



GENERAL ORDER

DURHAM POLICE DEPARTMENT
DURHAM, NC

NUMBER:
2036

GIGLIO REPORTING REQUIREMENTS

Effective Date: 04/03/2023

Revision Dates:

INTRODUCTION

Brady v. Maryland, 373 U.S. 83 (1963) placed an affirmative duty on a prosecutor to disclose favorable, material information to the defense. Case law extended this duty to police agencies, requiring them to notify the prosecutor of any such information. Evidence the prosecutor is required to disclose, sometimes referred to as “Brady material,” includes any evidence favorable to the accused – evidence that goes towards negating a defendant’s guilt or that would reduce a defendant’s potential sentence (i.e. exculpatory evidence). *Giglio v. United States*, 405 U.S. 150 (1972) expanded the *Brady* decision by requiring prosecutors to also provide information to the defense which could tend to impeach a witness, including evidence that might impact the credibility of a witness. Because a primary function of a law enforcement officer is to act as a witness for the State, N.C.G.S. 17C-16 establishes *Giglio* reporting requirements to ensure that employing agencies and the Criminal Justice Standards Division are aware of any *Giglio* impairments.

DEFINITIONS

***Giglio notification*:** Notification to a law enforcement officer that he or she may not be called to testify at trial based on bias, interest or lack of credibility that occurs by one of the following methods:

- In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person’s agency head; or
- In open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

***Division*:** The North Carolina Criminal Justice Standards Division.

REPORTING REQUIREMENT

Any law enforcement officer who receives a *Giglio* notification (“notification”) must report and provide a copy of that notification to:

- the Chief of Police, through his or her chain of command, copying the Commander of the Professional Standards Division, within 7 calendar days of receiving the notification; and
- the Division within 30 calendar days of receiving the notification, unless the officer has applied for a hearing in superior court in which case the officer shall report the notification to the Division within 45 days of its receipt.

The report shall be in writing and state who provided the notification.

The Commander of the Professional Standards Division who receives such a report shall, on behalf of the Chief of Police, provide written notification to the Division within 30 days of receipt of the report.

If any officer, required to report a notification to the Division, is subsequently informed in writing that the notification has been rescinded, the officer shall provide a copy of the document to:

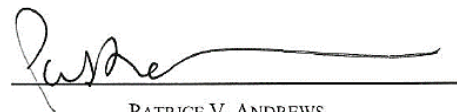
- the Chief of Police, through their chain of command, copying the Commander of the Professional Standards Division, within 7 calendar days of receiving the rescission; and
- the Division within 7 calendar days of receiving the rescission.

LIMITED RIGHT TO A HEARING

Any officer who receives a *Giglio* notification that may meet the aforementioned reporting requirement may apply for a hearing in superior court. The hearing is limited to reviewing whether: 1) the individual is certified by the Commission or has received a conditional offer of employment; 2) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order; and 3) that notification states that the person may not be called to testify at trial based on bias, interest or lack of credibility. An officer who applies for a hearing must provide written notice of the hearing to:

- the Chief of Police, through his or her chain of command, copying the Commander of the Professional Standards Division; and
- the Division.

within 7 calendar days of receiving the hearing date, or within 24 hours of receiving the hearing date if the hearing is scheduled to occur within less than 7 calendar days.

A handwritten signature in black ink, appearing to read 'Patrice', is written over a horizontal line.

PATRICE V. ANDREWS
CHIEF OF POLICE