



# RICHMOND POLICE DEPARTMENT GENERAL ORDER



Subject: <b>DUTIES TO THE COMMONWEALTH'S ATTORNEY'S OFFICE</b>	Chapter 1	Number 12	# Pages 4
References: CALEA: 42.1.5c, 42.1.6	Related Orders: General Orders 07-02, 06-12	Effective Date: <b>05/13/2026</b> Revised By: Review Prv. Rev. Date: <b>06/21/2023</b>	
<i>If any provision of this general order conflicts with any collective bargaining article, the collective bargaining agreement shall govern.</i>			
Chief of Police: <div style="text-align: center; font-family: cursive; font-size: 1.2em; margin-top: 10px;">Robert N. Edwards</div>			

## I. PURPOSE

This directive outlines the responsibilities of members of the Richmond Police Department to disclose potentially exculpatory or impeachment evidence to the Commonwealth's Attorneys and the expected etiquette while conducting official business with the Commonwealth's Attorney's Office.

## II. SUMMARY OF CHANGE

*This policy is due for triennial review. The Office of General Counsel has been updated to City Attorney's Office. New language is denoted in bold and italicized text.*

## III. POLICY

It is the policy of the Department to establish the proper guidelines regarding the use of the Commonwealth's Attorney's Office and communications/dissemination of information between the Richmond Police Department and that office, including the disclosure of exculpatory and impeachment evidence. The Richmond Police Department (**RPD**) and the Commonwealth's Attorney's Office embrace the concept and practice of Community Prosecution. As such, the Commonwealth's Attorney assigns prosecutors to each police precinct to collaborate with police personnel. The Commonwealth's Attorney's Office has an open-door policy for officers, detectives, and other employees of the Police Department. The Commonwealth's Attorney seeks the complete involvement of police officers and detectives in prosecuting all criminal matters.

## IV. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines outlined in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the division commander to ensure that any policy violations are investigated, and appropriate training, counseling, and disciplinary action is initiated.

This directive is for internal use only and does not enlarge an employee's civil liability in any

way. It should not be construed as creating a higher standard of safety or care in an evidentiary sense concerning third-party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department and then only in a non-judicial administrative setting.

## V. PROCEDURE

### A. Assignment of Commonwealth's Attorneys:

1. The Commonwealth's Attorney's Office is available as a resource for all police officers and detectives on matters of law that affect investigations, searches/seizures, and arrests. Officers and detectives are encouraged to contact the Commonwealth's Attorney's Office in any case the officer/detective believes such contact is warranted.
2. The Commonwealth's Attorney's Office assigns prosecutors to each of the Department's twelve (12) sectors. Questions specific to a sector should be addressed to the respective sector prosecutor. Other general questions should be addressed to the duty attorney, who can be reached during business hours at (804) 646-3500.

### B. Legal Opinions:

1. Should an employee require a formal written legal opinion from the Office of the Commonwealth's Attorney, the employee shall direct the request for such opinion, in writing, through channels to the Police Department's *counsel from the City Attorney's Office*.
2. *Counsel from the City Attorney's Office* will receive an opinion from the Office of the Commonwealth's Attorney and respond to the employee requesting the opinion.

### C. Communication and Dissemination of Information:

The Commonwealth's Attorney's Office will routinely communicate with employees of the Police Department and disseminate information to Department personnel both verbally and in writing. This includes assistance in active cases, training, and communication for other purposes. When the issue is Department-wide, the Commonwealth's Attorney's Office will communicate with and/or disseminate the relevant information to *assigned counsel from the City Attorney's Office* for further dissemination.

Likewise, *the Department has a legal obligation to* disseminate information to the Commonwealth's Attorney's Office, including, but not limited to, disclosure of exculpatory and impeachment evidence discovered during the investigation of a crime and previously unknown or unrecognized exculpatory evidence discovered post-conviction.

