

# LITTLETON POLICE DEPARTMENT

2 Kittridge Lane  
Littleton, New Hampshire 03561  
(603) 444-7711

**PROCEDURE #: 18-2**

**SUBJECT: Exculpatory Evidence Schedule (EES)**

**Statutory Authority: 105:13-b, III**

NOTE: This written directive is for the internal governance of the Littleton Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

**Date of issue**

02-15-2018

**Issuing Authority**

Chief Paul Smith

**Effective Date**

02-15-2017

**Distribution**

All

**I. PURPOSE**

It is the purpose of this policy to provide officers with the information necessary to properly fulfill the reporting and testimonial requirements mandated under United States Supreme Court decisions including *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972), and the New Hampshire Supreme Court decisions including *State v. Laurie*, 139 N.H. 325 (1995), and their progeny.

**II. POLICY**

The *Brady* and *Laurie* decisions and subsequent rulings have made it a duty of all law enforcement agencies to (1) identify and provide to the prosecution any exculpatory material that would have a reasonable probability of altering the results in a trial, or any material that could reasonably mitigate the sentencing of a defendant and (2) any material relevant to the credibility of government witnesses, including, but not limited to, police officers. It is the policy of this police department to follow *Brady* and *Laurie* disclosure requirements, consistent with the law.

### III. DEFINITIONS

*Material evidence:* Exculpatory evidence is “material” if there is a reasonable probability that disclosing it will change the outcome of a criminal proceeding. A “reasonable probability” is a probability sufficient to undermine confidence in the outcome of the trial or sentencing of a criminal case.

*Exculpatory evidence/Brady/Laurie material:* *Brady/Laurie* violations are, by definition, violations of an individual’s 14th Amendment right to due process of law and that due process right under Part I, Article 15 of the New Hampshire Constitution. Exculpatory evidence is evidence that is favorable to the accused; is material to the guilt, innocence, or punishment of the accused; and that may impact the credibility of a government witness, including a police officer. Impeachment material is included in the *Brady/Laurie* disclosure requirements.

*Duty to disclose:* The affirmative constitutional duty of the police to notify the prosecutor of any *Brady* material.

### IV. PROCEDURES

#### A. General Provisions of Disclosure

1. Affirmative Duty to Report: This department shall exercise due diligence to ensure that material of possible *Brad/Laurie* relevance is made available to the County Attorney.
2. The defense is not required to request potential *Brady/Laurie* material; it is this department’s responsibility to disclose such material as soon as reasonably possible to the County Attorney, or in time for effective use at trial. Responsibility for disclosing such material extends from indictment through the trial, sentencing and post-conviction.
3. It is the prosecutor’s responsibility to establish whether material disclosed by this department must be provided to the defense.
4. Suppression of evidence favorable to an accused violates due process when the evidence is material either to guilt or to punishment, irrespective of good or bad faith. There is no distinction between “impeachment evidence” and “exculpatory evidence” for *Brady/Laurie* disclosure purposes.
5. Allegations that are not credible, or have resulted in an individual’s exoneration are generally not considered to be potential impeachment information.

## **B. Examples of *Brady* material**

1. Examples of *Brady* material that may be subject to disclosure include, but may not be limited to, the following:
  - a) Information that would directly negate the defendant's guilt concerning any count in an indictment.
  - b) Information that would cast doubt on the admissibility of evidence that the government plans to offer that could be subject to a motion to suppress or exclude.
  - c) Any criminal record or criminal case pending against any witness whom the prosecution anticipates calling.
  - d) The failure of any proposed witness to make a positive identification of a defendant.
  - e) Information that casts doubt on the credibility or accuracy of a witness or evidence.
  - f) An inconsistent statement made orally or in writing by any proposed witness.
  - g) Statements made orally or in writing by any person that are inconsistent with any statement of a proposed government witness regarding the alleged criminal conduct of the defendant.
  - h) Information regarding any mental or physical impairment of any governmental witness that would cast doubt on his or her ability to testify accurately and truthfully at trial.
  - i) Information that tends to diminish the degree of the defendant's culpability or the defendant's offense level under state or federal sentencing guidelines.
  - j) A finding of misconduct that reflects on the witness's truthfulness, bias, or moral turpitude. This includes employees under suspension.
  - k) Evidence that a proposed witness has a racial, religious, or personal bias against a defendant individually or as a member of a group.
  - l) An officer's excessive use of force, untruthfulness, dishonesty, bias, or misconduct in conjunction with his or her service as a Law enforcement officer.
2. Officer personnel files that are related to matters stated above may be provided or open to the prosecution or defense as part of a *Brady/Laurie* disclosure, as is consistent with the law.

