



OFFICE OF THE HUDSON COUNTY PROSECUTOR

595 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306

ESTHER SUAREZ
PROSECUTOR

TELEPHONE: (201) 795-6400
FAX: (201) 795-3365

February 7, 2024

VIA ELECTRONIC MAIL ONLY

Opra+request-57752-1edeabf9@requests.opramachine.com

Re: January 29, 2024 OPRA Common Law Request for HCPO Policy Consistent with Attorney General Directive 2019-6 to Ensure Compliance with Brady and Giglio and a List of all the Names, Rank, Agency Employed and Date of All Law Enforcement Officers Added to the Brady Giglio List by the HCPO since 1/1/2014

Dear Brady-Giglio Auditor:

The Hudson County Prosecutor's Office (HCPO) is in receipt of your above request under the New Jersey Open Public Records Act, **N.J.S.A. 47: 1A-1, et. seq.** and Common Law. (Copy is attached for your easy reference.)

In response to the first part of your above request, attached please find Internal Office Policy Memorandum from Hudson County Prosecutor Esther Suarez, dated March 1, 2020 entitled Internal Policy for Identifying, Gathering and Reviewing Brady/Giglio Materials.

In response to the second part of your request, the HCPO has no responsive records.

The Hudson County Prosecutor's Office reserves the right to raise any other grounds in support of this response. The failure of the Hudson County Prosecutor's Office to assert any exception, exemption or privilege does not act as a waiver of any ground for denial.

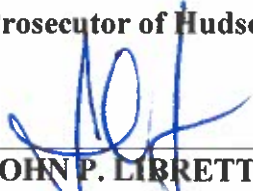
Brady Giglio Auditor
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As with any OPRA request, you have the right to challenge the HCPO's determination. At your option, you may either file a complaint in writing with the Government Records Council (GRC), located in the Department of Community Affairs, or institute a proceeding in the Superior Court.

Very truly yours,

ESTHER SUAREZ
Prosecutor of Hudson County

By:



JOHN P. LIBRETTI
Chief of Civil Litigation Unit

JL/
Enclosures
c. Office of the Hudson County Counsel

OPRA

From: Brady Giglio Auditor <opra+request-57752-1edeabf9@requests.opramachine.com>
Sent: Sunday, January 28, 2024 9:53 AM
To: OPRA
Subject: OPRA request - Brady Giglio List

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.

Dear Hudson County Prosecutor's Office,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

As per the New Jersey Attorney General's Law Enforcement Directive Directive 2019-6, the New Jersey Attorney General stated "I hereby direct all County Prosecutors to implement a policy within their respective counties consistent with this Directive to ensure compliance with Brady and Giglio."

Therefore, We requesting the following records of your county's Prosecutor's Office:

- The policy implemented consistent with the aforementioned Attorney General Directive 2019-6 to ensure compliance with Brady and Giglio;
- A list with all the names, rank, agency employed by and date of all law enforcement officers added to the Brady Giglio list by your County's Prosecutors Office since 1/1/2014.

Yours faithfully,

Brady Giglio Auditor

Please deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-57752-1edeabf9@requests.opramachine.com

Is opra@hcpo.org the wrong address for OPRA requests to Hudson County Prosecutor's Office? If so, please contact us using this form:

https://opramachine.com/change_request/new?body=hcpo

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://opramachine.com/help/officers>

View this OPRA request & responses online:

https://opramachine.com/request/brady_giglio_list_2

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.



OFFICE OF THE HUDSON COUNTY PROSECUTOR

595 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306

EFFECTIVE DATE: March 1, 2020		INTERNAL OFFICE POLICY NUMBER: 20-1
SUBJECT: Internal Policy for Identifying, Gathering and Reviewing <u>Brady/Giglio</u> Materials		SECTION:
REFERENCES: See also Prosecutor's Directive ES-03-2020		
DISTRIBUTION: All HCPO Personnel; All Hudson County Law Enforcement Personnel		NUMBER OF PAGES: 9
ISSUING AUTHORITY: Prosecutor Esther Suarez	ISSUE DATE: February 28, 2020	REVISION DATE:

