



# Tulsa Police Department

This policy statement and the procedures thereunder are intended for Police Department use only. The policies, procedures, and regulations are for internal Police Department administrative purposes and are not intended to create any higher legal standard of care or liability in an evidentiary sense than is created by law. Violations of internal Police Department policies, procedures, regulations, or rules form the basis for disciplinary action by the Police Department. Violations of law form the basis for civil and/or criminal sanctions to be determined in a proper judicial setting, not through the administrative procedures of the Police Department.

**Policy #** 112H

**Effective Date** 06/28/2023

**Policy Name** Exculpatory Evidence

**Approved Date** 06/28/2023

**Approved by** *Wendell Franklin, Chief of Police*

**Previous Date** NEW

## PURPOSE OF CHANGE:

New policy.

## POLICY:

It is the responsibility of all Tulsa Police Department personnel to disclose any exculpatory evidence to the prosecuting authorities during the investigation stage, or post-conviction pursuant to the legal principle of *Brady v. Maryland*.

**SUMMARY:** Procedures for personnel to report exculpatory evidence.

**APPLIES TO:** All police personnel.

## DEFINITIONS:

**EXCULPATORY EVIDENCE:** is that which is favorable to the accused and material either to guilt or to punishment, and may include, but not be limited to, evidence that: tends to indicate the defendant may not be guilty, aids the defendant's case, shows that a lesser crime was committed or that a lesser sentence would be appropriate, or affects the credibility of a witness whose reliability may be determinative of guilt or innocence.

## PROCEDURES:

1. Employees shall not ignore evidence that could be exculpatory.
2. Personnel shall review all evidence in an investigation to identify any information that could potentially exonerate the defendant. This includes all physical evidence, all witness statements, all lab results, all line-ups even when no one is selected by a witness, all search warrants even when nothing is found during a search, etc. Employees shall make the prosecution aware of any evidence that could be exculpatory.
3. If any employee learns of information that could be exculpatory for a defendant, that employee shall document the information and that information shall be presented to the prosecuting authority.
4. If a police employee becomes aware of evidence that could be exculpatory post-conviction, they shall thoroughly document the details related to the information. The employee will document when they received or were made aware of the evidence, how they received the information, and how they provided that information to the prosecuting authorities. This documentation will also be submitted to the employee's chain of command up to the Chief of Police.
5. If exculpatory evidence is discovered that could have been the result of an omission by police personnel, the Tulsa Police Department Internal Affairs unit will investigate the incident.

**REGULATIONS:**

1. Neither evidence nor impeaching or exonerating information shall be excluded from reports, affidavits, or submissions to prosecutors.
2. Police personnel shall provide the prosecuting authority with evidence that could be exculpatory as soon as they are made aware of it.

**REFERENCES:**

Brady v. Maryland