

IDAHO STATE POLICE PROCEDURE

02.20 EXCULPATORY EVIDENCE

A. General

The United State Supreme Court decisions *Brady v Maryland*, 83. S. Ct. 1194(1963) and *Giglio v United States*, 92 S.Ct. 763 (1972), and others, require that law enforcement personnel provide all potentially exculpatory evidence to prosecutors. ISP and individual employees may be liable in state or federal court for failing to disclose evidence to a prosecutor that may be favorable to a defendant.

B. Definitions

“Exculpatory evidence” means evidence in ISP’s possession that is favorable to the accused and that is material to either guilt or punishment, including evidence that could be used as impeachment evidence such as ISP employee disciplinary history that may impact the employee’s credibility as a witness.

C. Investigative Requirements

1. Officers and forensic scientists must document all investigative activity in each case, including exculpatory information.
2. All investigative reports are submitted to the prosecutor’s office prior to actual prosecution of the case.
3. When summoned to appear as a witness in a criminal case, officers, forensic scientists, or other employee witnesses must immediately inform the prosecutor of any pending allegations or sustained disciplinary history that may qualify as exculpatory because it may impact the employee’s credibility.
4. Employees disclosing such a history to the prosecutor, direct the prosecutor to contact the ISP Office of Professional Standards (OPS) Coordinator for the relevant disciplinary or personnel file.
5. The OPS Coordinator shall provide any exculpatory disciplinary or personnel file information to the prosecutor upon request of the prosecutor independent of employee disclosure or consent.