I. PURPOSE

The purpose of this policy is to establish best practices to assist the Hudson County Prosecutor's Office ("HCPO") assistant prosecutors with their obligation to disclose witness impeachment materials pursuant to Brady v. Maryland, 373 U.S. 83 (1963); Giglio v. United States, 405 U.S. 150 (1972); and State v. Carter, 91 N.J. 86, 111 (1982) (holding "[e]vidence impeaching testimony of a government witness falls within the Brady rule when the reliability of the witness may be determinative of a criminal defendant's guilt or innocence.") This policy is issued in accordance with and pursuant to the New Jersey Attorney General's Law Enforcement Directive No. 2019-6 titled "Directive Establishing County Policies to Comply with Brady v. Maryland and Giglio v. United States." (December 4, 2019) ("AG Brady/Giglio Directive.")

Assistant prosecutors have a legal and ethical duty to disclose exculpatory evidence to the defense. Exculpatory evidence is evidence which is favorable to the defendant and material to the issues of guilt or punishment. Exculpatory evidence includes evidence which impeaches the testimony of a government witness when the reliability of the witness may be determinative of a criminal defendant's guilt or innocence. Such impeachment material will herein be referred to as Brady/Giglio material. See, N.J.C.R. 3:13-3, Discovery and Inspection ("Discovery shall include exculpatory information or material"); Rule of Professional Conduct 3.8, Special Responsibility of a Prosecutor (Prosecutor shall "make timely disclosure to the defense of all evidence known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense).

Knowledge of the existence of Brady/Giglio material in the possession of a law enforcement agency is imputed to the assistant prosecutor. Therefore it is the prosecutor's responsibility to gather and disclose such relevant material. Giglio, 405 U.S. at 154; see also, State v. Womack, 145 N.J. 576, 589, cert. denied, 519 U.S. 101 (1996); State v. Mustaro, 411 N.J. Super. 91, 102 (2009) (finding that even if prosecutor was unaware of videotape's existence, arresting officer was aware, so officer's knowledge was imputed to State); see also Kyles v. Whitley, 514 U.S. 419, 437 (1995).

It is the practice of the HCPO to turn over exculpatory information at the earliest possible juncture. Because the possibility exists that a local law enforcement agency may be in possession of potential impeachment information about an investigative employee witness¹ that is not part of the HCPO case file, this policy establishes a procedure for identifying and gathering potential impeachment material. The cooperation of local police agencies is essential in this regard. Prosecutor's Directive ES-03-2020.

II. POLICY:

It is the policy of the HCPO to establish and maintain best practices and a standard operating procedure to assist HCPO personnel in gathering, identifying and reviewing potential Brady/Giglio material for investigative employees who may testify and/or act as an affiant in a criminal matter.

It shall be the further policy of the HCPO that all Hudson County investigative employees working for any law enforcement agency, including but not limited to HCPO personnel, must disclose all potential Brady/Giglio material to the HCPO when the investigative employee is identified as a potential witness and/or affiant in a criminal matter. The manner of said disclosure will be in accordance with the procedures set forth in this policy.

It shall be the further policy of the HCPO to satisfy the Brady/Giglio obligation in a manner that respects the confidentiality of internal affairs matters which are often the subject of Brady/Giglio review. There are significant consequences in both regards. The possible consequences of a Brady/Giglio violation are (1) the Court orders disclosure of the material at issue; (2) continuance of a trial for further investigation; (3) reversal of a conviction or sentence; and/or (4) withdrawal of a previously entered guilty plea. The impact of a Brady/Giglio disclosure to the investigative employee includes (1) harm to her/his reputation; (2) privacy implications; (3) her/his role as an investigative employee may be limited in the future; and (4) possible adverse employment action.

This policy does not specifically identify what constitutes Brady/Giglio material and/or what will be produced in discovery and/or divulged to the court for an in camera review. This determination can only be made on a case-by-case basis, after the assistant prosecutor has gathered the potential Brady/Giglio material and reviewed same as it relates to the facts of the case. The method of review and disclosure shall be conducted in accordance with this policy.