[CALEA 42.1.6]

#### 1. Duty to Disclose Exculpatory & Impeachment Evidence:

In all criminal prosecutions, prosecutors are required to disclose evidence that is "favorable to an accused." Evidence favors an accused if it tends to excuse, justify, or absolve the accused of guilt. The duty to disclose "encompasses impeachment evidence as well as exculpatory evidence." *United States v. Bagley*, 473 U.S. 667, 676 (1985). In this context, Commonwealth's Attorneys are charged with having knowledge of information known to law enforcement agencies "irrespective of the good faith or bad faith of the prosecution." *Brady v. Maryland*, 373 U.S. 83 (1963). "[T]he rule encompasses evidence known only to police investigators and not to the

prosecutor.” Therefore, “[i]n order to comply with *Brady*, ... the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in [the] case, including the police.” *Bly v. Commonwealth*, 280 Va. 656 (2010). Failure to disclose *Brady/Giglio* material could be found to be a violation of due process that may result in the dismissal or reversal of otherwise valid convictions.

2. *Brady* material and exculpatory evidence includes, but is not limited to:
  - a. Physical evidence that may be favorable to the defense or tends to exculpate the defendant (i.e., unknown fingerprints at a crime scene, DNA evidence that identifies someone other than the defendant, varying types of shell casings found at a crime scene)
  - b. Conflicting witness/victim statements and reports
  - c. Witnesses who were not able to identify the accused
  - d. Known untruthfulness of a witness/victim
  - e. Known biases of witnesses/victims
  - f. Prior criminal history of witnesses/victim
  - g. Scientific reports favorable to the accused
3. The Commonwealth’s Attorneys are subject to a continuing duty to disclose exculpatory evidence to the defense, which means that police officers/detectives are obligated to continue to disclose potentially exculpatory evidence during the investigative process, prosecution, and post-conviction.
4. The duty to disclose exculpatory and impeachment evidence extends to information known about the officers, detectives, and other RPD employees (whether in a sworn or *professional staff* law enforcement position) involved in the investigation of crime. As such, in coordination with the Internal Affairs Division, ***assigned counsel from the City Attorney’s Office*** shall disclose the pendency of and ultimate findings/substantiations of misconduct amounting to *Brady/Giglio* information. The time frame within which disclosures regarding RPD employees must be made to the Commonwealth’s Attorney’s Office are defined in a memorandum of understanding. The misconduct subject to disclosure is also defined in the memorandum of understanding and includes but is not limited to:
  - a. Untruthfulness or conduct or statements that call into question an employee’s veracity;
  - b. Conduct or statements that call into question an employee’s ability to perceive and recall events;
  - c. Conduct or statements that reflect on an employee’s bias against a particular defendant or a particular group defined by race, religion, gender, or other protected classes;
  - d. Instances of excessive use of force or violations of the use of force policy;

e. Criminal convictions or pending criminal charges.

D. General:

1. Police officers/detectives shall cooperate fully with the Commonwealth's Attorney's Office in the prosecution of all criminal matters.
2. Police officers/detectives shall contact the Commonwealth's Attorney's Office before charging any individual with homicide.
3. Police officers/detectives should contact the Commonwealth's Attorney's Office in regard to an arrest or investigation for any aggravated felony (rape, forcible sodomy, object sexual penetration, robbery, malicious wounding). Police supervisors will use the current contact list to notify the appropriate duty attorney for the crimes.  
[CALEA 42.1.5c]
4. Police officers/detectives shall utilize the Court Scheduler Application for their court dates, training, and vacation leave.
5. Any officer scheduled for mandatory training must notify the court and the ***Court Liaison Sergeant*** at least two days before the scheduled court date, ***however notification is not a guarantee that they will be excused from appearing in court.***
6. Officers issued a PD-079 with the Court Attendance section box checked "You will not attend court until otherwise notified" shall notify the ***Court Liaison Sergeant*** of upcoming court cases.
7. The PD-067, Court Conflict Dates and Witness Form, is available to help avoid conflicts with court dates. Officers are encouraged to keep a copy of the PD-067 for their records.

VI. FORMS

- A. PD-067, Court Conflict Dates and Witness
- B. PD-079, Change in Duty Status and/or Status of Police Powers