



PAWNEE COUNTY SHERIFF'S OFFICE
SHERIFF DARRIN VARNELL

Policy # Duty to Disclose	Related Policies: See U.S. Supreme Court Brady v Maryland (1963) and Giglio v United States (1972)
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Oklahoma Statutes:	
CALEA Standard: 42.2.3	

- I. **Purpose:** An agency and its personnel could be subject to liability in federal court for failing to disclose to a prosecutor any evidence that may be favorable to a defendant. The purpose of this policy is to ensure that agency personnel comply with the landmark United States Supreme Court decisions of *Brady v Maryland* (1963) and *Giglio v United States* (1972) and their progeny.
- II. **Policy:** It is the policy of The Pawnee County Sheriff's Office to require that law enforcement personnel provide all potentially exculpatory evidence to prosecutors. Furthermore, it will be the responsibility of the Internal Affairs Section or designated agency person to review all Deputies' files to determine if any Deputy has a disciplinary history that would impact the Deputy's credibility as a witness. This information should be made available to the prosecutor for a determination of whether said information is "Brady" material prior to Deputy appearance.
- III. **Definitions:**
 - A. **Duty to Disclose:** The landmark decision of *Brady v Maryland* (1963) places an affirmative constitutional duty on a prosecutor to disclose exculpatory evidence to a defendant. This duty has been extended to police agencies through case law, requiring law enforcement agencies to notify the prosecutor of any potential exculpatory information.
 - B. **Exculpatory Evidence/Brady Material:** Evidence in the government's possession that is favorable to the accused and that is material to either guilt or punishment, including evidence that may impact the credibility of a witness.

IV. Procedure:

- A.** Deputies are required to document all investigative activity involved in an investigation, including exculpatory information.
- B.** All official reports involving an investigation will be submitted to the prosecuting authority prior to actual prosecution of the case. The prosecutor will determine what information contained in the case file will be provided to defense counsel.
- C.** The agency will meet with the prosecutor's office to establish a procedure whereby the intent of this policy is carried out.
- D.** Each employee who is notified to appear as a witness in a criminal case has an individual obligation under this policy to notify the prosecutor on the specific case of any sustained disciplinary history that may impact credibility and qualify as "Brady" material.
- E.** The Training Section will ensure that all sworn personnel are familiar with the requirements of this policy and will stress the importance of credibility as an essential requirement of being able to function as a Deputy.