



CLACKAMAS COUNTY SHERIFF'S OFFICE

Policy # 40

Printed copies are for reference only.
Please refer to the electronic copy for the latest version.

Originating Policy: Published (8/12/2020)
Next Review: (8/12/2021)

Reference: [ORS 135.815](#); [Brady v. Maryland, 373 US 83, 87 \(1963\)](#); " [Gentry v. Sinclair, 693 F3d 867, 887 \(9th Cir 2012\)](#) (quoting [Strickler v. Greene, 527 US 263, 281-82 \(1999\)](#); [United States v. Olsen, 704 F.3d 1172, 1190 \(9th Cir 2013\)](#))

Disclosure of Potential Exculpatory or Impeachment Evidence to Prosecution (Brady Information)

General

1. This policy addresses disclosure practices of potential exculpatory or impeachment evidence (*Brady* information) contained in Sheriff's Office records of an employee who may be a law enforcement witness in a state prosecution.

Disclosure to District Attorney's Office

2. The Sheriff's Office will document potential exculpatory or impeachment information discovered in an administrative or criminal investigation and promptly provide that information to the prosecution. The following is a non-exclusive list of substantiated circumstances or conduct that will be disclosed:

- a. Untruthfulness in a formal setting: testimony, affidavit, police report, official statement, professional standards investigation with a finding of dishonesty;
- b. Tampering with or fabricating evidence;
- c. Failure to report criminal conduct by other law enforcement officers;
- d. Knowingly making a false statement to another law enforcement officer on which other officer relies in official setting;
- e. Criminal conduct that is fraudulent in nature - e.g. perjury, forgery, theft;
- f. Dishonesty during professional standards investigation and/or following a *Garrity* warning; or
- g. Other deceitful acts that demonstrate disregard for constitutional rights of others or the laws, policies and standards of proper law enforcement practice;

3. Mere allegations that are not credible, are false, are unsubstantiated or have resulted in exoneration of an employee are not considered potential impeachment information and need not be disclosed.



CLACKAMAS COUNTY SHERIFF'S OFFICE

Policy # 40

Printed copies are for reference only.
Please refer to the electronic copy for the latest version.

Originating Policy: Published (8/12/2020)
Next Review: (8/12/2021)

Reference: [ORS 135.815](#); [Brady v. Maryland, 373 US 83, 87 \(1963\)](#); " [Gentry v. Sinclair, 693 F3d 867, 887 \(9th Cir 2012\)](#) (quoting [Strickler v. Greene, 527 US 263, 281-82 \(1999\)](#); [United States v. Olsen, 704 F.3d 1172, 1190 \(9th Cir 2013\)](#))

Obligations of the Professional Standards Unit

4. The Professional Standards Unit (PSU) Supervisor is the point of contact for the prosecution for issues related to potential *Brady* information and will testify on behalf of the Sheriff's Office in related proceedings.
5. The PSU Supervisor will provide annual instruction to employees on the Sheriff's Office obligation to disclose *Brady* information.
6. The PSU Supervisor will facilitate and support the Undersheriff in providing prompt notification to the Chief Deputy of the Clackamas County District Attorney's Office:
 - a. when there is reasonable suspicion that a CCSO employee may have committed a crime that may lead to prosecution. (See, Policy #18 Professional Standards); and
 - b. when there is potential exculpatory or impeachment material relating to an employee who may be called as prosecution witness.

Best Practices

7. In furtherance of this policy, the Sheriff's Office will follow the protocols set forth in the Clackamas County District Attorney's Office, [Protocol Regarding Brady Evidence and Law Enforcement Witnesses Who Are Employees/Officers](#).