

# **516 GIGLIO REQUEST**

The purposes of this policy are to ensure that prosecutors receive sufficient information to meet their obligations under *Giglio v. United States*, 405 U.S. 150 (1972), and ensure that the due process rights of accused individuals are protected, while protecting the legitimate privacy rights of Law Enforcement Agency employees. The disclosure to prosecutors of potential impeachment information concerning Law Enforcement Agency witnesses ensures that the Division of Criminal Justice is acting at all times to promote public confidence in the integrity of our work in pursuing justice.

The exact parameters of potential impeachment information are not easily determined. Potential impeachment information, however, has been generally defined as impeaching information which is material to the defense. It also includes information that either casts a substantial doubt upon the accuracy of any evidence—including witness testimony—the prosecutor intends to rely on to prove an element of any crime charged, or might have a significant bearing on the admissibility of prosecution evidence. This information may include but is not strictly limited to: (a) specific instances of conduct of a witness for the purpose of attacking the witness' credibility or character for truthfulness; (b) evidence in the form of opinion or reputation as to a witness' character for truthfulness; (c) prior inconsistent statements; and (d) information that may be used to suggest that a witness is biased.

## **POLICY**

Requests shall be made prior to any adversarial proceeding in which the prosecutor intends to call a police officer as a witness. Requests will only be made to Chief Law Enforcement Officers. When a prosecutor determines that it is necessary to request potential impeachment information from a Chief Law Enforcement Officer relating to an agency employee identified as a potential witness or affiant ("the employee") in a specific criminal case or investigation, a request will be made only by a prosecutor to the local Chief of Police using the letter attached to this policy.

The request to the local Chief of Police should specifically request that the prosecutor be informed of:

- (a) any finding of misconduct that reflects upon the truthfulness or possible bias of the employee, including a finding of untruthfulness during an administrative inquiry;
- (b) any criminal charge against the employee pending during the investigation or prosecution of the case in which the request is being made; and
- (c) any credible allegation of misconduct that reflects upon the truthfulness or possible bias of the employee.

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Allegations that cannot be substantiated, are not credible, or have resulted in the exoneration of an employee generally are not considered to be potential impeachment information and need not be disclosed.

### **DISCLOSURE**

Prosecutors shall ensure that special care is taken to protect the confidentiality of such information and the privacy interests and reputations of law enforcement agency employee-witnesses. This includes, in appropriate cases, filing records received in accordance with this policy under seal with the trial court to obtain an in camera review prior to disclosure to the defense.

At the conclusion of the case, if such information was not disclosed to the defense, the prosecutor shall ensure that all materials received from an investigative agency regarding the allegation, including any and all copies, are expeditiously returned to the investigative agency.

### **REFERENCE MATERIALS**

*Giglio v. United States*, 405 U.S. 150 (1972)

*Brady v. Maryland*, 373 U.S. 83 (1963)

CGS Sec. 54-142k. Availability of conviction information and non-conviction information

CGS Sec. 54-86c(c)

Connecticut Rules of Professional Conduct Rule 3.8

Connecticut Practice Book Section 40-11

Questions concerning this policy or its implementation in any particular case shall be directed to the State's Attorney.

## Exemplar of Letter to Chief

[Chief of Police]

RE: [Name(s) of Officers]

Dear Chief [Name]:

I have identified the above-named officers as potential witnesses in State of Connecticut v. [Name of Defendant]. I anticipate that the trial of this matter will begin on [Date]. I am writing to request that you provide me with any potential impeachment material contained in the records of your agency. In particular, I am required to disclose information relating to:

(a) any finding of misconduct that reflects upon truthfulness or possible bias, including a finding of untruthfulness during an administrative inquiry;

(b) any criminal charge against the employee pending during the investigation or prosecution of the case in which the request is being made; and

(c) any credible allegation of misconduct that reflects upon truthfulness or possible bias. Please note that allegations that cannot be substantiated, are not credible, or have resulted in exoneration generally are not considered to be potential impeachment information and need not be disclosed.

Should you have any questions please feel free to contact me or State's Attorney \_\_\_\_\_ . Thank you in advance for your anticipated cooperation.

Cordially,

[Name of Prosecutor]