



**The Voice of
Iowa Police Chiefs**

Giglio-Brady Recommendations Iowa Police Chiefs Association Dec. 6, 2021

- 1) IPCA recommends a statutory requirement that all County Attorneys maintain a Giglio-Brady list for their county with annual updates with a repository agency.
- 2) Either designate or create a repository agency to overseeing keeping the Giglio-Brady lists.
 - a. Some possibilities for such an agency could be Dept. of Public Safety, Attorney General's Office, or IA Law Enforcement Academy (ILEA);
 - b. Alternatively, create a communication system for County Attorneys/Law Enforcement Agency heads.
- 3) Accompanying administrative rules for establishing what conduct leads to a Giglio-Brady List placement, procedure for investigating conduct, and uniform due process procedure to refute placement on the Giglio-Brady list.
- 4) Accompanying administrative rules addressing the process for being removed from the Giglio-Brady list.
- 5) Limit culpability for having officers on the Giglio-Brady list for lawsuit purposes.

GIGLIO-BRADY
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Brady v. Maryland

- Murder trial where one defendant (Charles Boblit) confessed via written statement to the actual murder, and the other defendant (John Brady) maintained he had been present during the murder but did not kill the victim. Post-conviction, it was revealed the prosecution had withheld Boblit's written statement at Brady's trial.
- Brady claimed his due process rights had been violated as a result.
- SCOTUS held that withholding exculpatory evidence (evidence favorable to a defendant in a criminal trial which exonerates/tends to exonerate the defendant) violates due process **"where the evidence is material either to guilt or to punishment."**

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Brady Rule

The Brady case resulted in the Brady Doctrine, which is a pre-trial rule:

The prosecution must turn over all exculpatory evidence to the defendant in a criminal case.

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Giglio v. U.S.

- This was a fraud case where the petitioner (Giglio) had forged several money orders. The bank teller who supplied Giglio with the signature cards and cashed/processed the forged money orders, struck a deal with the U.S. Atty to testify against Giglio in exchange for not being prosecuted.
- However, a different U.S. Atty ended up prosecuting Giglio, and the deal made with the bank teller was never disclosed by the previous attorney or the bank teller (and in fact testified to the opposite). Giglio was convicted, mostly on the bank teller's testimony. Giglio claimed his due process rights had been violated under Brady.
- SCOTUS held the prosecution's failure to inform the jury that a witness had been promised not to be prosecuted in exchange for his testimony was a failure to fulfill the duty to present all material evidence to the jury, and therefore constituted a violation of due process, requiring a new trial.

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What's a Brady Disclosure?

- Brady disclosure consists of exculpatory or impeaching information and evidence that is material to the guilt or innocence or to the punishment of a defendant.
- This means a prosecutor must disclose evidence or information that would prove the innocence of the defendant, or that would enable the defense to more effectively impeach the credibility of government witnesses. Likewise, if there is evidence that would serve to reduce the defendant's sentence, like in the Brady case, a prosecutor must also disclose that evidence.
- This includes evidence that may be used to impeach prosecution witnesses like law enforcement officers.

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Recommendation #1: IPCA recommends a statutory requirement that all County Attorneys maintain a Giglio-Brady list for their county with annual updates with a repository agency.

Why It's Important:

How Giglio-Brady lists regarding law enforcement are kept is varied from county to county. Some counties keep them, some do not, which creates issues when an officer who was on the Giglio-Brady list moves to a new agency in a different county, and that is not disclosed to the new agency. This can cause prosecutorial problems in the new jurisdiction.

Because the conduct that results in an officer's placement on Giglio-Brady can range from mistakes to egregious conduct, an annual review will help determine whether an officer should remain on the Giglio-Brady list.

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Recommendation #2: IPCA recommends establishing or designating a repository agency to oversee county Giglio-Brady lists, or alternatively establishing a communication system for county attorney offices or law enforcement agencies to share information about county lists.

Why it's important:
 Communication about officers who have been placed on the Giglio-Brady list is important for law enforcement and prosecutors alike, particularly in terms of hiring officers and prosecutorial conduct.
 A repository agency may serve as an impartial third party.

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Recommendations #3 and #4: IPCA recommends administrative rules or legislation to establish what conduct leads to a Giglio-Brady List placement, procedure for investigating conduct, and uniform due process procedure for the officer to refute placement on the Giglio-Brady list.

Additionally, IPCA recommends rules or legislation to establish a process for officers to be removed from the Giglio-Brady List.

Why it's important:
 The conduct leading to an officer's placement on the Giglio-Brady List is wide ranging, and at times, unnecessary. A college prank is not the same or similar to committing fraud, for example. Officers need processes to refute their placement on the Giglio-Brady list and to seek removal from the list after a duration of time.

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Recommendation #5: Limit culpability for having officers on the Giglio-Brady list for lawsuit purposes.

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