

From: Stephen Penner <spenner@co.pierce.wa.us>
To: 'editor@bradycops.org' <editor@bradycops.org>
Subject: Public Records Request of 12/03/2014
Date: Wed, 10 Dec 2014 11:12:55 -0800 (12/10/2014 02:12:55 PM)

Dear BradyCops.Org,

This email is in response to your December 3, 2014 request “for any list your office has compiled, maintains or references in the identification of police officers within your jurisdiction who would be commonly classified as ‘Brady Cops’ or ‘Giglio Cops’.” You further state that, should we not maintain such a list, you request “a written explanation of how [the office] complies with the mandates of the Brady & Giglio decisions.”

The Pierce County Prosecutor’s Office discloses potential impeachment evidence in criminal cases as required by Brady v. Maryland and Giglio v. United States. We do not maintain a list of police officers who are subject to disclosure. Were we to create such a list from data we have compiled, such a list would be exempt from production under the Washington Public Disclosure Act for a number of reasons, including (1) the list would be work product because it would reflect our deputy prosecutors’ thought processes in connection with pending or anticipated litigation, see RCW 42.56.290 and CR 26(b)(4), and (2) it would be a list of individuals which we are prohibited from releasing if it is to be used for commercial purposes, see RCW 42.56.070(9). Furthermore, before releasing such a list, we would need to consider each officer’s right to privacy under RCW 42.56.230(3) and we would likely give notice to affected third parties (the officers) pursuant to RCW 42.56.520.

Pursuant to your alternative request, please find attached a copy of our policy concerning potential impeachment evidence. We fully comply with our responsibility to disclose potential impeachment evidence in criminal cases. We have done so in numerous instances, including those where the officer in question objected.