

## *Jones v. Williams – Brady Policies*

### **1. Written *Brady* Policy and Certification**

- OPDA will adopt a written policy setting forth, and requiring compliance with, the requirements of *Brady*, *Giglio*, and their progeny (“*Brady*”). The policy will include citations to, and require prosecutors to review, precedential *Brady* rulings, and will direct prosecutors to timely disclose favorable material regardless of materiality.
- OPDA will require all prosecutors to certify receipt of and their agreement to comply with the written policy and rulings cited therein.

### **2. *Brady* Training**

- OPDA will offer a minimum of one *Brady* CLE program annually, which OPDA will mandate its prosecutors and investigators attend. The CLE will be updated annually to reflect recent developments in the law and best practices, and will, to the extent practicable, include an external expert or experts in *Brady* and legal ethics.
- OPDA will offer a similar *Brady* training program, annually, to relevant New Orleans Police Department personnel, including district commanders and other supervisors.
- OPDA will circulate to all of its prosecutors copies or summaries of recent court decisions involving *Brady* issues that, in the judgment of supervisory prosecutors, would assist OPDA prosecutors in complying with their constitutional obligations, including decisions by the United States Supreme Court, Fifth Circuit Court of Appeals, Louisiana Supreme Court, Louisiana Fourth Circuit Court of Appeal, and the Orleans Parish Criminal District Court finding that a *Brady* violation occurred.

### **3. *Brady* Checklist and Certification**

- OPDA will issue a *Brady* checklist that its prosecutors must complete and sign prior to commencement of any trial. The checklist will list categories of evidence and information that must be obtained and reviewed and, if determined to be favorable to the defense, timely provided to the defense, regardless of materiality. Prior to jury selection, an OPDA supervisor will review the completed *Brady* checklist with the assigned ADA.
- OPDA will require its prosecutors to provide a copy of the checklist to the defense prior to commencement of any trial.

### **4. *Brady* Supervision**

- OPDA will appoint a minimum of one supervisory prosecutor to serve as a *Brady* compliance officer, charged with ensuring compliance with *Brady* at OPDA.
- OPDA will include *Brady* compliance as a criterion in personnel decisions, including but not limited to decisions concerning hiring, transfers, promotions, termination, and compensation.

### **5. Reports of *Brady* Non-Compliance to OPDA**

- OPDA will adopt a system for making, receiving, reviewing, and acting on complaints of prosecutors’ non-compliance with *Brady*, including a provision for anonymous reporting.

- OPDA's written procedures governing the system will require internal reporting of known or reasonably suspected non-compliance with *Brady*.
- OPDA will instruct and train all prosecutors on the procedures of this system.

**6. Resolution of Convictions Tainted by *Brady* Non-Compliance**

- OPDA will adopt a written policy stating that, if allegations of *Brady* non-compliance are raised in an appeal or collateral review of a conviction, its prosecutors will reasonably evaluate those allegations, and, if it is more likely than not that the conviction is invalid because the constitutional rights under *Brady* of the convicted person were violated, OPDA will consent to or not oppose vacatur of the conviction. The written policy will also state that, if a conviction is vacated due to a *Brady* violation and OPDA does not reasonably anticipate that it can secure a conviction upon retrial, OPDA will not require the defendant to plead guilty in order to avoid re-prosecution and will instead dismiss the relevant charges.