

Brady Material Disclosure

605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

605.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information -Information known or possessed by the Beloit Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

605.2 POLICY

The Beloit Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Beloit Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

605.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to their commanding officer who shall review the request and forward to an appropriate prosecutor. A copy of the memo should be retained in the Department case file. In all instances involving Department member personnel or internal files, written notification shall be made to the Chief prior to releasing any such information or files.

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605.4 DISCLOSURE OF PERSONNEL INFORMATION

The Department has an obligation to report Brady information regarding our members to both state and federal prosecutors as it becomes known and/or upon written request by a prosecutor. This type of disclosure generally involves release of sustained internal investigations in which the member is untruthful or the investigation involves credibility or integrity issues. In addition, Brady information shall be reported to our City Attorney under the same premise. The Department expectation is that our members maintain the predictable and unencumbered ability to competently and credibly testify in court.

Upon request of a prosecutor, if a member of this department is a material witness in a criminal case, a person or persons designated by the Chief of Police shall examine the personnel file and/or internal affairs file of the officer to determine whether they contain *Brady* information. If potential *Brady* information is located it shall be provided to the prosecutor in order for them to review and conclude if it is potentially impeachable information, and if so, to take appropriate legal action relative to the case in question. Unless prohibited by law, the member involved in the request should be notified that a Brady request was received and what information was provided.

The person or persons designated by the Chief of Police should periodically examine the personnel files and/or internal affairs files of all officers who may be material witnesses in criminal cases to determine whether they contain *Brady* information. The obligation to provide *Brady* information is ongoing. If any new *Brady* information is identified, the prosecuting attorney shall be notified.

605.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

605.6 TRAINING

Department personnel should receive periodic training on the requirements of this policy.