

Please Note: This is a working draft of Directive 0320.00. The PPB has not implemented any portion of this draft.

Submit your comments using the “Provide Feedback Here” link located at the end of the directive.
A redline copy of the updated directive is included in this attachment.

Second Universal Review: 5/1/25 – 5/31/25

Extended Second Universal Review: 6/3/25 - 6/18/25

0320.00, Duty to Report Potential Exculpatory Evidence

- *Brady v. Maryland*, 173 U.S. 83 (1963)
- Refer: *Uglio v. United States*, 405 U.S. 150 (1972)
- ORS 135.815, Disclosure to defendant
- ORS 181A.830, Disclosure of information about certain public safety employees
- ORS 192.345, Public records conditionally exempt from disclosure
- ORS 192.355, Public records exempt from disclosure
- ORS 181A.681, Report of misconduct or violation of minimum standards
- Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination, and Retaliation
- DIR 0300.00, Statement of Ethical Conduct
- DIR 0310.00, Professional Conduct and Courtesy
- DIR 0310.50, Truthfulness
- DIR 0310.20, Discrimination, Harassment, and Retaliation Prohibited
- DIR 0330.00, Internal Affairs, Complaint Intake, and Processing
- DIR 0331.00, Supervisory Investigations
- DIR 0332.00, Administrative Investigations
- DIR 0333.00, Criminal Investigations of Police Bureau Employees and Other Law Enforcement Agency Sworn Employees
- DIR 0335.00, Corrective Action Process
- DIR 0344.05, Bias-Based Policing/Profiling Prohibited
- DIR 0660.10, Property and Evidence Procedures
- DIR 0900.00, General Reporting Guidelines
- DIR 1010.00, Use of Force
- Professional Standards Division Standard Operating Procedure #14, Case File Confidentiality and Access Control.
- Multnomah County District Attorney’s Office Policy 3.071: Government Witness Impeachment Index

Definitions:

- **Credible Allegation:** A complaint of misconduct for which there are indicia that the complaint may be sustained.
- **Duty to Report:** The affirmative constitutional duty of law enforcement to notify the prosecutor of Potential Exculpatory Evidence.
- **Potential Exculpatory Evidence:**
 - any information or material that tends to:
 - (1) favor the defendant;

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- (2) exculpate the defendant;
- (3) negate or mitigate the defendant’s guilt or punishment; or to
- (4) impeach the credibility of any government witness, including but not limited to, police officers.
- **For this Directive, both potential exculpatory and impeachment material are encompassed in the term “Potential Exculpatory Evidence.”**
- Examples of Potential Exculpatory Evidence *include, but are not limited to*:
 - Criminal convictions or criminal charges against any government witness.
 - Failure of any proposed witness to make a positive identification of a defendant.
 - Any inconsistent statement made orally or in writing by any proposed witness.
 - Information regarding mental or physical impairment of any government witness that would cast doubt on their ability to testify accurately and truthfully.
 - Evidence that a proposed witness has a racial, religious, or personal bias against a defendant individually or as a member of a group.
 - A sustained finding of misconduct regarding a member’s untruthfulness, bias, or excessive use of force in conjunction with their service as a member.
 - Altering, tampering, concealing, or misusing evidence in any investigation.
- Prosecutor: For this Directive, the applicable prosecutorial entity for the case at issue, i.e., U.S. Attorney, County District Attorney, or Oregon Attorney General.

Policy:

1. This directive provides Portland Police Bureau members with the information necessary to comply with the requirements of *Brady v. Maryland*, 173 U.S. 83 (1963), *Giglio v. U.S.*, 405 U.S. 150 (1972), and subsequent rulings, and establishes procedures for notifying the Prosecutor of Potential Exculpatory Evidence, as required by law. Both general criminal investigations, and internal investigations regarding member misconduct (as found in criminal, administrative, and supervisory investigations), can yield Potential Exculpatory Evidence.

