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Effective Date: July 1997	Revision Date: November 2013
Amends/Supersedes: 1100.70/July 2011	Approved by: Chief Kevin Higdon
Meets Accreditation Standard:	

Section 1100.70 Court Policy

Policy

It is the policy of the Shively Police Department that properly subpoenaed officers will appear in the appropriate courtroom on the date and time of the scheduled court appearance. Failure to appear may result in contempt charges and or violation of this policy.

Procedure

Officers should maintain a schedule of future court appearances to ensure prompt attendance, in accordance with subpoenas received.

When subpoenas are received from the Courts System they will be distributed to the commanding officers. Commanding officers will serve them to the individual officers. If, subpoenas are received by mail they will be placed in the officers' "box". Members may also receive personal service subpoenas from authorized agents. Sergeants are responsible for maintaining a written log for all subpoenas. Officers must sign the log to indicate that they have received their subpoena.

After appearing and have been properly dismissed from court, members shall submit a true copy of that appearance for court pay purposes. Only one subpoena per appearance date shall be submitted, unless otherwise stipulated by bargaining agreement.

Presentation of Case

Officers responsible for presentation of a case in court should adhere to the following guidelines:

- Organize and review case file prior to court date. The case file should include all pertinent details of the case.
- Wear appropriate clothing as prescribed by policies.
- Allow time to review case file with prosecuting attorney.
- Assure all evidence and witnesses are available when needed.
- Always testify in a professional and dignified demeanor.
- Remain available in court until excused by an appropriate authority.

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Exculpatory Evidence and Information

Policy

The Shively Police Department recognizes its duty and obligation to document and provide all evidence, including potentially exculpatory evidence, to prosecuting agencies. The landmark decision of *Brady v. Maryland* (1963) places an affirmative constitutional duty on a prosecutor to disclose exculpatory evidence to a defendant. This duty has been extended to police agencies through case law, requiring law enforcement agencies to notify the prosecutor of any potential exculpatory information.

Definitions

Bias: The relationship between a party and a witness, which might lead the witness to slant, unconsciously or otherwise, his/her testimony in favor of, or against, a party. This includes a preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation or ethnicity/national origin.

Impeachment Material: Information relevant to the credibility of any witness, including all members of the department who may be called as a witness in criminal and civil cases. As to members of the department, this includes, but is not limited to, the following types of information:

- Any sustained finding of misconduct that reflects on the member's truthfulness;
- Any sustained finding of misconduct that indicates that the member was biased;
- Any credible allegation of misconduct resulting in a pending investigation that reflects on the truthfulness or possible bias of the member; and
- Any past criminal charge or pending criminal charge brought against the member.

Exculpatory Evidence: Any evidence that points, or might point, toward a defendant's innocence. This includes evidence that may be used to impeach the credibility of a witness.

Untruthfulness: Intentionally:

- Making a false, misleading or untrue oral or written statement, report, record and/or communication (including electronic communication);
- Failing to accurately report all facts pertaining to an investigation;
- Misrepresenting in matter by:
 - Knowingly submitting any false official statement or report;
 - Knowingly making a false statement(s) before, to or during:
 - Any court proceedings;
 - Grand Jury proceedings;
 - Board meetings;
 - Commission meetings;
 - Departmental hearing or inquiry; or
 - Any official investigation of the department, including an investigation initiated by a commanding officer.

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Procedures

Prosecutors are required by law to automatically hand over exculpatory evidence to the defense, even if the defense doesn't request it. A showing that this rule was violated can sometimes result in a conviction being reversed. Exculpatory evidence includes, but is not limited to, the following:

- A written or verbal statement from a person, other than the defendant/suspect, admitting or implying that he/she, or someone other than the defendant/suspect, committed or might have committed the crime.
- Physical evidence, no matter what type, that would tend to indicate that the defendant/suspect did not commit, or might not have committed, the crime.
- Impeachment material.

Members of this department are required to surrender any exculpatory evidence in their possession, or which they have knowledge of, in writing, to the appropriate prosecutor. Members shall record, in their case notes, the nature of the exculpatory evidence and when it was surrendered to the prosecutor.

Each member of the department who is notified to appear as a witness in a court case has an individual obligation under this policy to notify the prosecutor of any sustained disciplinary history that may impact upon his/her credibility and qualify as *Brady* material.

Knowingly failing to surrender exculpatory evidence exposes the department and the member to legal liability for violating the due process rights of the defendant/suspect.

The Internal Affairs Unit shall compile and maintain a list made up of members of the department with known impeachment material in the disciplinary files maintained by the Chief of Police.

The Internal Affairs Unit shall make the information on the list available to designated contacts in the Office of the Commonwealth's Attorney, the Jefferson County Attorney's Office and the U.S. Attorney's Office, updating the information as needed.

Upon request, the Internal Affairs Unit shall also provide the disciplinary history of a member of the department to a prosecutor to allow for a determination of whether the disciplinary history contains potential impeachment material.