

EXCULPATORY EVIDENCE DISCLOSURE REQUIREMENTS	Document Number	GO 607
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1. PURPOSE

The purpose of this policy is to ensure compliance with legal mandates requiring the disclosure of any evidence known by our department that could be exculpatory in nature. For reference, including but not limited to, U.S. Supreme Court decisions Brady v. Maryland 373 U.S. 83 (1963) and Giglio v. U.S. 405 U.S. 150 (1972).

2. PERSONS AFFECTED

All personnel

3. POLICY

It is the policy of the Hawai'i Police Department to follow disclosure requirements consistent with the law, to include identifying and providing to the prosecution, upon their request any exculpatory information (Brady/Giglio).

The Hawai'i Police Department shall exercise due diligence to ensure that information of possible exculpatory relevance is made available to the County of Hawai'i Office of the prosecuting Attorney.

4. PERSONNEL LIST

4.1. The Assistant Police Chief of the Administrative Services Bureau, with the assistance of the Office of Professional Standards Commander, shall maintain information regarding personnel that have been identified as having exculpatory evidence within their personnel file. These include, but are not limited to the following:

4.1.1. Sustained violations of the following Professional Conduct and Responsibilities and Rules of Conduct as set forth in General Order 300:

- a. Section 5.2 – Only Sections 5.2.3., 5.2.5., and 5.2.6.
- b. Class A Rules – Only Sections 5.3.1.(a), (b), and (c).
- c. Class B Rules – Only Sections 5.3.2.(c), (d), (f), (g), and (h).

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- Section 5.3.2.(a) may be applicable in limited circumstances, i.e. departmental employee is alleged to be the primary aggressor.

d. Class C Rules – Only Sections 5.3.3.(d), (e), and (g).

- Section 5.3.3.(f) may be applicable in limited circumstances, i.e. departmental employee is alleged to be the primary aggressor.

4.1.2. Unsubstantiated allegations of misconduct are not considered exculpatory evidence.

4.2. As the Hawai'i Police Department's Personnel Officer, the Assistant Police Chief of the Administrative Services Bureau shall:

4.2.1. Ensure that exculpatory (Brady/Giglio) information is updated as soon as practicable after new material is encountered and ensure that affected personnel are notified.

4.2.2. Upon request and as part of the discovery process, make available this information pertaining to exculpatory matters related to specific officers involved in an upcoming trial or court hearing to the County of Hawai'i Prosecuting Attorney, and other prosecuting agencies when applicable, in a timely manner.

4.2.3. At the time of the release of this information, inform the County of Hawai'i Office of the Prosecuting Attorney or appropriate prosecuting agency of any personnel that are still within the Grievance Proceeding Rights.

4.2.4. Maintain this information in a secure file with access allowed to Administrative personnel in connection with official business or in compliance with General Orders; and

4.2.5. Ensure this information is retained in accordance with the County's records retention schedule and collective bargaining agreement(s).