## **C. Duty to Report**

Officer adherence to departmental policy and rules in all matters is an imperative of his or her office. Breaches of such rules and policies related specifically to honesty and veracity may have direct bearing on his or her ability to continue serving as a law enforcement officer.

1. Officers whose history regarding integrity, honesty, credibility, veracity, and related matters has negative bearing on their professional reputation may be subject to *Brady/Laurie* disclosure requirements.
2. It is the obligation of individual officers to inform their superior officer of any elements of their employment as a police officer, information contained in investigative reports, or evidence connected with a criminal indictment or trial that they reasonably believe may be subject to *Brady/Laurie* disclosure.

Supervisory officers are equally responsible for ensuring that they act with due diligence in identifying any potential *Brady/Laurie* material connected with any criminal proceeding for which they have oversight and for bringing such material to the attention of the prosecutor in a timely manner through established reporting procedures.

#### **D. Departmental Response to Officer Testimonial Impeachment**

Officers who are knowingly and intentionally untruthful, are otherwise dishonest in the course of their employment, or use excessive force are subject to impeachment of testimony at trial. Such officers are also subject to disciplinary action up to and including termination of employment.

#### **E. Determination that Disciplinary Conduct is Exculpatory Evidence**

1. The Captain shall review all internal affairs investigation files including those investigations conducted by an immediate supervisor, to determine if the incident involved any conduct that could be considered potentially exculpatory evidence. If it does, he or she shall send a memo to the Chief outlining the circumstances.
2. The Chief shall review the memo and determine if the incident constitutes potential exculpatory evidence. If the Chief concludes that the incident constitutes potentially exculpatory evidence, he or she shall notify the involved officer. If the officer disagrees with the Chief's finding, he or she may request a meeting with the Chief to present any specific facts or evidence that the officer believes will demonstrate that the incident does not constitute potentially exculpatory evidence. These facts or evidence may also be presented in writing which will be placed in the officer's personnel file. The Chief shall consider such facts and render a final decision in writing. In addition, if the officer is contesting the finding that he or she committed the conduct in question through arbitration or other litigation, the pending litigation should also be noted in the officer's personnel file.

3. In the event the Chief has questions about this determination, he or she should notify the County Attorney. Upon review of the material the County Attorney shall determine if it is potentially exculpatory evidence and whether the officer's name should be on the EES and with what designation.
4. Upon the Chief's and/or County Attorney's determination that the conduct reflected in the officer's personnel file is potentially exculpatory evidence, the officer shall be notified in writing.
5. Upon a decision that the incident in question constitutes potentially exculpatory evidence, a copy of that decision shall be placed in the officer's disciplinary file, as well as transmitted to the department's prosecutor. The Chief shall also notify the County Attorney and the Attorney General or designee in writing. The notification to the County Attorney shall include the officer's name and date of birth along with a description of the conduct and a copy of the findings of the internal investigation or other relevant documents substantiating that conduct.

**F. Obligation of Officer on the EES**

The Chief shall instruct the officer in writing that in all criminal cases in which that officer may be a witness, the officer shall present a copy of the written notice that the officer's name is on the EES to the prosecutor.

**G. Possible Termination of Employment**

If the Chief determines that the incident constitutes potentially exculpatory evidence, the Chief shall determine if the conduct is likely to affect the officer's ability to continue to perform the essential job functions of a police officer as to warrant dismissal from the department. In making such review, the Chief should consider not only the officer's present duty assignment, but also the officer's obligation to keep the peace and enforce the laws on a 24- hour basis and the possibility that the officer may become a witness in a criminal case at any time.

**H. Otherwise, police personnel files remain confidential**

Any requests from a prosecutor or defense counsel to produce an officer's personnel file shall be referred to the office of the Chief of Police. If the request is not made in the context of a specific criminal case, the Chief shall deny the request. If the request relates to a specific pending criminal case in which the officer is a witness, and the officer's conduct reflected in the file has not already been determined to be potentially exculpatory, the Chief shall notify the requesting party that upon receipt of a written court order, the file will be made available to the trial judge for an *in camera* review. Upon receipt of such an order, the file shall be copied and the copies personally delivered to the court, and a receipt obtained for the same. The file shall be accompanied by a letter from the Chief setting forth that the information is being forwarded for purposes of a review for potentially exculpatory evidence pursuant to RSA I 05:13-b, III, and requesting that the file only be disclosed to the extent required by law in the context of the

specific case for which the *in camera* review is being conducted. The letter shall also request that the file be returned to the department or shredded when the court is through with it, or retained under seal in the court file if necessary for appeal purposes.

**I. Training**

All sworn law enforcement officers of this department shall receive training in *Brady/Laurie* disclosure requirements.

**J. Records Retention**

Any records of potential *Brady/Laurie* importance shall be kept in this department's records in accordance with the New Hampshire Attorney General's Office's Law Enforcement Memorandum dated March 21, 2017 and titled "The Exculpatory Evidence Protocol and Schedule" which interprets *Laurie* and its progeny, including *Duschene v. Hillsborough County Attorney*, 167 N.H. 774(2015) and *Gantert v. City of Rochester*, 168 N.H. 640 (2016).

**Sources**

New Hampshire Attorney General's EES LE Memorandum  
NH RSA 105:13-b, III

**Re-written By**

Chief Paul Smith

**Reviewed Date**

**Revised**

**Authorized By:**

Paul Smith  
Chief of Police

Attachments: Exculpatory Evidence Protocol Schedule Annual Certificate of Compliance, Sample Motion For A Protective Order Of Discovery Materials, and Sample Protective Order.

**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

**EXCULPATORY EVIDENCE PROTOCOL SCHEDULE-ANNUAL  
CERTIFICATE OF COMPLIANCE**

**NOTE:** An annual Exculpatory Evidence Protocol and Schedule certificate of compliance must be submitted in accordance with the Attorney General's Exculpatory Evidence Protocol and Schedule Memorandum on or before July 1 of each calendar year.

I hereby certify that the personnel files of each law enforcement officer hired with this law enforcement agency during the past year have been reviewed by the individual listed below for potential exculpatory evidence in compliance with the guidance provided by the Attorney General's Memorandum. The personnel files reviewed included the full employment record of the officer, including but not limited to, internal investigation materials, disciplinary files, background and hiring documents (to include their prior employment file if prior employment was in law enforcement), and their medical and mental health documents. In addition, for any officer with new complaints filed in this calendar year or disciplined by this department in the past year, their file was reviewed in full again in compliance with the guidance provided by the Attorney General's Memorandum.

I have sought advice from the County Attorney and the Attorney General when assessing whether conduct should be considered potentially exculpatory. For any officer who had potentially exculpatory evidence in their personnel file for matters arising after the individual became a law enforcement officer, I have notified both the County Attorney and the Attorney General to place the officer's name on the Exculpatory Evidence Schedule (EES). I have notified every officer whose name was placed on the EES of such placement in writing.

\_\_\_\_\_  
Signature of reviewing Officer

\_\_\_\_\_  
Title of Authority

\_\_\_\_\_  
Signature of Chief Law Enforcement  
Officer

\_\_\_\_\_  
Title of Authority

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Enforcement Agency

THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

\_\_\_\_\_, **SS.**

\_\_\_\_\_ **TERM, 2017**

**\*\* FILED UNDER SEAL \*\***

**State of New Hampshire**

**v.**

\_\_\_\_\_  
**MOTION FOR A PROTECTIVE ORDER OF DISCOVERY MATERIALS**

NOW COMES the State of New Hampshire, by and through the Office of the Attorney General and undersigned counsel, and hereby request that the Court issue a Protective Order of Discovery Materials to be provided to defense counsel in the above-captioned matter that include materials from a law enforcement officer's personnel file. In further support of this motion, the State says as follows:

I. Pursuant to the State's obligation to provide exculpatory evidence to the defense, the State has obtained potentially exculpatory evidence from the \_\_\_\_\_ Police Department consisting of materials from Officer \_\_\_\_\_'s personnel file. Officer \_\_\_\_\_ may be called as a witness for the State in this matter.

2. While the State acknowledges that these materials may be potentially exculpatory, the State does not concede that these materials may be used in open court for impeachment of Officer \_\_\_\_\_. This will be the subject of a later Motion in *Limine* in this matter.

3. In the interim, the State is asking that defense counsel be prohibited from discussing these materials or providing a copy of the materials from Officer \_\_\_\_\_'s



personnel file that will be produced in discovery, to anyone other than defense counsel and their investigator(s).

4. The Court has the authority to issue this proposed protective order. Indeed, it is well-established that the Court has the inherent authority to exercise its sound discretion in matters concerning pretrial discovery. *See State v. Emery*, 152 N.H. 783, 789 (2005); *State v. Smalley*, 148 N.H. 66,69 (2002); *State v. Delong*, 136 N.H. 707,709 (1993). Pursuant to Rule 12 of the new Hampshire Rules of Criminal Procedure, therefore, the Court may at any time restrict or even deny discovery "[u]pon a sufficient showing of good cause." *See N.H. R. Crim. P. 12(b)(8)*.

5. Law enforcement personnel files are considered confidential with the exception of production for discovery in an on-going criminal matter. *See RSA 105:13-b*. The proposed protective order is necessary to ensure the confidentiality of the officer's personnel records while meeting the State's competing interest in providing potentially exculpatory evidence in a criminal matter, enabling the defendant and his counsel to review complete discovery and prepare for trial. *See generally, State v. Laurie*, 139 N.H. 325 (1995); *N.H.R.Prof.C. 3.8(d)*.

6. Counsel for the defendant, attorney \_\_\_\_\_, ASSENTS/OBJECTS to the proposed protective order attached hereto.

WHEREFORE, the State respectfully asks that the Court:

- A. Grant this motion;
- B. Approve the attached proposed protective order; and
- C. Grant any additional relief that the Court deems just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

DATE

\_\_\_\_\_

Attorney

CERTIFICATE OF SERVICE

I hereby certify that on \_\_\_\_\_, I sent a true copy of the foregoing motion and all attachments by first-class mail to attorneys \_\_\_\_\_.

\_\_\_\_\_

THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

\_\_\_\_\_ **SS.**

**TERM.** \_\_\_\_\_

**\*\* UNDER SEAL \*\***

**State of New Hampshire**

**v.**

\_\_\_\_\_  
**[PROPOSED]  
PROTECTIVE ORDER**

The Court hereby enters the following Order with respect to discovery in the above-captioned matter:

1. Pursuant to the State's obligation to provide potentially exculpatory evidence and the provisions of RSA 105:13-b, the State has reviewed the confidential police personnel file of Officer \_\_\_\_\_ for relevant and potentially exculpatory evidence in this matter.
2. Following its review, the State has determined that certain documents contained in Officer \_\_\_\_\_'s personnel file may be potentially exculpatory in this matter. The documents will be provided to the defendant's counsel under this protective order.
3. Defense counsel is prohibited from sharing or further disseminating these confidential documents and the confidential information contained therein with anyone other than their client and their staff.
4. If the defendant seeks to admit any of the documents or information contained within these materials, for substantive or impeachment purposes, it must first file a motion or pleading referencing the documents or the information under seal. Only upon this Court's further Order will any of the materials contained within the personnel file be discussed in open court or used in this matter as evidence.

So Ordered.


Date

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\_\_\_\_\_  
Presiding Justice

## LAW ENFORCEMENT MEMORANDUM

To: All New Hampshire Law Enforcement Agencies  
All County Attorneys

From: Gordon J. MacDonald, Attorney General 

Re: Additional Guidance Concerning the Exculpatory Evidence Schedule

Date: April 30, 2018

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The intention of this memorandum is to clarify some of the procedural matters addressed in the New Hampshire Department of Justice March 21, 2017 Exculpatory Evidence Memorandum, Exculpatory Evidence Protocol, and 2017 Training for Law Enforcement PowerPoint presentation (hereinafter, "Memo," "Protocol," and "Training"). Where there is a conflict between this memorandum and the Memo, Protocol, or Training, this memorandum shall control.

### Only "Sustained" Findings Shall Entail Placement on the EES

The EES Memo and Protocol contemplate the following basic process with regard to allegations of misconduct against an officer:

- That an investigation will be conducted into the allegations;
- That the investigation will result in a conclusion that the allegation is "sustained," "not sustained," or "unfounded," or that the officer is "exonerated";
- That if the conclusion is that the allegation is "sustained," the head of the law enforcement agency will determine whether the conduct at issue is EES conduct;
- That if the head of the law enforcement agency determines that the conduct at issue is EES conduct, the officer will be notified and afforded the opportunity to present evidence which the officer believes demonstrates the conduct is not EES conduct; and
- That if after considering the evidence presented by the officer, the head of the law enforcement agency's conclusion remains that the sustained allegation of misconduct constitutes EES conduct, he or she shall issue notification causing the officer's name to be placed on the EES.

*See Protocol, p. 4, 7.*

Only allegations of misconduct which are sustained after an investigation and which constitute EES conduct will result in an officer's name being placed on the EES.<sup>1</sup> "Sustained" means that the evidence obtained during an investigation was sufficient to prove that the act occurred. *See Memo*, p. 4 n.5. **Mere investigation into EES conduct does not warrant either EES notification or inclusion on the EES.** Accordingly, law enforcement agency heads should not cause an officer's name to be "temporarily" placed on the EES while an investigation into the allegations is pending. Further, investigations into allegations of misconduct against officers who resign or otherwise leave employment prior to the completion of the investigation must be completed nonetheless, upon notice to the officer, with or without the officer's cooperation.

There is a caveat to the directive that mere investigation shall not cause EES notification and inclusion: The fact that an officer is under investigation may constitute evidence which is favorable to the defense in a particular case or cases, and thus must be disclosed to the defense in those cases. *See, e.g., United States v. Wilson*, 605 F.3d 985, 1006 (D.C. Cir. 2010) (per curiam) (evidence that the testifying officer was under suspension due to an investigation might show that she was motivated to testify falsely against the defendants in order to curry favor with the government); *United States v. Bowie*, 198 F.3d 905 (D.C. Cir. 1999). **Consistent with the Memo's directives, officers who are under investigation must notify the prosecutor in any case in which they may be a witness that they are under investigation.** *See Memo*, p. 5. The heads of law enforcement agencies should also provide this information to prosecutors in cases in which such officers may be a witness.

### **Allegations Which Are Determined to be "Not Sustained"** **Do Not Entail Placement on the EES**

As discussed above, the EES Memo and Protocol contemplate that a sustained allegation of EES misconduct against an officer will cause the officer's name to be placed on the EES.

A finding which is not sustained is one for which there is insufficient evidence to enable the conclusion that the alleged conduct actually occurred. *Memo*, p. 4; *Memo*, p. 4 n.5. In essence, an allegation which is not sustained is nothing more than an allegation, which should not be considered exculpatory.

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<sup>1</sup> Written notification concerning sustained allegations which constitute EES conduct must be made to the County Attorney and the Attorney General's Criminal Justice Bureau Chief. *See Protocol*, p. 7. **The notification content shall be limited to the officer's name and date of birth, the name of the law enforcement agency, the date(s) on which the misconduct occurred, and a short description of the type(s) of EES conduct at issue. No other information, and no other records or documents, shall be submitted.** Examples of types of EES conduct include "credibility," "excessive use of force," and "criminal conduct." *See, e.g., Protocol*, p. 2. A sample notification letter is attached to this memorandum.

Thus, allegations which are deemed not sustained after investigation, as with unfounded and exonerated determinations, will not cause an officer's name to be placed on the list. Accordingly, notification is not required regarding allegations which are deemed not sustained.

### Mental Health & Exculpatory Evidence

Evidence of mental illness may be exculpatory because it may call into question the witness's reliability and therefore his or her credibility. *See, e.g., State v. Fichera*, 153 N.H. 588, 599-600 (2006) (cross-examination on the issue is permissible if the defendant is able to show that a "mental impairment" affects the witness's perception of events to which she is testifying); *State v. Shepherd*, 159 N.H. 163, 171 (2009) (reversing an AFSA conviction, in part because evidence of the victim's history of depression was "sufficiently favorable to require disclosure"); *see also United States v. Butt*, 955 F.2d 77, 82-83 (1st Cir. 1992) (noting that federal courts have found mental instability relevant to credibility only where the witness suffered from a severe illness that dramatically impaired her ability to perceive and tell the truth); *United States v. Smith*, 77 F.3d 511, 516 (D.C. Cir. 1996) (reversing conviction, in part because the government failed to disclose that a key prosecution witness had been hospitalized for chronic depression for more than a year).