Procedure:

1. Duty to Identify and Report Potential Exculpatory Evidence.
 - 1.1. The Bureau and its members have a Duty to Report Potential Exculpatory Evidence to the Prosecutor. That obligation extends from the time of arrest through trial and sentencing.
 - 1.2. The Bureau and its members shall exercise due diligence to identify and report Potential Exculpatory Evidence in the Bureau’s possession to the Prosecutor as soon as practicable.

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- 1.3. Allegations that cannot be substantiated; are not credible; or have resulted in exonerated, not sustained, or unfounded findings are generally not Potential Exculpatory Evidence.
2. Member Reporting and Investigating Responsibilities.
 - 2.1. Potential Exculpatory Evidence in Criminal Investigations.
 - 2.1.1. Members shall exercise due diligence to identify and provide Potential Exculpatory Evidence they possess regarding criminal cases they are working, or have worked, to the Prosecutor as soon as practicable, on an on-going basis.
 - 2.1.2. Members shall document in their investigative reports all information they reasonably believe is Potential Exculpatory Evidence (e.g., the failure of any proposed witness to make a positive identification of a defendant).
 - 2.1.3. Members report Potential Exculpatory Evidence to the Prosecutor by submitting their reports electronically through the normal reporting process.
 - 2.2. Potential Exculpatory Evidence Regarding Member Misconduct.
 - 2.2.1. Members should be aware that member misconduct may constitute Potential Exculpatory Evidence. Therefore:
 - 2.2.1.1. Members shall report alleged member misconduct in accordance with Directive 0310.00, Professional Conduct and Courtesy, and Directive 0330.00, Internal Affairs, Complaint Intake, and Processing, and as required by state law.
 - 2.2.1.2. Members shall report alleged member criminal conduct in accordance with Directive 0333.00, Criminal Investigations of Police Bureau Employees and Other Law Enforcement Agency Sworn Employees, and as required by state law.
 - 2.2.1.3. When a supervising member becomes aware of Potential Exculpatory Evidence regarding alleged member misconduct, the supervising member shall immediately forward the information directly to Internal Affairs (IA).
3. Potential Exculpatory Evidence in Internal Affairs Investigations.
 - 3.1. The Bureau shall affirmatively notify the Multnomah County District Attorney’s Office (MCDA) of the following:
 - 3.1.1. Open Investigations: All allegations regarding a member’s untruthfulness, once the Bureau opens an investigation.
 - 3.1.2. Credible Allegations: All allegations regarding a member’s bias, evidence mishandling, or excessive force that the Professional Standards Division (PSD) Commander or designee deems a Credible Allegation.
 - 3.1.2.1. In making this determination, the PSD Commander or designee may consider, but is not limited to, the following indicia:
 - 3.1.2.1.1. The inherent plausibility of the allegation;
 - 3.1.2.1.2. The presence or absence of corroborative evidence;
 - 3.1.2.1.3. Any admission by the involved member;

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- 3.1.2.1.4. The weight of any witness accounts considering witness demeanor, motives to falsify, the opportunity of the witness to observe the conduct described, strength of memory, bias or prejudice, and/or previous inconsistent statements; and/or
 - 3.1.2.1.5. Video evidence, including body-worn camera footage.
 - 3.1.2.2. Notification of a Credible Allegation is not a recommended, proposed, or imposed finding in the administrative investigation process and the allegation may ultimately not be sustained.
 - 3.1.3. Investigation Outcomes: The final outcomes (i.e., findings) for all investigations listed in Sections 3.1.1. and 3.1.2.
- 3.2. The PSD Commander or designee shall affirmatively notify the MCDA of all criminal convictions and charges against any member, and any criminal investigation of any member in which there is a Credible Allegation.
- 3.3. All notifications shall be provided via a confidential submission per ORS 192.355(4) and may contain the following: case number, complainant name, incident date, reported date, status, status date, allegation type, allegation statement, applicable directive, and findings, if applicable.
- 3.4. In addition to the above affirmative notifications to MCDA, the PSD shall provide the notifications listed in Section 3.1. and 3.2., in the manner described in Section 3.3., to any other Prosecutor who submits a written request for Potential Exculpatory Evidence.
- 3.5. Prosecutorial Responsibilities.
 - 3.5.1. It is the Prosecutor’s decision how to evaluate Potential Exculpatory Evidence and their responsibility to determine any disclosure obligations. This decision includes whether Potential Exculpatory Evidence is material to a specific case and whether to include members on any list or in any database, such as the MCDA’s Potential Impeachment Disclosure Index (PID Index). The PID Index is the database used by the MCDA to track impeachment evidence regarding state witnesses (sometimes informally referred to as a “Brady list”).
 - 3.5.2. The Prosecutor is responsible for managing its own list or database related to impeachment evidence, including any procedures for including members and for appeals.
- 3.6. Professional Standards Division and Detective Division Responsibilities and Member Notification.
 - 3.6.1. PSD is responsible for monitoring all criminal, administrative, and supervisory investigations of members.
 - 3.6.2. The PSD Commander or designee is responsible for the Bureau notifying the MCDA of Potential Exculpatory Evidence in IA Investigation files, Independent