¹ "Investigative employee" refers to an individual who is a sworn law enforcement officer, analyst, civil investigator, or civilian employee working for a law enforcement agency or entity.

III. DEFINITIONS

A. POTENTIAL BRADY MATERIAL

1. Evidence linking a State witness to the crime for which defendant is being charged. State v. Landano, 271 N.J. Super. 1 (App. Div.), certif. denied 137 N.J. 164 (1994);
2. Evidence related to defendant's theory of third-party guilt. State v. Smith, 224 N.J. 36, 50 (2016);
3. Potentially exculpatory polygraph test of State's witness. State v. Carter, 85 N.J. 300 (1981); and
4. Prior inconsistent and exculpatory statements made by a State's witness. State v. Cahill, 125 N.J. Super. 492 (Law Div. 1973).

B. POTENTIAL GIGLIO MATERIAL

The following categories of materials constitute potential Brady/Giglio materials:

1. A sustained finding ² that an investigative employee has filed a false report or submitted a false certification in any criminal, administrative, employment, financial or insurance matter in his or her professional or personal life;
2. A sustained finding that an investigative employee was untruthful or has demonstrated a lack of candor;
3. A pending criminal charge or conviction for any crime, disorderly persons, petty disorderly persons or driving while intoxicated matter;
4. A sustained finding that undermines or contradicts an investigative employee's educational achievements or qualifications as an expert witness;

² **Sustained finding** refers to any finding where a preponderance of the evidence shows an officer violated any law, regulation, directive, guideline policy or procedure issued by the Attorney General or County Prosecutor; agency protocol; standard operating procedure, rule or training, following the last supervisory review of the incident(s) during the internal affairs process or a ruling by a hearing officer, arbitrator, Administrative Law Judge, or the Superior Court. Allegations that cannot be sustained, are not credible, or have resulted in the exoneration of an employee, including where the previous *Giglio* finding has either been vacated, or overturned on the merits in any subsequent action, generally are not considered to be potential impeachment information, subject to the requirements herein. On the other hand, if the officer negotiates a plea or there is an administrative or civil settlement with the employer whereby the *Giglio*-related charge is dismissed, the charge would still be considered sustained, if there was sufficient credible evidence to prove the allegation, and the officer does not challenge the finding and obtain a favorable ruling by a hearing officer, arbitrator, Administrative Law Judge, or the Superior Court. In reviewing dispositions reached before the issuance of this Directive, assistant prosecutors must be mindful that officers may not have had an incentive to challenge *Giglio*-related charges or findings when the overall negotiated disposition of the matter was acceptable to the officer. Therefore, in such cases, assistant prosecutors must thoroughly review the entire investigative file before making determinations on the disclosure of *Giglio*-related charges that were ultimately dismissed as part of an administrative or civil settlement." AG *Brady/Giglio* Directive for the defining "Sustained Finding." (See, Section I. E.)

5. A finding of fact by a judicial authority or administrative tribunal that is known to your agency which concludes that an investigative employee was intentionally untruthful in a matter, either verbally or in writing;

6. A sustained finding that an investigative employee intentionally mishandled or destroyed evidence;

7. Any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;

8. A sustained finding, or judicial finding, that an investigative employee is biased against a particular class of people (gender, race, ethnic group, sexual orientation, etc.); and

9. Any information that may be used to suggest that the police officer is biased for or against the defendant

The fact that an investigative employee witness and/or his/her respective agency may have reported the above-listed information to the HCPO does not constitute a mandate or requirement that the information be disclosed. The assistant prosecutor shall conduct an independent review of the information provided in accordance with the procedures set forth herein to determine whether the information requires disclosure to the defense or the court for review.

