

 Kinston Police Department	<u>POLICY: Brady Protocol</u>						<u>POLICY #:</u> 700-7
	<u>NCLEA Standards: 1:16</u>						
	<u>NCLM Standards:</u>						
<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised	Revision Dates:	01/01/21	09/18/25				<u>Effective Date:</u> 07-01-2019
Approval: Chief of Police							

I. PURPOSE

Purpose of this policy is to establish departmental procedures and guidelines for the Kinston Police Department regarding the commitment to the professionalism and integrity of our department and the duty of police personnel to disclose exculpatory evidence to include disclosure of information relevant to the credibility of witnesses, including police officers and other employees.

II. DEFINITIONS

A. Brady Material:

1. Any finding of misconduct that reflects on the officer-witness truthfulness;
2. Any finding of misconduct that indicates that the officer-witness may be biased or previous conduct or action in which the officer's honesty or integrity was compromised;
3. Any credible allegation of misconduct, subject of a pending investigation, that reflects on the truthfulness or possible bias of the officer-witness; and,
4. Any past criminal charge or pending criminal charge brought against the officer-witness who will testify in a case before the court or who was involved in the investigation of the case.

B. Exculpatory Evidence: Evidence that may benefit the defense of any criminal case by showing facts that are favorable to a defendant or those facts which may disprove the allegations of the charges.

C. Lie (Untruthfulness): Any intentionally deceptive stated message communicated either verbally, in writing, or intentionally withholding facts (lying by omission). May also include deceptive conduct like physical expression such as a shoulder shrug, eye movement or silence – any intentional action that conveys a message.

III. POLICY

- A. The Kinston Police Department will cooperate with prosecutors in all cases by providing any evidence that may show a lack of credibility for any government witness involved in the investigation including police officers and other employees.
- B. Brady v. Maryland: The Supreme Court decision in Brady v. Maryland, 373 U.S. 83 (1963) and subsequent cases require a prosecutor in all criminal cases to present to the defense all

exculpatory evidence. This includes evidence which may show a lack of credibility for any government witness involved in the investigation, including police officers and other employees.

C. **Prosecutor Requirements:** Prosecutors are required to research the credibility of each witness in three areas and screen the information for relevancy to determine if it should be released to the defense.

D. Categories for mandated prosecutor screening:

1. **Substantiated Allegations:** Any finding of misconduct demonstrating the lack of honesty, integrity or conduct which detracts from the reasonable confidence and expectation of professionalism of those within the Kinston Police Department.
2. **Pending Investigations or Allegations:** Any credible allegation of misconduct that reflects upon the truthfulness or possible bias of the employee who is the subject of a pending investigation.
3. **Criminal Charges:** Any past or pending criminal charge against the employee; and,
4. **Unsubstantiated Allegations:** Any allegations that are unsubstantiated, not credible or have resulted in exoneration, when the allegations can be said to go to the truthfulness of the employee, must be revealed to the prosecutor under certain circumstances.

E. Pre-employment

1. The Department reserves the right to immediately terminate any employee who, if discovered, has prior misconduct in their background and said information was not previously disclosed or discovered before their hiring.

F. Violations

1. Sustained violations of untruthfulness, bias and the commission of crimes can severely impact the effectiveness of an employee to the Department and will not be tolerated. The Department will provide any such material to a prosecutor.
2. Documentation of sustained violations of untruthfulness, bias and the commission of crimes (Brady Material) will be retained within the Internal Affairs files. Brady Material will not be purged during the affected employee's career.
3. A substantiated violation of this directive, including action which indicates an employee lacks the honesty, integrity, trust and faith those serving this department must possess, may result in disciplinary action up to and including termination for a first offense.
4. Any violations in accordance with NCGS 17C-16 and 17E-16 will be reported to the North Carolina Criminal Justice Training and Standards Commission.