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- Police Review (IPR) investigation files once provided to IA, and criminal investigation files of members.
- 3.6.3. The Detective Division Commander or designee is responsible for identifying Potential Exculpatory Evidence in criminal investigation files of members and reporting to the PSD Commander.
 - 3.6.4. The PSD Commander or designee shall notify members in writing when the Bureau notifies the Prosecutor regarding the member’s internal investigation file(s), unless doing so would jeopardize an ongoing investigation of the member.
 - 3.6.5. The PSD Commander or designee shall request a copy of MCDA’s PID Index quarterly and shall attempt to remain informed of Bureau members listed therein.
- 3.7. Member Privacy and Rights.
- 3.7.1. This Directive does not change the confidential nature of member personnel files.
 - 3.7.2. This Directive does not change the requirements of public records law exemptions imposed on the City, the Bureau, and the Prosecutor regarding member personnel files.
 - 3.7.3. A member’s inclusion on the PID Index or any “Brady list” is not independent grounds for member discipline or termination.
 - 3.7.4. The PSD Commander or designee shall provide members with information regarding the MCDA review process and the member’s rights upon request.

[Provide Feedback Here.](#)

0320.00, ~~Portland Police Bureau Reporting of~~ Duty to Report Potential Exculpatory or Impeachment Information Evidence

Refer:

- *Brady v. Maryland*, 173 U.S. 83 (1963)
- *Giglio v. United States*, 405 U.S. 150 (1972)
- ORS 135.815, Disclosure to defendant
- ORS 181A.830, Disclosure of information about certain public safety employees
- ORS 192.345, Public records conditionally exempt from disclosure
- ORS 192.355, Public records exempt from disclosure
- ~~HB 4205 (2020), Relating to duties of police officers regarding prohibited behavior~~
- ORS 181A.681, Report of misconduct or violation of minimum standards
- Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination, and Retaliation
- DIR 0300.00, Statement of Ethical Conduct
- DIR 0310.00, Professional Conduct and Courtesy
- DIR 0310.50, Truthfulness
- DIR 0310.20, Discrimination, Harassment, and Retaliation Prohibited
- DIR 0330.00, Internal Affairs, Complaint Intake, and Processing
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- DIR 0333.00, Criminal Investigations of Police Bureau Employees and Other Law Enforcement Agency Sworn Employees
- DIR 0335.00, ~~Discipline~~ Corrective Action Process
- DIR 0344.05, Bias-Based Policing/Profiling Prohibited
- DIR 0660.10, Property and Evidence Procedures
- DIR 0900.00, General Reporting Guidelines
- DIR 1010.00, Use of Force
- Professional Standards Division Standard Operating Procedure #14, Case File Confidentiality and Access Control.
- Multnomah County District Attorney's Office Policy 3.071: Government Witness Impeachment Index

Definitions:

