

 ROCKFORD POLICE DEPARTMENT GENERAL ORDER - NUMBER 40.42 -		DISTRIBUTION ALL PERSONNEL	PAGE 1 OF 3
ORDER TITLE DISCOVERY IN CRIMINAL PROSECUTION	SERIES NO. 40	SERIES TITLE / SUBJECT LAW ENFORCEMENT OPERATIONS	
TOPICS / REFERENCE Brady v. Maryland, 373 U.S. 83 (1963)		APPENDICES A	
EFFECTIVE / ORIGINAL ISSUE DATE June 07, 2010	REVISION / REISSUE DATE	EXPIRATION DATE This order remains in effect until revised or rescinded	

POLICY

In every HOMICIDE AND “NON HOMICIDE FELONY” investigation conducted by the Rockford Police Department, or when the Department participates in an investigation of a homicide or “non-homicide felony,” all investigative materials that have been generated or come into the possession of the Department concerning the homicide or “non-homicide felony” shall be provided to the Winnebago County State’s Attorney’s Office. Investigative materials include, but are not limited to, reports and memoranda and, in homicide investigations, investigative materials also includes field notes.

PURPOSE

The purpose of this Special Order is to assure compliance with Illinois Compiled Statutes Code of Criminal Procedure, 725 ILCS 5/114-13 *Discovery in Criminal Cases*. The statute requires all law enforcement agencies in the State of Illinois to adopt policies to ensure the compliance with the discovery procedures in criminal cases in accordance with Supreme Court Rules.

This General order is comprised of the following numbered sections.

- I. DEFINITIONS**
- II. PROCEDURES**
- III. EFFECTIVE DATE**
- IV. REVIEWS, REVISIONS AND CANCELLATIONS**

I. DEFINITIONS

- A. Brady: U.S. Supreme Court ruling requiring police or prosecutors disclose to the defendant any exculpatory evidence they possess. Failure to disclose can result in the dismissal of a case. (Brady v. Maryland, 373 U.S. 83 (1963))
- B. Exculpatory Evidence: Exculpatory evidence is the evidence favorable to the defendant in a criminal trial, which clears or tends to negate the defendant of guilt.

- C. Giglio Material: refers to material tending to impeach the character or testimony of the government's witness in a criminal trial. The prosecution is required to turn over or disclose this evidence to the defendant. (Giglio v. United States, 450 U.S. 150 (1972))

II. PROCEDURES

A. BRADY OBLIGATIONS:

1. The Department shall provide to the Winnebago County State's Attorney's Office any material or information including, but not limited to, reports, memoranda and in addition field notes in homicide cases, within its possession or control that would tend to negate the guilt of the accused as to the offense charged or which would tend to reduce his or her punishment therefore. The obligation to furnish exculpatory evidence exists whether the information was recorded or documented in any form.
2. Exculpatory evidence is any source of information (e.g. statements, physical evidence, scientific evidence, witness statements) that might have some bearing on a person's claim of innocence or that mitigates the degree of the offense. Exculpatory evidence also includes any evidence that may cast doubt on the credibility of a state witness.
3. The determination of whether evidence is exculpatory is ultimately a judicial determination. Therefore, all evidence shall be submitted whenever there is a question as to whether it is favorable to the accused.

B. COMPLIANCE

1. The Deputy Chief of the Investigative Services Bureau shall implement all necessary procedures, including the periodic review of all homicide and "non-homicide felony" case files to ensure that all investigative materials and exculpatory information has been tendered to the Winnebago County State's Attorney's Office.
2. The Deputy Chief of the Investigative Services Bureau shall insure that all investigative materials required to be maintained by this order are safely kept in the appropriate case file.
3. All department personnel shall document in writing the tender of investigative materials to the State's Attorney's Office and include the date and description of materials transmitted.
4. The Department shall cooperate with all requests for investigative materials made by the Winnebago County State's Attorney's Office in a timely and efficient manner.

C. CONTINUING OBLIGATIONS

The duty to disclose exculpatory information under this policy continues throughout the course of the prosecution of the case and remains after the defendant's conviction and until the fact-finding proceedings, or possibility of them, is terminated.

D. REQUIRED TRAINING

All sworn personnel shall receive annual roll call training in the requirements of Brady v. Maryland of the duty to disclose exculpatory material and Giglio v. United States concerning their obligations informing the Winnebago County States Attorney's Office of information which could impeach the testimony of an officer or government witness. This training will be documented and recorded by the Training Sergeant in the officer's training file.

III. EFFECTIVE DATE

- A. The Department's policy on **Discovery in a Criminal Prosecution** became effective on **June 07, 2010**.

IV. REVIEWS, REVISIONS AND CANCELLATIONS

- A. This General Order will be reviewed each May by the Deputy Chief of the Investigative Services Bureau and, when necessary, revised or cancelled in accordance with the procedures for reviewing written directives established in General Order **10.01 – Written Directives**.
- B. This order does not supercede or cancel any previously issued Department policy or procedure.
- C. Any employee with suggestions for revisions and/or improvements to this order are encouraged to submit their ideas to the Deputy Chief of the Investigative Services Bureau.

BY ORDER OF

Chet Epperson
Chief of Police

APPENDIX A

725 ILCS 5/ Code of Criminal Procedure of 1963.

(725 ILCS 5/114-13) (from Ch. 38, par. 114-13)

Sec. 114-13. Discovery in criminal cases.

(a) Discovery procedures in criminal cases shall be in accordance with Supreme Court Rules.

(b) Any public investigative, law enforcement, or other public agency responsible for investigating any homicide offense or participating in an investigation of any homicide offense, other than defense investigators, shall provide to the authority prosecuting the offense all investigative material, including but not limited to reports, memoranda, and field notes, that have been generated by or have come into the possession of the investigating agency concerning the homicide offense being investigated. In addition, the investigating agency shall provide to the prosecuting authority any material or information, including but not limited to reports, memoranda, and field notes, within its possession or control that would tend to negate the guilt of the accused of the offense charged or reduce his or her punishment for the homicide offense. Every investigative and law enforcement agency in this State shall adopt policies to ensure compliance with these standards. Any investigative, law enforcement, or other public agency responsible for investigating any "non-homicide felony" offense or participating in an investigation of any "non-homicide felony" offense, other than defense investigators, shall provide to the authority prosecuting the offense all investigative material, including but not limited to reports and memoranda that have been generated by or have come into the possession of the investigating agency concerning the "non-homicide felony" offense being investigated. In addition, the investigating agency shall provide to the prosecuting authority any material or information, including but not limited to reports and memoranda, within its possession or control that would tend to negate the guilt of the accused of the "non-homicide felony" offense charged or reduce his or her punishment for the "non-homicide felony" offense. This obligation to furnish exculpatory evidence exists whether the information was recorded or documented in any form. Every investigative and law enforcement agency in this State shall adopt policies to ensure compliance with these standards. (Source: P.A. 93-605, eff. 11-19-03.)