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## THE MASTER LIST OF BRADY VIOLATIONS

If the following happened in your case, and the prosecutor did not hand this information over to your defense lawyer before trial, you have a valid Brady violation claim.

### 1. Hidden Witness Information & Deals

Prosecutors often cut secret deals with witnesses to force them to testify. The state must disclose any incentive given to a witness.

**Secret Leniency Deals:** The prosecutor promised a witness a reduced sentence, dropped charges, or a plea bargain on their own criminal case in exchange for testifying against you.

**Financial Payments / Rewards:** The police department, District Attorney's office, or groups like "Crime Stoppers" paid money, covered rent, or bought hotel rooms for a witness.

**Immigration Assistance:** The government promised to help a witness or their family members secure visas (like a U-Visa) or avoid deportation in exchange for testimony.

**The Witness Retracted Their Story:** The main witness initially told police or prosecutors that you did not do it, or they expressed doubt about your identity, before later changing their story at trial.

**Prior Inconsistent Statements:** The witness gave an initial statement to detectives that completely contradicts what they later said under oath on the witness stand.

### 2. Corrupt or Discredited Law Enforcement Actions

If the police or forensic technicians involved in your case have a history of lying, planting evidence, or cheating, the prosecution is legally required to tell you.

**"Brady Cop" Listings:** The arresting officer, lead detective, or forensic technician was on an official internal list (a Brady List or Giglo List) for past dishonesty, falsifying police reports, or

racial bias.

**Internal Affairs Investigations:** The officers in your case were under investigation by Internal Affairs for misconduct, brutality, or evidence tampering at the time of your arrest or trial.

**Forensic Lab Fraud (Dry-Labbing):** The laboratory technician who tested the DNA, drugs, or fingerprints in your case has been caught fabricating scientific data or failing proficiency tests in other cases.

### **3. Hidden Physical & Investigative Evidence**

The police cannot ignore evidence that points away from you. They must disclose all alternative leads they uncovered during the investigation.

**Alternative Suspects:** The police files contain tips, fingerprints, DNA profiles, or descriptions pointing to a completely different person that detectives chose not to investigate.

**Failed Eyewitness Identifications:** An eyewitness was shown a photo lineup containing your picture before trial and either picked a different person or stated they did not see the perpetrator in the lineup.

**Suppressed Audio and Video:** The police possess unedited 911 audio tapes, dispatch logs, dash-camera footage, or store surveillance videos that prove your location or contradict the police report's timeline.

**Undisclosed Physical Evidence:** The state has physical evidence in its possession (such as blood samples, weapons, or clothing) that was never forensically tested because detectives worried the results would clear your name.

### **The 3 Rules to Prove a Brady Claim in Court**

To win a Brady claim, your petition must prove all three of these prongs simultaneously:

#### **Rule #1: The Evidence Must Be Favorable.**

The hidden evidence cannot just be "interesting"; it must actively help the defense. Legally, favorable evidence is split into two categories:

\* **Exculpatory Evidence:** Material that directly tends to clear your name, supports your innocence, or mitigates your sentence (e.g., DNA showing another person was at the scene, or an eyewitness account describing a suspect who looks nothing like you).

\* **Impeachment Evidence:** Material that destroys the credibility of a government witness. Under the Supreme Court ruling *Giglio v. United States*, the prosecution must hand over anything that

shows a witness is lying, biased, mentally unstable, or testifying in exchange for secret favors, dropped charges, or cash payments.

### **Rule #2: The State Must Have Suppressed It**

"Suppression" means the defense team did not have the evidence at the time of the trial because the government failed to hand it over.

\* **Intent Does Not Matter:** It does not matter if the prosecutor hid the files maliciously on purpose, or if they just accidentally forgot them in a desk drawer. A violation occurs either way.

\* **The "Prosecution Team" Rule:** Under *Kyles v. Whitley*, the prosecutor cannot claim ignorance by saying, "The police had it, but they never told me." Legally, the prosecutor is responsible for knowing what is in the files of the police detectives, state forensic labs, and any other agency working on the case. If the police hide it from the prosecutor, it is still a Brady violation.

\* **The Due Diligence Exception:** If the evidence was a matter of public record, or if your defense lawyer could have easily found it with a basic investigation, the court will rule that the state did not "suppress" it.

### **Rule #3: The Evidence Must Be "Material" (Prejudice)**

This is the hardest rule to prove. You cannot win a Brady claim just by showing that a cop lied or a file was hidden. You must prove that the hidden file mattered to the final outcome of the trial.

\* **The Legal Standard:** The hidden evidence is considered "material" only if there is a reasonable probability that, had the evidence been disclosed to the jury, the result of the proceeding would have been different.

\* **The "Confidence" Test:** A pro se litigant must convince the judge that the hidden evidence is so significant that its absence completely undermines confidence in the fairness of the guilty verdict.

### **Critical Deadlines & Filing Details (The AEDPA Trap)**

When filing a Brady claim pro se, you must navigate strict federal timelines governed by the Antiterrorism and Effective Death Penalty Act (AEDPA):

\* **The 1-Year Clock:** Generally, you have exactly one year to file a federal habeas corpus

petition. However, if the state hid evidence from you, the one-year clock for that specific claim does not start until the exact day you (or your team) actually discover the hidden file.

\* **The Due Diligence Rule:** Once you get a tip that evidence was hidden, you must act immediately. If you sit on the information for two years inside prison without filing anything, the court will rule that you failed to show "due diligence" and will bar your claim as untimely.

\* **Exhaustion First:** You cannot jump straight to federal court the day you find hidden evidence. You must first file a post-conviction petition in the state court where you were convicted, giving the state judges the first chance to review the prosecutor's misconduct.

If the state courts deny relief, you then have the right to move the claim into federal court.

### How to Present a Brady Claim in Your Petition

When writing the actual brief for the Habeas Corpus petition, a pro se inmate must organize their argument using this exact factual structure:

**[Name the Hidden File/Item] —► [Prove the Prosecution/Police Had It] —► [Explain Exactly How It Changes the Verdict]**

**1. Identify the exact item:** Do not make vague accusations like "the police hid files." State exactly what it is: "The unedited 911 dispatch audio tape from October 12, 2021."

**2. Prove government possession:** Show that the state had control of it. Quote police reports, public records responses, or transcripts showing the item was created by or handed to law enforcement.

**3. Demonstrate the impact:** Explicitly tell the judge how your trial would have changed. For example: "If the jury had heard this tape, they would have heard the victim state the attacker was 6 feet tall, which completely contradicts my physical description of 5 feet 5 inches."

Pro se inmates must follow a specific structure when presenting a Brady claim in their petition. The structure is: [Name the Hidden File/Item] —► [Prove the Prosecution/Police Had It] —► [Explain Exactly How It Changes the Verdict].

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