- Credible Allegation: A complaint of misconduct for which there are indicia that the complaint may be sustained.
- ~~Duty to Report: The affirmative constitutional duty of law enforcement to notify the prosecutor of any exculpatory or impeachment information.~~
- Potential ~~Brady Material:~~ Exculpatory Evidence.
- Potential Exculpatory Evidence:
 - any information or material that tends to:
 - (1) favor the defendant;

- (2) exculpate the defendant;
 - (3) negate or mitigate the defendant’s guilt or punishment; or to
 - (4) impeach the credibility of any government witness, including but not limited to, police officers.
- For this Directive, **both potential exculpatory ~~or~~ and impeachment information is material are encompassed in the term “Potential *Brady* Material.” Exculpatory Evidence.”**
- Examples of Potential ~~*Brady* Material~~ Exculpatory Evidence include, but are not limited to:
 - Criminal convictions or criminal charges against any government witness.
 - Failure of any proposed witness to make a positive identification of a defendant.
 - Any inconsistent statement made orally or in writing by any proposed witness.
 - Information regarding mental or physical impairment of any government witness that would cast doubt on their ability to testify accurately and truthfully.
 - Evidence that a proposed witness has a racial, religious, or personal bias against a defendant individually or as a member of a group.
 - A sustained finding of misconduct regarding a member’s ~~dishonesty~~ untruthfulness, bias, or excessive use of force in conjunction with their service as a member.
 - Altering, tampering, concealing, or misusing evidence in any investigation.
- Prosecutor: For this Directive, the applicable prosecutorial entity for the case at issue, i.e., U.S. Attorney, County District Attorney, or Oregon Attorney General.

Policy:

- ~~1. This policy exists to ensure timely disclosure of an appropriate scope of exculpatory and impeachment information to ensure that trials are fair and to ensure that prosecutors receive sufficient information to meet their disclosure obligations relating to the credibility of government witnesses.~~
- ~~2. This policy~~ This directive provides Portland Police Bureau members with the information necessary to comply with the requirements of *Brady v. Maryland*, 173 U.S. 83 (1963), ~~and~~ *Giglio v. U.S.*, 405 U.S. 150 (1972), and subsequent rulings ~~regarding the disclosure of exculpatory and impeachment evidence to criminal defendants~~, and establishes the procedures for ~~reporting Potential *Brady* Material to~~ notifying the Prosecutor.
- ~~3. *Brady* and subsequent rulings require the Prosecutor to disclose to the defendant any evidence that is both favorable to the defendant, and material to the defendant’s guilt and/or punishment, including evidence that impeaches the credibility of a government witness.~~
- ~~4. The Bureau recognizes that materiality is a legal issue to be decided in court, and courts decide whether something is *Brady* material retrospectively. Therefore, the Bureau shall err on the side of disclosure and allow Prosecutors to make decisions about materiality.~~

~~5. The Bureau further recognizes that it is the Prosecutor's responsibility to determine whether to disclose material provided of Potential Exculpatory Evidence, as required by the Bureau to the criminal defendant.~~

~~6.1.law. Both general criminal investigations, and internal investigations regarding member misconduct (as found in criminal, administrative, and supervisory investigations), can yield Potential *Brady* Material. This policy establishes the procedures for reporting all Potential *Brady* Material to the Prosecutor, as required by law. Exculpatory Evidence.~~

Procedure:

