
Criminal Trial Discovery Information

606.1 PURPOSE AND SCOPE

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

606.1.1 DEFINITIONS

Definitions related to this policy include:

Discovery Information (Brady/Giglio/Whitley) information - Information known or possessed by the Montgomery County Sheriff's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

606.2 POLICY

The Montgomery County Sheriff's Office will conduct fair and impartial criminal investigations and will provide the prosecution with all information it has, or is aware of, both incriminating and exculpatory, as well as known information that may adversely affect the credibility of a witness. This information shall be provided in a timely manner to the prosecutor's office with the submission of a prosecution summary package.

606.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Deputies must include in their investigative reports adequate investigative information and reference to all known material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If a deputy learns of potentially incriminating or exculpatory information any time after submission of a case, the deputy 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., informant or protected personnel files), the deputy 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 a deputy is unsure, the deputy should address the issue with a supervisor and the District Attorney.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo addressing this matter should be retained in the office case file.

606.6 INVESTIGATING BRADY ISSUES

If the Office receives information from any source that a Deputy may have issues of credibility or 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.