

Effective 5/7/2025

Part 10
Requirements Related to Brady Material

53-25-1001 Definitions.

As used in this part:

- (1) "Brady identification system" means any type of system used by a prosecution agency to assist in tracking and disclosing Brady material to defendants being prosecuted by the prosecution agency.
- (2) "Brady material" means potential impeachment information that a prosecutor has disclosed or may disclose to a defendant being prosecuted for a criminal offense relating to conduct of a peace officer who was involved in the arrest or investigation of the defendant.
- (3) "Law enforcement agency" means a public agency having general police power and charged with making arrests in connection with enforcement of the criminal laws, statutes, or ordinances of this state or political subdivisions of this state.
- (4)
 - (a) "Peace officer" means any officer certified in accordance with Chapter 13, Peace Officer Classifications.
 - (b) "Peace officer" includes any employee of a law enforcement agency whose job duties include providing courtroom testimony in support of the enforcement of criminal laws, statutes, or ordinances.
- (5) "POST" means the Peace Officer Standards and Training Division created in Section 53-6-103.
- (6) "Prosecution agency" means a city attorney, county attorney, district attorney, the attorney general, or other prosecution agency.

Enacted by Chapter 196, 2025 General Session

53-25-1002 Prosecution agency's requirements related to Brady material.

- (1)
 - (a) A prosecution agency may use a Brady identification system to fulfill the prosecution agency's discovery obligations regarding Brady material under federal law, state law, court order, or court rule.
 - (b) A prosecution agency is not required to maintain a Brady identification system and may determine that the prosecution agency's discovery obligations regarding Brady material can be met through another procedure.
- (2) A prosecution agency that uses a Brady identification system may make disclosures of Brady material to a defendant in a prosecution even if the prosecution agency has not made a final decision regarding whether the peace officer who is the subject of the Brady material will be placed onto the prosecution agency's Brady identification system.
- (3)
 - (a) Except as provided in Subsection (3)(b), before a prosecution agency may initially place a peace officer on the prosecution agency's Brady identification system, or add additional information to the prosecution agency's Brady identification system regarding a peace officer already on the prosecution agency's Brady identification system for a reason unrelated to the initial placement, the prosecution agency shall:
 - (i) provide the peace officer with written notice that the prosecution agency intends to:
 - (A) place the peace officer onto the prosecution agency's Brady identification system; or

- (B) if the peace officer is already on the prosecution agency's Brady identification system, add additional information about the peace officer onto the prosecution agency's Brady identification system;
- (ii) provide the peace officer with copies of any documents, records, and other evidence relied upon by the prosecution agency that is seeking to place the peace officer, or add additional information regarding the peace officer, onto the Brady identification system; and
- (iii) provide the peace officer with an opportunity to dispute the peace officer's placement, or addition of information regarding the peace officer, onto the Brady identification system.
- (b) A prosecution agency is not required to provide the procedures described in Subsection (3)
 - (a) if the Brady material underlying the peace officer's placement onto the Brady identification system relates to a criminal conviction.
- (4) If a peace officer is employed by a law enforcement agency and is placed onto a prosecution agency's Brady identification system in accordance with this section, the prosecution agency shall notify the peace officer's employer regarding the placement.
- (5) A prosecution agency that uses a Brady identification system shall adopt a policy, accessible to any peace officer in the prosecution agency's jurisdiction, that includes:
 - (a) the criteria used by the prosecution agency to place an officer on the prosecution agency's Brady identification system including:
 - (i) a description of what conduct qualifies as Brady material; and
 - (ii) a description of other conduct not defined in this part that the prosecution agency determines will get a peace officer placed on the prosecution agency's Brady identification system; and
 - (b) the rights, procedures, and limitations described in Subsection (3).
- (6) If a peace officer is placed onto a prosecution agency's Brady identification system and then is placed on another prosecution agency's Brady identification system, the other prosecution agency:
 - (a) does not have to provide the peace officer with the rights and procedures described in Subsection (3)(a), if the peace officer's placement is based on the same conduct that led to the peace officer being placed on the initial prosecution agency's Brady identification system and the peace officer was provided the rights and procedures described in Subsection (3)(a) by the initial prosecution agency; and
 - (b) shall:
 - (i) provide the peace officer with written notice that the prosecution agency has added the peace officer to the prosecution agency's Brady identification system;
 - (ii) provide the peace officer with an opportunity to respond in writing to the peace officer's placement on the prosecution agency's Brady identification system; and
 - (iii) review the peace officer's response described in Subsection (6)(b)(ii).
- (7) A peace officer may not seek judicial review of a prosecution agency's determination to place an officer on a Brady identification system in accordance with this section.
- (8) Any information or record maintained by a prosecution agency in a Brady identification system is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.
- (9) This section does not:
 - (a) create a private cause of action by a peace officer or by a law enforcement agency against a prosecution agency or the prosecution agency's employees for the procedures and determination related to the placement of a peace officer onto a Brady identification system; or

- (b) restrict or limit a prosecution agency from fulfilling the prosecution agency's discovery obligations.

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53-25-1003 Peace officer and employing law enforcement agency requirements related to Brady material.

- (1)
 - (a) If a peace officer has been placed onto a prosecution agency's Brady identification system after being provided the rights and procedures described in Subsection 53-25-1002(3) and the peace officer is subpoenaed by a different prosecution agency to testify in court, the peace officer shall disclose that placement to the prosecution agency that issued the subpoena as soon as practicable after receiving the subpoena.
 - (b) If a peace officer fails to disclose the peace officer's placement on a Brady identification system as described in Subsection (1)(a), the peace officer's employing law enforcement agency may take disciplinary action against the peace officer.
- (2)
 - (a) A law enforcement agency may not use the placement of a peace officer onto a Brady identification system as described in Section 53-25-1003 as the sole reason for taking or denying any of the following employment actions against the peace officer:
 - (i) demotion;
 - (ii) suspension;
 - (iii) termination; or
 - (iv) any other disciplinary action.
 - (b) Notwithstanding Subsection (2)(a), a law enforcement agency may use the underlying facts of the Brady material that were the basis for the peace officer's placement onto a Brady identification system for taking a disciplinary action against the peace officer in accordance with the law enforcement agency's adopted policies and procedures and governing law.
- (3) A chief, sheriff, or administrative officer of a law enforcement agency who knows of an allegation against a peace officer employed by the chief's, sheriff's, or administrative officer's law enforcement agency involving Brady material shall conduct an administrative or internal investigation into the allegation and, if after the law enforcement agency's adopted policies and procedures are followed and the allegation is substantiated, report the findings of the investigation to:
 - (a) if the law enforcement agency is a private law enforcement agency or a city, county, or other local law enforcement agency, the county attorney of the jurisdiction where the law enforcement agency is located; or
 - (b) if the law enforcement agency is a state law enforcement agency, to the attorney general.

Enacted by Chapter 196, 2025 General Session