1. Duty to ~~Report and~~ Identify and Report Potential ~~*Brady* Material~~ Exculpatory Evidence.
 - 1.1. The Bureau and its members have a Duty to Report Potential ~~*Brady* Material~~ Exculpatory Evidence to the Prosecutor. That obligation extends from the time of arrest through trial and sentencing.
 - 1.2. The Bureau and its members shall exercise due diligence to identify and ~~provide~~ report Potential ~~*Brady* Material~~ Exculpatory Evidence in the Bureau's possession to the Prosecutor as soon as practicable.
 - 1.3. Allegations that cannot be substantiated; are not credible; or have resulted in exonerated, not sustained, or unfounded findings are generally not Potential ~~*Brady* Material~~ Exculpatory Evidence.
2. Member Reporting and Investigating Responsibilities.
 - 2.1. ~~Member Responsibilities When Investigating a~~ Potential Exculpatory Evidence in Criminal Case Investigations.
 - 2.1.1. Members shall exercise due diligence to identify and provide Potential ~~*Brady* Material~~ Exculpatory Evidence they possess regarding criminal cases they are working, or have worked, to the Prosecutor as soon as practicable, on an on-going basis.
 - 2.1.2. Members shall document in their investigative reports all information they reasonably believe is Potential ~~*Brady* Material~~ Exculpatory Evidence (e.g., the failure of any proposed witness to make a positive identification of a defendant).
 - 2.1.3. Members report Potential ~~*Brady* Material~~ Exculpatory Evidence to the Prosecutor by submitting their reports electronically through the normal reporting process.
 - 2.2. Reporting Potential Exculpatory Evidence Regarding Member Misconduct.
 - 2.2.1. Members should be aware that member misconduct may constitute Potential ~~*Brady* Material~~ Exculpatory Evidence. Therefore:
 - 2.2.1.1. Members shall report alleged member misconduct in accordance with Directive 0310.00, Professional Conduct and Courtesy, and Directive 0330.00, Internal Affairs, Complaint Intake, and Processing, and as required by state law.
 - 2.2.1.2. Members shall report alleged member criminal conduct in accordance with Directive 0333.00, Criminal Investigations of Police Bureau Employees and

Other Law Enforcement Agency Sworn Employees, and as required by state law.

- 2.2.1.3. When a supervising member becomes aware of Potential ~~Brady~~ Material Exculpatory Evidence regarding alleged member misconduct, the supervising member shall immediately forward the information directly to Internal Affairs: (IA).

3. Potential ~~Brady~~ Material Exculpatory Evidence in Internal Affairs Investigations.

- 3.1. The ~~Professional Standards Division (PSD) Commander or designee Bureau~~ shall affirmatively ~~report the following to~~ notify the Multnomah County District Attorney's Office (MCDA), ~~or any Prosecutor who submits a written request for Potential Brady~~ Material of the following:

3.1.1. Open Investigations: All allegations of member misconduct regarding a member's untruthfulness, once the Bureau opens an investigation.

3.1.1.3.1.2. Credible Allegations: All allegations regarding a member's dishonesty, bias, evidence mishandling, or excessive force, regardless of the outcome that the Professional Standards Division (PSD) Commander or designee deems a Credible Allegation.

3.1.2.1. In making this determination, the PSD Commander or designee may consider, but is not limited to, the following indicia:

3.1.2.1.1. The inherent plausibility of the allegation;

3.1.2.1.2. The presence or absence of corroborative evidence;

3.1.2.1.3. Any admission by the involved member;

3.1.2.1.4. The weight of any witness accounts considering witness demeanor, motives to falsify, the opportunity of the witness to observe the conduct described, strength of memory, bias or prejudice, and/or previous inconsistent statements; and/or

3.1.2.1.5. Video evidence, including body-worn camera footage.

3.1.2.2. Notification of a Credible Allegation is not a recommended, proposed, or imposed finding in the administrative investigation process and the allegation may ultimately not be sustained.

3.1.3. Investigation Outcomes: The final outcomes (i.e., findings) for all investigations listed in Sections 3.1.1. and 3.1.2.

~~3.1.2. The PSD Commander or designee shall affirmatively All allegations of member misconduct that the Prosecutor specifically requests, consistent with ORS 135.815(2)(b).~~

3.2. Such allegations shall be reported, notify the MCDA of all criminal convictions and charges against any member, and any criminal investigation of any member in which there is a Credible Allegation.

3.2.3.3. All notifications shall be provided via a confidential submission per ORS 192.355(4) and may contain the following: case number, complainant name, incident date, reported date, status, status date, allegation type, allegation statement, applicable directive, and ~~finding~~ findings, if applicable.

