Criminal Justice Leaders Rally Behind Efforts to Identify Police Officers with Credibility Problems

Fifty-Nine Criminal Justice Leaders Support St. Louis Circuit Attorney’s Creation of a Brady List to Strengthen Integrity of Prosecutions

ST. LOUIS – Last week, a group of 59 current and former elected prosecutors and law enforcement leaders joined Fair and Just Prosecution in underscoring a prosecutor’s obligation to protect the integrity of the justice system. These criminal justice leaders offered their support to St. Louis Circuit Attorney Kim Gardner’s creation of a confidential Brady list that identifies law enforcement officials with credibility issues who are unfit to serve as witnesses, noting that this process is a well-established best practice employed by prosecutors throughout the nation.

“An elected prosecutor’s most important duty is to protect the integrity of the justice system. Allowing law enforcement officers with known credibility issues to influence charging decisions or reach the witness stand would be a dereliction of that duty,” said Miriam Krinsky, executive director of Fair and Just Prosecution, a national nonprofit that works with reform-minded prosecutors around the nation. “Creating and maintaining a Brady list is a recognized way to strengthen community trust, meet prosecutors’ moral and ethical obligations as ministers of justice and, ultimately, to make communities safer.”

When police officers refer cases to a prosecutor’s office, their testimony and role in the investigation may be a significant factor in a prosecutor’s weighty decision to file charges and prosecute a case. Brady lists – also known as “exclusion” or “do not call” lists – allow prosecutors to implement an orderly process for tracking information on officers who may not be able to serve as credible witnesses due to serious allegations of making false statements, having used excessive force or having engaged in other questionable behavior.

A shared belief in the value and importance of Brady lists prompted current and former elected prosecutors, law enforcement leaders and former Department of Justice officials from across the nation to sign on to a statement explaining that “the creation of a Brady list … is a necessary and recognized way to meet the prosecutor’s important role and ethical obligations as a minister of
justice.” A total of 59 criminal justice leaders signed on to the statement, including a dozen current and former law enforcement leaders such as Police Chiefs Chris Magnus (Tucson, Arizona), Sylvia Moir (Tempe, Arizona), Peter Volkmann (Chatham, New York), and Sheriff Jerry L. Clayton (Washtenaw County, Michigan).

“Law enforcement officers are public servants who have a duty to serve communities honorably and with the utmost of integrity,” said Police Chief Chris Magnus. “We have an obligation to limit the influence of anyone who fails to meet this high standard, thereby eroding community trust. Brady lists help maintain the reputation of our profession, and our communities are safer when individuals trust law enforcement and have faith in the integrity of the justice system.”

Twenty-seven current elected prosecutors also signed the statement, including State Attorney Aramis Ayala (Ninth Judicial Circuit, Florida) and District Attorneys Diana Becton (Contra Costa County, California), John Creuzot (Dallas County, Texas), Satana Deberry (Durham County, North Carolina), Michael Dougherty (20th Judicial District, Colorado), Mark Dupree (Wyandotte County, Kansas), Joe Gonzales (Bexar County, Texas), Mark Gonzalez (Nueces County, Texas), Larry Krasner (Philadelphia, Pennsylvania), Beth McCann (Second Judicial District, Colorado), Kim Ogg (Houston, Texas), Rachael Rollins (Suffolk County, Massachusetts) and Tori Verber Salazar (San Joaquin County, California). (A full list of signatories is below.) Many of the elected prosecutors who signed the statement have Brady lists or similar processes in place in their own offices.

Former Solicitor General Seth Waxman, another signatory to the statement, noted: “The Brady obligation dates back to 1963, is well established case law and is non-negotiable.”

Dan Satterberg, a veteran prosecutor and Prosecuting Attorney of King County, Washington, similarly underscored the duty of prosecutors to implement these well-settled ethical and legal obligations: “Brady lists have been an essential tool used by prosecutors for decades. While law enforcement officers are certainly entitled to a fair process, resistance by unions or others does not excuse the Prosecutor’s duty to protect the integrity of the justice system.”

Circuit Attorney Gardner notified the St. Louis Police Department in August 2018 that she had created a Brady list with the intention of having further discussions around creating a fair process that protects officer privacy and provides a pathway for removal form the list where appropriate. Her efforts have been met with opposition from the St. Louis Police Union.

The full statement is available here.

List of Signatories

Roy L. Austin
Former Deputy Assistant to the President for Urban Affairs, Justice and Opportunity, White House Domestic Policy Council
Former Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice
Aramis Ayala
State Attorney, Ninth Judicial Circuit, Florida

Chiraag Bains
Former Senior Counsel to the Assistant Attorney General, Civil Rights Division, U.S. Department of Justice
Former Trial Attorney, Criminal Section, Civil Rights Division, U.S. Department of Justice

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Commissioner, Cambridge Police Department, Massachusetts

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Former Associate Deputy Attorney General and Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice
Former Chief Assistant State Attorney, 11th Judicial Circuit, Florida

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Kim Cheney
Former Attorney General, Vermont

John T. Chisholm
District Attorney, Milwaukee County, Wisconsin

Jerry L. Clayton
Sheriff, Washtenaw County, Michigan

Scott Colom
District Attorney, Sixteenth Circuit, Mississippi

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Former Police Chief, Albany, New York

John Creuzot
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District Attorney, Durham County, North Carolina

Michael Dougherty
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Former Director, Office for Access to Justice, U.S. Department of Justice

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Mark Gonzalez
District Attorney, Nueces County, Texas

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District Attorney, Winnebago County, Wisconsin

Vanita Gupta
Former Head of the Civil Rights Division, U.S. Department of Justice

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Executive Director, Fair and Just Prosecution
Former Assistant U.S. Attorney, Criminal Appellate Chief and Chief, General Crimes, Central District of California
Former Chair, Solicitor General’s Criminal Appellate Advisory Group

Chris Magnus
Police Chief, Tucson, Arizona

James Manfre
Former Sheriff, Flagler County, Florida

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District Attorney, Second Judicial District, Colorado
Mary McCord
Former Acting Assistant Attorney General and Principal Deputy Assistant Attorney General for National Security, U.S. Department of Justice
Former Assistant U.S. Attorney and Chief, Criminal Division, District of Columbia

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Commonwealth’s Attorney, Portsmouth, Virginia

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Chief Justice, New Hampshire Superior Court
Former Assistant Attorney General, New Hampshire

Bill Nettles
Former U.S. Attorney, District of South Carolina

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Former Police Superintendent, New Orleans, Louisiana
Former Chief, Metropolitan Nashville, Tennessee
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Carol A. Siemon
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Former Police Chief, Seattle, Washington

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Former U.S. Attorney, Southern District of Ohio

David E. Sullivan
District Attorney, Northwestern District, Massachusetts

Betty Taylor
Former Police Chief, Winfield, Missouri

Raúl Torrez
District Attorney, Bernalillo County, New Mexico

Joyce Vance
Former U.S. Attorney, Northern District of Alabama

Peter Volkmann
Police Chief, Chatham, New York

Seth Waxman
Former Solicitor General of the United States, U.S. Department of Justice

*Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit http://www.fairandjustprosecution.org/ or follow us on Facebook @FairAndJustProsecution.*