnel who are likely to be a witness in any particular case:

- Any agency/department or judicial sustained findings of misconduct related to truthfulness;
- Any criminal convictions, including juvenile convictions, involving acts of dishonesty;
- Any present allegations of misconduct under investigation related to truthfulness, credibility, or integrity, including allegations of bias or discrimination.

Employees of the Douglas County Sheriff's Office have a duty to immediately report to their supervisor any information which may need to be provided to the prosecutor to meet their Brady/Giglio disclosure obligations.

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