In addition

~~3.3.3.4. The PSD Commander or designee shall affirmatively report to the above affirmative notifications to MCDA, or any the PSD shall provide the notifications listed in Section 3.1. and 3.2., in the manner described in Section 3.3., to any other Prosecutor who submits a written request for Potential *Brady* Material, all criminal convictions and charges against any member, and any criminal investigation of any member that amounts to Potential *Brady* Material Exculpatory Evidence.~~

~~3.4. Prosecutorial Review.~~

~~3.4.1. The PSD Commander shall allow a mutually agreed upon Prosecutor designee from the relevant Prosecutor's office to review, on site at the Portland Police Bureau, all criminal, administrative, and supervisory investigations against members to identify Potential *Brady* Material, upon request.~~

~~3.4.1.1. Prosecutors must sign a confidentiality agreement before reviewing files in accordance with PSD Standard Operating Procedure #14, Case File Confidentiality and Access Control, and Independent Police Review (IPR) procedures.~~

3.5. Prosecutorial Responsibilities.

3.5.1. It is the Prosecutor's decision how to evaluate Potential *Brady* Material. Exculpatory Evidence and their responsibility to determine any disclosure obligations. This decision includes whether ~~or not~~ Potential *Brady* Material Exculpatory Evidence is material to a specific case and whether ~~or not~~ to include members on any list or in any database, such as the MCDA's Potential Impeachment Disclosure Index (PID Index). The PID Index is the database used by the MCDA to track impeachment evidence regarding state witnesses (sometimes informally referred to as a "*Brady* list").

3.5.2. The Prosecutor is responsible for managing its own list or database related to impeachment evidence, including any procedures for including members and for appeals.

3.6. Professional Standards Division and Detective Division Responsibilities and Member Notification.

3.6.1. ~~The~~ PSD is responsible for monitoring all criminal, administrative, and supervisory investigations of members.

3.6.2. The PSD Commander or designee is responsible for the ~~Bureau's affirmative reporting~~ Bureau notifying the MCDA of Potential *Brady* Material Exculpatory Evidence in ~~Internal Affairs~~ IA Investigation files, Independent Police Review (IPR) investigation files once provided to IA, and criminal investigation files of members.

3.6.3. The Detective Division Commander or designee is responsible for identifying Potential *Brady* Material Exculpatory Evidence in criminal investigation files of members and reporting to the PSD Commander.

~~3.6.4. On a weekly basis, the PSD Commander or designee shall review allegations provided by IPR for Potential *Brady* Material. The PSD Commander shall~~

~~coordinate with IPR to obtain all IPR investigation files that either the PSD Commander or IPR Director reasonably believe contain Potential *Brady* Material.~~

~~3.6.5.3.6.4.~~ The PSD Commander or designee shall notify members in writing when the Bureau ~~affirmatively reports information about the member to~~ notifies the Prosecutor regarding the member's internal investigation file(s), unless doing so would jeopardize an ongoing investigation of the member.

~~3.6.6.3.6.5.~~ The PSD Commander or designee shall request a copy of MCDA's PID Index quarterly and shall attempt to remain informed of Bureau members listed therein.

3.7. Member Privacy and Rights.

- 3.7.1. This Directive does not change the confidential nature of member personnel files.
- 3.7.2. This Directive does not change the requirements of public records law exemptions imposed on the City, the Bureau, and the Prosecutor regarding member personnel files.
- 3.7.3. A member's inclusion on the PID Index or any "Brady list" is not independent grounds for member discipline or termination.
- 3.7.4. The PSD Commander or designee shall provide members with information regarding the MCDA review process and the member's rights upon request.

#1

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Please provide feedback for this directive

COMMENTS ON BODY CAMERA AND "BRADY LIST" DIRECTIVES, APRIL 2025

To Chief Day, Capt. Burton, PPB Policy Analysts, Court Monitor Team, Portland Committee on Community Engaged Policing, Deputy City Administrator Myers, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are Portland Copwatch's comments on the Body Worn Camera and "Brady List" Directives posted for review in March/April <<https://www.portland.gov/police/directives-overview>>. It's not clear exactly what changes are being made to the bodycam policy, but it is appreciated that there is no warning this time (as there has been in the past) that the final say on that policy might rest with the police collective bargaining units.

