

<h1 style="margin: 0;">THURMONT POLICE DEPARTMENT</h1>			
<b>GENERAL ORDER</b>	Date Issued: February 25, 2008	Effective Date: February 25, 2008	Order No: <b>Chapter 5.4</b>
Authority: Chief of Police Gregory L. Eyer		Manual Page No:	
Subject: Exculpatory Evidence		Replaces Page No:	
CALEA Standard:	Distribution: <b>ALL</b>	Amends:	Number of Pages: 3
Related Documents:		Rescinds:	

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

**A. DEFINITIONS:**

**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.

**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.

- B. In 1963, the Supreme Court ruled in the *Brady* case that the government has a duty to disclose material evidence to the defense, which could tend to change the outcome of a trial. This exculpatory evidence, often referred to as "Brady Material," could tend to prove that the accused party is innocent or cast doubt of their guilt.

It is the prosecutor, under *Brady*, who must decide if the information is exculpatory and whether it must be disclosed to the defense. **The law enforcement officer's obligation is to inform the prosecutor of the information.**

- C. In order to ensure uniformity and consistency in meeting constitutionally required discovery obligations under *Brady v. Maryland* (1963) 373 U.S. 83, officers of the Thurmont Police Department will make available to prosecutors any potential exculpatory information that they are aware of or come into possession of. The evidence will be disclosed to the prosecutor immediately, and will be documented in the officer's report, indicating the type of evidence and who the information was disclosed to.

Collection of evidence will be in accordance with established procedures.

- D. All sworn officers of the Thurmont Police Department will be trained on their obligations and duty to disclose exculpatory material. Training will consist of reviewing *Brady v. Maryland* case law. Training will be documented and placed in the Department's Training File.

Resources: *Brady v. Maryland*, 373 U.S. 83 (1963)  
*Giglio v. United States*, 450 U.S. 150 (1972)

**ATTACHMENTS:**

**DOCUMENT DATES:**

Amended Date:

Review Date:

Review Date:

Rescinds:

Order Written by: Chief of Police

Order Edited and Approved by: Chief of Police