IV. DUTIES AND RESPONSIBILITIES

A. Duty of the Assistant Prosecutor to Gather Potential Brady/Giglio Impeachment Material

It is the responsibility of the assistant prosecutor assigned to the matter to gather and disclose relevant Brady/Giglio material to the defense. N.J.C.R. 3:13-3(a), (b), and (f). This obligation must be met prior to a plea offer. N.J.C.R. 3:13-3(a); R.P.C. 3.8(d); AG Brady/Giglio Directive. The assistant prosecutor's responsibility to gather and disclose relevant Brady/Giglio material continues throughout the entirety of the prosecution. If at any point the assigned assistant prosecutor has any concerns about the possible existence of Brady/Giglio materials, the assistant prosecutor should refrain from proffering a plea offer and/or offering the testimony of the investigative employee at issue until the procedure to gather and review Brady/Giglio established in the policy is completed.

1. Obligation to gather and analyze potential Brady/Giglio material regarding investigative employee witnesses prior to the proffer of any plea offer:

- a. During the initial review of all warrant and summons complaints and prior to the proffer of any plea offer in a criminal matter, an assistant prosecutor shall review the available discovery and identify the investigative employees that will likely be required to testify in the matter i.e. material investigative employee witnesses. The list of material investigative employee witnesses shall immediately be forwarded to

the HCPO internal affairs division via the designated email: LEOWITNESS@HCPO.ORG.

- b. The HCPO internal affairs division will receive the list of potential investigative employee witnesses and conduct the initial Brady/Giglio review of the HCPO confidential internal affairs files, to include information gathered from the employing agency in accordance with **Prosecutor's Directive ES-03-2020³**, to identify potential Brady/Giglio material.
- c. In the event that no Brady/Giglio material is identified, the HCPO internal affairs division shall document in the notes section of the HCPO Infoshare case file that the review was conducted and no Brady/Giglio material was found. The note shall list the material investigative employee witnesses reviewed by the HCPO internal affairs division.
- d. In the event that potential Brady/Giglio material is identified, the HCPO internal affairs division shall document in the notes section of the HCPO Infoshare case file that the review was conducted and request that the assistant prosecutor contact the HCPO internal affairs division to arrange for review of the potential Brady/Giglio materials. The HCPO internal affairs division shall also notify the assigned assistant prosecutor, the assistant chief assigned to the EDC court and the HCPO Brady/Giglio liaisons⁴ via email of the existence of the potential Brady/Giglio material in the specific case file.
- e. Files containing potential Brady/Giglio material will remain in the HCPO internal affairs division.
- f. The assigned assistant prosecutor, in consultation with the Brady/Giglio liaison, will review the materials in the office of the HCPO internal affairs division to determine if the material is or may be relevant Brady/Giglio material.
 - i. If the assigned assistant prosecutor determines that the material is not relevant Brady/Giglio material, the assistant prosecutor will note in Infoshare that the review was conducted and the determination made that it is not Brady/Giglio material.
 - ii. If the determination is made that it is Brady/Giglio material or if the assistant prosecutor questions whether or not the material is Brady/Giglio material, the assistant prosecutor shall prepare a memo outlining the position to the Prosecutor or her designee and the Brady/Giglio liaison.
 - iii. The Prosecutor or her designee shall review the memo and determine, in consultation with the assistant prosecutor, whether disclosure is required and under what conditions disclosure shall be made.
 1. If this review is conducted and it is determined that the material will not be disclosed, the assistant prosecutor shall note the occurrence in the designated Brady/Giglio Infoshare folder.

³ In the event the investigative employee witness list contains investigative employees from agencies outside Hudson County, the HCPO internal affairs division shall submit a written request to that agency for any information defined herein as potential Brady/Giglio material.

⁴ Brady/Giglio liaisons will be appointed by the Hudson County Prosecutor to serve as a primary point of contact within the County Prosecutor's Office concerning potential impeachment information.

2. If it is determined that disclosure will be made, the Prosecutor or her designee shall sign off on the memo which shall be filed in the designated Brady/Giglio Infoshare folder.
- iv. In accordance with the specific mandate of the AG Brady/Giglio Directive (II.C.2), **prior to disclosure**, the assistant prosecutor shall notify the investigative employee and the employee's agency of the pending disclosure.
 - v. Thereafter disclosure shall be made in accordance with conditions established by the Prosecutor or her designee.
2. Continuing duty to gather and analyze potential Brady/Giglio material prior to presenting the testimony of an investigative employee.
 - a. In accordance with the specific mandate of the AG Brady/Giglio Directive (II.B.2) the gathering process requires the assigned assistant prosecutor and/or Brady/Giglio liaison to affirmatively gather potential Brady/Giglio information from the investigative employee's agency.
 - i. Prior to plea cutoff or immediately upon the scheduling of a testimonial hearing, the assigned assistant prosecutor must identify all investigative employees that the assistant prosecutor reasonably expects will testify at the trial or the testimonial hearing and submit **Form A** to the HCPO internal affairs division through the appropriate in-court detective;
 - ii. The in-court detective, upon receipt of a **Form A** request from the assigned assistant prosecutor, under the direction of the HCPO internal affairs division shall utilize **Form B** to contact the appropriate law enforcement agency requesting documentation of the existence of potential Brady/Giglio material. The **Forms** and the materials which may be obtained remain confidential unless disclosure is warranted as set forth herein.
 - iii. In the event the responses indicate the existence of potential Brady/Giglio impeachment materials, the HCPO internal affairs division shall obtain from the law enforcement agency that information necessary for a full and complete review of the matter.
 - iv. Upon receipt of the potential Brady/Giglio material received in response to the **Form B** request, the HCPO internal affairs division shall notify the in-court detective and the assigned assistant prosecutor that the information is available for review in the HCPO internal affairs office.
 - v. The files shall remain in the HCPO internal affairs office until the determination regarding disclosure is completed in accordance with this policy.
 - vi. The disclosure determination will be done in accordance with the procedure set forth herein.

- b. In accordance with the specific mandate of the AG Brady/Giglio Directive (II.B.2) the gathering process also requires the assigned assistant prosecutor and/or Brady/Giglio liaison to affirmatively gather potential Brady/Giglio information from the investigative employee.
 - i. Prior to plea cutoff or immediately upon the scheduling of a testimonial hearing, the assigned assistant prosecutor shall conduct a “candid conversation” with the investigative employee witness in the presence of a HCPO detective or agent. See **Form C** for guidance. The purpose of the candid conversation is to ensure that the assigned assistant prosecutor interacts directly with the material investigative witness prior to offering that witness testimony. The assigned assistant prosecutor should immediately inform a Brady/Giglio liaison of potential Brady/Giglio material learned from the candid conversation. The information shared shall be kept confidential unless disclosed in accordance with the procedures set forth herein.
 - ii. In the event the responses to the candid conversation indicate the existence of potential Brady/Giglio impeachment materials, the assigned assistant prosecutor shall work with the HCPO internal affairs division to obtain from the investigative employee witness and/or the employing law enforcement agency that information necessary for a full and complete review of the matter.
 - iii. Upon receipt of the potential Brady/Giglio material, the HCPO internal affairs division shall notify the appropriate in-court detective and the assigned assistant prosecutor that the information is available for review in the HCPO internal affairs office.
 - iv. The files shall remain in the HCPO internal affairs office until the determination regarding disclosure is completed in accordance with this policy.
 - v. The disclosure determination will be done in accordance with the procedure set forth herein.
- 3. Duty to gather and analyze potential Brady/Giglio impeachment material from civilian witnesses.
 - a. The decision as to whether impeachment evidence regarding a civilian witness exists ultimately rests with the assigned assistant prosecutor. In order to determine what information may be considered Brady/Giglio, it is important to look to the ways in which a witness can be impeached.
 - b. The following is a non-exhaustive list, meant to provide general guidance only:
 - i. Bias. A witness can be impeached with evidence that he or she has a bias against the defendant or in favor of the State (actual or potential exposure to criminal penalties, leniency/plea agreement, payments, immigration benefits, etc.);
 - ii. Specific Instances of Dishonesty. A witness can be impeached with evidence of a prior act of misconduct involving dishonesty, even if it has not resulted in

a criminal charge or conviction. This includes lying and falsifying records. N.J.R.E. 608;

iii. Criminal Conviction. N.J.R.E. 609; and

iv. Prior Inconsistent Statements. N.J.R.E. 613

4. Disclosure to the defense following a determination made in accordance with this policy.

- a. This policy does not establish a bright-line rule regarding the manner of disclosure to the defense of relevant Brady/Giglio material as the determination must be made on a case by case basis as set forth herein.
- b. The assigned assistant prosecutor may seek redactions to protect the privacy interest of third-parties and law enforcement personnel and/or a protective order to limit the use and further dissemination of the material where appropriate.
- c. If the decision is made not to use the investigative employee as a witness because of Brady/Giglio concerns, the Brady/Giglio liaison shall notify the employing law enforcement agency and the investigative employee of that decision.
- d. If the matter proceeds after a determination is made that an investigative employee will not be called as a witness due to Brady/Giglio concerns, the assistant prosecutor shall consult with a Brady/Giglio liaison regarding the potential Brady/Giglio material.

5. Disclosure to the court following a determination made in accordance with this policy.

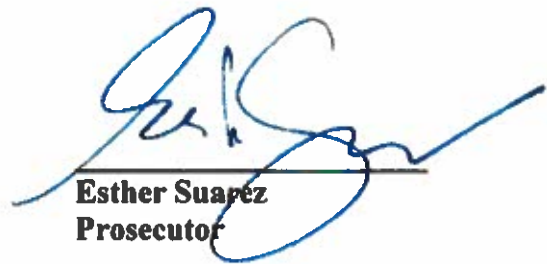
- a. If the Prosecutor or her designee determines that a question exists whether the material must be turned over to defense, the assigned assistant prosecutor may seek an in camera, judicial review of the Brady/Giglio material for a determination of what material, if any, needs to be turned over to the defense.
- b. If the court determines disclosure is warranted, the assigned assistant prosecutor may seek redactions to protect the privacy interest of third-parties and law enforcement personnel and a protective order to limit the use and further dissemination of the material.
- c. At the earliest time possible after a determination has been made by the court, the assigned assistant prosecutor shall inform the investigative employee and his/her respective agency that disclosure to the defense was made, identifying the information disclosed. The assigned assistant prosecutor shall also inform the agency and investigative employee whether a decision was made by the court as to the admissibility of such information at trial.

B. Duties of the Investigative Employee and the Law Enforcement Agency to Provide Brady/Giglio materials.

The investigative employee and his/her employing law enforcement agency have the duty to respond to all requests for potential Brady/Giglio responses in a timely manner. The investigative employee has the duty to disclose any potential Brady/Giglio material to the prosecuting agency, even if not specifically requested, as early as practical. Disclosing information to the HCPO and the assigned assistant prosecutor does not mean the potential Brady/Giglio material will be disclosed to the court or the defense. Disclosure shall be made only in accordance with the procedures set forth herein.

IV. CONFIDENTIALITY

The gathering, identifying and potential disclosure of Brady/Giglio witness impeachment materials is a confidential process. As such, all documents requested and obtained shall be kept confidential and secured in the aforementioned manner and in accordance with this policy. Brady/Giglio witness impeachment materials shall be released to the defense and the court only as provided herein.



Esther Suarez
Prosecutor

FORM A (AP request for Brady/Giglio check)

**REQUEST THAT THE HCPO INTERNAL AFFAIRS DIVISION OBTAIN
FROM THE EMPLOYING AGENCY COMPLETED FORM B**

CASE#: _____

(including Promis Gavel and Indictment, Accusation or Complaint number)

ASSISTANT PROSECUTOR:

DATE: _____

The following law enforcement officers are potential State witnesses for the
aforementioned case:

(Note: This may include HCPO detectives)

Name: _____ **Agency:**

Name: _____

Agency: _____

Name: _____ **Agency:**

Name: _____ **Agency:**

Name: _____ **Agency:**

Name: _____ **Agency:**

Name: _____ Agency:

Name: _____ Agency:

Name: _____ Agency:

In accordance with the HCPO Brady/Giglio policy, the above listed assistant prosecutor requests that the HCPO internal affairs division make inquiry to the appropriate law enforcement agency (Form B(1)) and the investigative employee (Form B(2)) to determine whether potential Brady/Giglio witness impeachment material exists.