Notably, there are three Directives directly or indirectly related to confidential informants or agents (220.11, 660.32 and 660.33) which we are choosing not to address in part because of our general disapproval of the use of deceit by people who are paid to protect the community and tell the truth.

We continue to refer to the "Police Bureau Reporting of Potential Exculpatory or Impeachment Information" as the "Brady List" policy, reflecting the common term for the District Attorney's tracking officers whose credibility in court proceedings is in question. ("Brady" is a reference to a Supreme Court case.)

We once again urge the Bureau to add letters to identify section headings (Definitions, Policy, Procedure) so that there are not multiple sections with the same numbers, and to enumerate the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

DIRECTIVE 320.00 POLICE BUREAU REPORTING OF POTENTIAL EXCULPATORY OR IMPEACHMENT INFORMATION (previous comments December, 2020)

Are These Acts of Misconduct OK?: In our previous comments, we noted that officers may be put on the Brady list for facing criminal charges, tampering with evidence, dishonesty, bias, and inappropriate use of force (Definitions section). However, we also noted that the actions of harassment, discrimination and retaliation had previously been on the list of impeachable misconduct but are not included in the Directive. Does that mean that officers who engage in such activity have no credibility issues in court?

Make Language Clear: PCW still thinks previously removed Definitions of "exculpatory" and "impeachment" should be reinstated to the Directive.

Improved but Imperfect Language Noted: Our 2020 comments expressed concerns about Section 1.3's previous content which said allegations which have not been proven "will usually not be reported to the prosecutor." The new and slightly improved language says that such unproven allegations are "generally not Potential Brady Material." This still leaves open the question of when they are Brady material, so more guidance is needed.

Self-Reporting on Dishonesty?: It is unclear whether Section 2.1's requirement for officers to enter flag potential Brady material means officers have to admit their own shortcomings or if they are being encouraged to report other officers' potential misconduct. Section 3.1 on the Professional Standards Division shows those investigators' responsibilities to report on the officers. Does Section 2.1 refer to officers' supervisors? Moreover, in cases investigated by the new Office of Community-led Police Accountability, will OCPA be making its own Brady list for the DA?

Dishonesty vs. Truthfulness: It's appreciated that the language in the Directive is about dishonesty. As a point of clarification it would

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be good to know if that means the reporting is not limited to violations of the Directive on Truthfulness (which are supposed to lead to officers being fired, but an officer could be re-hired by another local agency, in theory). There was a case where Chief Outlaw agreed with the Citizen Review Committee to find an officer out of policy for lying to a community member (claiming he could be arrested for recording the officer) but ultimately changed the allegation to be a "performance issue." Would this kind of performance violation be counted toward the Brady list?

Balance Public's Right to Know Public's Business with Privacy: Section 3.6 on officer privacy and rights appears to be included to reassure officers that the records will not necessarily be released to the public. It is good to reassure officers of their rights, but there also needs to be appropriate transparency around those given the authority to use violence to enforce state power.

Overall Clarity Idea-- A Table of Violations: PCW continues to believe the Bureau should create a "Brady List Matrix," similar to the Corrective Action Matrix, which outlines what kinds of violations of what policies and laws would lead to an officer's name being submitted to the District Attorney.

CONCLUSION

As long as Portland continues to rely on police, Portland Copwatch appreciates the community being invited to give input into Bureau policy. The inclusion of the reasons for reviews, posting of redline drafts and other administrative improvements have made it more user-friendly to get involved. There are still issues around the ability of groups who only meet one time a month (such as the Portland Committee on Community Engaged Policing) or less frequently (the Citizen Review Committee and the Training Advisory Council) to draft comments in the 30 day timeframe. We also hope that the new Community Board for Police Accountability will be given enough time to review important Directives, engage the community in dialogue, and then provide feedback to the Bureau.

Thank you for your time

--dan handelman and other members of
--Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch
