

These are the responses received to the RIPD's APRA request to date:

| <u>POLICE DEPT. / LAW ENFORCEMENT AGENCY</u> | <u>DEPT. / AGENCY HAS <i>NO</i> WRITTEN POLICY REGARDING DISCOVERY</u> | <u>DEPT. / AGENCY <i>PROVIDES WRITTEN</i> POLICY PURPORTEDLY DISCOVERY RELATED¹</u> | <u>NO RESPONSE RECEIVED AS OF MAY 29, 2018</u> |
|--|---|---|---|
| Attorney General | | X | |
| Dept of Public Safety (includes RI State Police, Sheriffs, Capital Police) | | X | |
| RI Dept. of Environmental Management | X | | |
| Barrington | X ^{II} | | |
| Bristol | X | | |
| Burrville | X | | |
| Central Falls | | X | |
| Charlestown | | X | |
| Coventry | X | | |
| Cranston | X | | |
| Cumberland | X | | |
| East Greenwich | X | | |
| East Providence | X | | |
| Foster | X | | |
| Glocester | X | | |
| Hopkinton | X | | |
| Jamestown | X | | |
| Johnston | | X | |
| Lincoln | X | | |
| Little Compton | X | | |

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|------------------|------------------|---|---|
| Middletown | | X | |
| Narragansett | | X | |
| New Shoreham | X | | |
| Newport | X | | |
| North Kingstown | X | | |
| North Providence | X | | |
| North Scituate | | | X |
| North Smithfield | | X | |
| Pawtucket | X | | |
| Portsmouth | X | | |
| Providence | X | | |
| Richmond | X ⁱⁱⁱ | | |
| Scituate | X | | |
| Smithfield | X | | |
| South Kingstown | X | | |
| Tiverton | | X | |
| Warren | | X | |
| Warwick | X | | |
| West Greenwich | X | | |
| West Warwick | | X | |
| Westerly | | X | |
| Woonsocket | | X | |

ENDNOTES

ⁱ Beginning 2/16/18, the Rhode Island Public Defender directed an APRA request to forty-four state and municipal law enforcement agencies requesting:

“Your agency’s general order and / or written policy describing its protocol for responding to requests made by the defendant through the applicable prosecutorial entity (including but not limited to the Department of Attorney General, city or town solicitor, or other prosecutorial entity or persons responsible for the prosecution of criminal cases in court) for the production of discoverable material in criminal cases in state court. This includes requests made pursuant to Rule 16 of the District, Family, or Superior Court Rules of Criminal Procedure or the Exculpatory Evidence (Brady) Doctrine. For reference purposes this request contemplates a written policy similar to that already put in place by the United States Department of Justice in federal investigations. See, United States Attorney’s Manual, Sec. 9-5.000 - Issues Related To Discovery, Trials, And Other Proceedings, specifically:

- 9-5.001 Policy Regarding Disclosure of Exculpatory and Impeachment Information
- 9-5.002 Criminal Discovery
- 9-5.003 Criminal Discovery Involving Forensic Evidence and Experts
- 9-5.100 Policy Regarding the Disclosure to Prosecutors of Potential Impeachment Information Concerning Law Enforcement Agency Witnesses (“Giglio Policy”)

All are available at <https://www.justice.gov/usam/usam-9-5000-issues-related-trials-and-other-court-proceedings>.”

The APRA request made to the Department of Attorney General was identical except for the first sentence which read as follows:

“Your agency’s general order and / or written policy describing its protocol for responding to requests made by the defendant for the production of discoverable material in criminal cases in state court.”

Of the thirteen (13) written policies received from state and municipal police departments while some were quite good, and all well intentioned, none were as comprehensive as the USDOJ policies in this area especially regarding the inter-agency specifics of the obligation to search for discoverable material especially Brady / Giglio material (impeachment) so called. Still others were non-responsive to the request, in whole or part.

ⁱⁱ In an e-mail dated 3/7/18 requested that, “If you have any policies you would like me to review or adopt, please send them to me for consideration.” Responded same day with link to USDOJ policies available at <https://www.justice.gov/usam/usam-9-5000-issues->

related-trials-and-other-court-proceedings and promised to forward additional policies once current APRA request is completed. Followed up with letter dated 3/5/18 and received on 3/14/18 stating that 1) it does not have such a written policy and 2) "If you have a general order or written policy in mind that you would like our department to consider, please e-mail it to me....."

ⁱⁱⁱ On 3/8/18 indicated that it did not have a written policy or general order but was in the process of drafting one.

QUESTIONS? COMMENTS? CONCERNS?

Please contact:

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