OFFICE OF THE HUDSON COUNTY PROSECUTOR

595 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306

ESTHER SUAREZ
PROSECUTOR

TELEPHONE: (201) 795-6400
FAX: (201) 795-3365

Date:

Attention: Agency:
Internal Affairs Unit

Address

RE: FORM B IAU BRADY/GIGLIO REQUEST FOR DOCUMENTATION TO LAW
ENFORCEMENT AGENCY

Sir/Madam:

In preparation for the trial or other proceeding in State v. _____
the Hudson County Prosecutors Office, pursuant to Brady/Giglio disclosure requirements, shall
require confirmation of the existence or non-existence of any substantiated finding or other
pertinent documentation (see No.8 category below) involving Officer

_____ for allegations or information of one or more of the following:

1. A finding that a police officer has filed a false report or submitted a false certification in any criminal, administrative, employment, financial or insurance matter in his or her professional or personal life. Y / N
2. A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxicated matter. Y / N
3. A finding that undermines or contradicts a police officer's educational achievements or qualifications as an expert witness. Y / N

4. A finding of fact by a judicial authority or administrative tribunal that is known to the officer's employing agency which concludes that a police officer intentionally did not tell the truth in a matter. Y / N
5. A sustained finding that a police officer intentionally mishandled or destroyed evidence. Y / N
6. A sustained finding that a police officer is biased against a particular gender or ethnic group. Y / N
7. A sustained finding that an officer was untruthful or has demonstrated a lack of candor. Y / N
8. Any other information or documentation in your files which may in good faith potentially be deemed to reflect negatively upon an officer's credibility as a witness. Y / N

This form was completed by : Print Name: _____

Signature: _____

Please circle the appropriate response Yes or No and sign, affirming the information is true and accurate to the best of your ability. Then return this form to the Internal Affairs Unit ("IAU") via email. If any Yes response is received the HCPO shall then make arrangements to obtain your agency's case file, including but not limited to your agency's findings and all underlying documentation, pertaining to potential Brady/Giglio material you have identified. If you have any questions, please do not hesitate to contact the undersigned IAU

member at . Thank you for your anticipated cooperation in this matter.

Respectfully yours,

BRADY / GIGLIO POLICY

FORM C

CANDID CONVERSATION GUIDE

- 1. Are you aware of any findings by a court that reflect upon your truthfulness or bias, including a finding of lack of candor? If "yes," please identify the matter.**
- 2. Have you ever been arrested, charged with, or convicted of a criminal offense (include DWI)?**
- 3. Are you aware of any past complaints, investigations, or disciplinary actions against you relating to an allegation of misconduct bearing upon truthfulness or bias?**
- 4. Have you ever been terminated from a law enforcement job or resigned while an investigation of you was pending?**
- 5. Are you aware of any media reports or other publicity where your name was mentioned in connection with alleged misconduct that occurred while you were on duty or off-duty?**
- 6. To your knowledge, have you ever been a party to any civil lawsuit or bankruptcy action in which your honesty, integrity, credibility, or bias were the subject of a public filing or court order?**
- 7. Do you now have, or have you ever had, a close personal relationship with any of the persons associated with this case that involves or involved a degree of affection or loyalty that could be viewed as undermining your objectivity or improperly influencing your testimony?**

"Witness" includes agents, police officers, and other law enforcement related witnesses such as forensic analysts, auditors, and paralegals; cooperating witnesses and confidential informants; and prosecution and defense witnesses. "Persons closely associated with a defendant" includes the defendant's spouse, partner, family members, friends, and associates (business, gang, etc).

- 8. Many people regularly interact on social media such as Facebook and Twitter, blog, or post comments on public internet sites. If you engage in such activity, could any of your posts, blogs, or comments be used to question your credibility, bias, judgment, or competence, or be used in any way to undermine your work or testimony in this case?**

Should any of the investigative employee's answers to these questions change at any point in time between the candid conversation and the date the employee testifies in the case, the investigative employee should notify the assistant prosecutor as soon as possible.