The EES Protocol requires that an officer's name be placed on the EES due to an "instance[] of mental illness or instability that caused [the officer's] law enforcement agency to take some affirmative action *to suspend the officer as a disciplinary matter.*" *Protocol*, p. 1 n.2 (emphasis added); *Protocol*, p. 2. The emphasis on the prerequisites of suspension and discipline in the Protocol is consistent with the approach taken by some courts that only severe, protracted mental illness will constitute favorable evidence for constitutional purposes. In other words, if the mental health issue is so significant that it not only compromises an officer's discharge of his or her duties but also results in the officer's suspension as a disciplinary matter, then it ought to be presumptively significant enough to constitute impeachment evidence. The Protocol makes clear that other mental health events, such as "a directive to an officer to seek mental health treatment following a traumatic incident" wherein no affirmative action was taken to suspend the officer as a disciplinary matter, are categorically excluded from the EES. *Protocol*, p. 1 n.2.

The Protocol's requirement of the nexus between "the instance of mental illness or instability" and the "suspension as disciplinary matter" also means that documentation of such incidents should be found in personnel files other than the officer's medical and mental health files. Assuming that is the case, the Protocol does not require the head of a law enforcement agency to review officers' medical and mental health records to discover such information, since this information will already be known due to other administrative action.

## Protocols for Removal from the EES

In *Gantert v. City of Rochester*, 168 N.H. 640 (2016), the New Hampshire Supreme Court observed that “the interest of individual officers in their reputations and careers is such that there must be some *post-placement* mechanism available to an officer to seek removal from the “Laurie List” if the grounds are thereafter found to be lacking in substance....” *Gantert*, 168 N.H. at 650 (emphasis in original). The Court noted that after an officer is placed on an exculpatory evidence list, he or she “may have grounds for judicial relief if the circumstances that gave rise to the placement are clearly shown to be without basis.” *Id.* (citing *Duchesne v. Hillsborough County Attorney*, 167 N.H. 774, 784-85 (2015)). Other avenues of post-placement process include grievance procedures identified in employment terms and collective bargaining agreements.

Because sustained findings of conduct warranting inclusion on the EES may be overturned through these processes, the Memo and Protocol permit an officer’s name to be removed from the EES “with the approval of the Attorney General or designee.” *Protocol*, p. 5. This removal process does not involve a substantive review. NHDOJ is not an adjudicatory body and the protocol described herein is not one which entails reconsideration of the facts underlying the investigation. Instead, the removal protocol requires removal when a sustained finding has been overturned.<sup>2</sup>

The removal protocol is as follows:

1. The Attorney General’s designees for the purpose of EES removal are the Director of the Division of Public Protection and the Criminal Justice Bureau Chief. The Attorney General may designate other Senior Assistant Attorneys General for this purpose.
2. The request for removal must be made in writing by the head of the law enforcement agency at which the officer was or is employed, or by the officer or his or her designee. If the request is made by the officer or his or her designee, the Attorney General’s Designee shall provide notice thereof to the head of the law enforcement agency at which the officer was or is employed. The request must:
  - a. State the allegations against the officer; and
  - b. State that an investigation into the allegations was conducted; and

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<sup>2</sup> If an officer’s name was included on the EES before the investigation into his or her alleged misconduct was completed, the officer’s name will be removed by the Attorney General or Designee upon written notification that the outcome of the investigation is that the allegations were unfounded or not sustained, or that the officer was exonerated.

- c. State the disciplinary finding which resulted in the officer's placement on the EES, and the fact that the finding has been overturned; and
  - d. Provide a copy of the order or other determination overturning the disciplinary finding.
3. If a sustained finding was overturned, the Attorney General's Designee shall cause the removal of the officer's name from the EES.
  4. The Attorney General's Designee shall notify the head of the law enforcement agency, and the law enforcement officer or his or her designee, in writing regarding the removal decision. A copy of this notification shall be sent to each county attorney.



[Date]

Criminal Justice Bureau Chief  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, NH 03301

**RE: EES NOTIFICATION**

Dear Criminal Justice Bureau Chief:

A determination has been made that the law enforcement officer identified below has engaged in conduct that may be subject to disclosure pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and *State v. Laurie*, 139 N.H. 325 (1995):

Officer's name:

Officer's date of birth:

Law enforcement agency:

Date of incident:

Type of EES conduct:

Sincerely,