Protecting the Integrity of the Justice System:
The Importance of Brady Lists as a Recognized Best Practice

The undersigned current and former elected prosecutors, law enforcement leaders, and Department of Justice officials write to support the efforts by the St. Louis Circuit Attorney’s Office (as well as other elected prosecutors around the nation) to create a process for identifying law enforcement officials whose credibility is at issue and who, as a result, should not be relied upon as witnesses or affiants in criminal cases. The creation of this type of process – also known as a Brady list (or in some instances an “exclusion” or “do not call” list) – is a well-settled best practice and is common among prosecutors’ offices nationwide, including at the local, state and federal level. Efforts to put this process in place in St. Louis City and elsewhere is a commendable step to prevent law enforcement officials who could compromise cases from playing a significant role in the investigation or prosecution of criminal charges unless and until their matter is resolved in a way that will not jeopardize future cases.

While state laws and local policies vary widely, and in some jurisdictions prosecutors’ lack of access to police personnel files effectively prevents them from maintaining such a list,2 we believe that the creation of a Brady list – such as the one maintained confidentially by the St. Louis Circuit Attorney’s office – is a necessary and recognized way to meet the prosecutor’s important role and ethical obligations as a minister of justice.

When police officers refer cases to a prosecutor’s office, their testimony or role in the investigation – including in interviews, chain of evidence collection, or as an eyewitness – may be a significant factor in the prosecutor’s exercise of the weighty discretion to file charges and prosecute the case. Brady lists allow prosecutors to implement an orderly process for gathering in one place information on officers who may not be able to serve as credible witnesses. Serious allegations of having made false statements, using excessive force, or engaging in other questionable behavior could undermine the credibility of those in law enforcement who are central to the pursuit of criminal charges that trigger loss of liberty and other significant consequences.

It is the obligation of prosecutors to use their discretion and judgement to ensure that charges filed and other actions taken further the interests of justice. Prosecutors are public servants

---

1 https://caselaw.findlaw.com/us-supreme-court/373/83.html
charged with protecting the interests of all members of the community – including the rights of defendants charged with crimes. By preserving the integrity of the justice system, community trust is strengthened, and our entire community is safer.

We are aware that there have been objections to the Brady list process initiated by the St. Louis Circuit Attorney raised by the St. Louis Police Union, including claims that the process will compromise officer privacy and due process interests (similar claims have been raised in other jurisdictions3). But we understand that the Circuit Attorney’s Office is committed to ensuring that there is a process in place to notify officers who are on the Brady list and to implement mechanisms for officers to be removed from the list. These steps are part of recognized best practices that balance the interests of safeguarding the delivery of justice with the importance of protecting law enforcement officials’ privacy and ability to carry out their job of protecting the community.

Based on our collective experience as current and former prosecutors, law enforcement officials, and leaders within the criminal justice system, we urge both local officials and directly impacted law enforcement leaders to constructively work toward the creation of an appropriate and effective system that, in the words of St. Louis Circuit Attorney Kim Gardner, helps “defend the integrity of the criminal justice system.”4 That is the essence of how criminal justice leaders fortify community trust in our system and thereby ensure the safety of all members of our community.

Signatories

Updated January 14, 2019

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

Branville Bard
Commissioner, Cambridge Police Department, Massachusetts

Diana Becton
District Attorney, Contra Costa County, California

Shay Bilchik
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

Sherry Boston
District Attorney, DeKalb County, Georgia

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

Brendan Cox
Former Police Chief, Albany, New York

John Creuzot
District Attorney, Dallas County, Texas

Satana Deberry
District Attorney, Durham County, North Carolina

Michael Dougherty
District Attorney, 20th Judicial District, Colorado

Mark Dupree
District Attorney, Wyandotte County, Kansas
Lisa Foster
Former Director, Office for Access to Justice, U.S. Department of Justice

George Gascón
District Attorney, San Francisco, California

Sarah F. George
State’s Attorney, Chittenden County, Vermont

Joe Gonzales
District Attorney, Bexar County, Texas

Mark Gonzalez
District Attorney, Nueces County, Texas

Christian Gossett
District Attorney, Winnebago County, Wisconsin

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

Andrea Harrington
District Attorney, Berkshire County, Massachusetts

Robert J. Hoffman
Former Police Chief, Plainfield, Connecticut

John Hummel
District Attorney, Deschutes County, Oregon

Lawrence S. Krasner
District Attorney, Philadelphia, Pennsylvania

Miriam Aroni Krinsky
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

Beth McCann  
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

Daniel Meloy  
Former Police Chief, Colerain Township, Ohio

Spencer Merriweather  
District Attorney, Mecklenberg County, North Carolina

Brian Middleton  
District Attorney, Fort Bend County, Texas

Sylvia Moir  
Police Chief, Tempe, Arizona

Steve Moore  
Former Police Chief, Hurst, Texas

Stephanie N. Morales  
Commonwealth’s Attorney, Portsmouth, Virginia

Marilyn Mosby  
State's Attorney, Baltimore City, Maryland

Tina Nadeau  
Chief Justice, New Hampshire Superior Court  
Former Assistant Attorney General, New Hampshire
Bill Nettles  
Former U.S. Attorney, District of South Carolina

Kim Ogg  
District Attorney, Harris County, Texas

Jerome O'Neill  
Former Acting U.S. Attorney, Vermont

Channing Phillips  
Former U.S. Attorney, District of Columbia  
Former Senior Counselor to the Attorney General, U.S. Department of Justice  
Former Deputy Associate Attorney General, U.S. Department of Justice

Rachael Rollins  
District Attorney, Suffolk County, Massachusetts

Jeff Rosen  
District Attorney, Santa Clara County, California

Marian Ryan  
District Attorney, Middlesex County, Massachusetts

Tori Verber Salazar  
District Attorney, San Joaquin County, California

Dan Satterberg  
Prosecuting Attorney, King County, Washington

Ronal Serpas  
Co-Chairman, Law Enforcement Leaders to Reduce Crime & Incarceration  
Former Police Superintendent, New Orleans, Louisiana  
Former Chief, Metropolitan Nashville, Tennessee  
Former State Patrol Chief, Washington

Carol A. Siemon  
Prosecuting Attorney, Ingham County, Michigan

Norm Stamper  
Former Police Chief, Seattle, Washington
Carter Stewart  
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