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MEMORANDUM

Date: December 18, 2023
To: Randy Scholz, County Administrator
From: Wade C. Newell, District Attorney
RE: Disclosure of Brady/Giglio Evidence (Travis Hakes)

On September 20, 2023, you sent me a letter (attached), which outlined reservations you had regarding Sheriff Hakes' truthfulness, based upon an investigative report (redacted version attached), which was done for the county. In your letter you cited *Brady v. Maryland*, 373 US. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972). In *Brady*, the United States Supreme Court held that the due process clause requires the State to disclose exculpatory evidence to a defendant. Exculpatory evidence includes any information that tends to show that: a defendant did not commit a crime; someone else may have committed the crime; and/or mitigates a defendant's liability or range of punishment for the crime. In *Giglio*, the Court extended the *Brady* rule to impeachment evidence, requiring the government to disclose any information in the State's possession that the defense could use to impeach a witness' credibility. Examples include: State's witness' pending prosecution; any consideration received including informant agreements; and past instances of any potential witness' untruthfulness.

The credibility of law enforcement officers is critical to the integrity of the criminal justice system. As such, the defense is entitled to all information that calls into question the credibility of an officer. Based upon the U.S. Supreme Court's decision in **Giglio**, the prosecution is required to disclose any information in the State's possession that the defense could use to impeach an officer's credibility. Therefore, in all cases involving the Sheriff as a witness, or participant in the investigation, the Chippewa County District Attorney's Office will provide the following:

Investigative Report

- Redacted investigative report from Jill Pedigo Hall of von Briesen & Roper.
- Sheriff Hakes' Counter Investigation.
- Sheriff Hakes' letter to Human Resources Director Toni Hohlfelder regarding the investigative report.
- Sheriff Hakes' response to myself. (Note: I provided Sheriff Hakes the opportunity to respond to all allegations of dishonest/untruthful allegations attributed to him in the investigative report).

Chetek Police Department

In the Fall of 2020, I was made aware of a Brady/Giglio issue involving Sheriff Hakes when he was a police officer with the Chetek Police Department. This issue was raised when Travis Hakes applied for a job as a police officer with the Cornell Police Department. Travis Hakes, himself, provided the District Attorney's Office with an email and packet of information (Email and packet are attached) regarding the issue.

In December of 2020, I reached out to Barron County District Attorney Brian Wright about whether a formal Brady/Giglio disclosure was prepared. On December 8, 2020, I was advised by email that DA Wright did not prepare a written notice to send to defense attorneys. Rather, he left it to each attorney in the office to provide notice in any cases that involved Officer Hakes. DA Wright noted that he did not believe Officer Hakes was attempting to falsify anything. DA Wright noted that Officer Hakes included in the referral the entire audio and video taken from his body camera. DA Wright said he believed that what happened is that

Officer Hakes was attempting to gain the trust of a domestic abuse victim so she would provide him with the information he needed to make an arrest. However, in doing so, Officer Hakes made what DA Wright characterized as "off the cuff" remarks that potentially opened himself up to questions about his credibility on cross examination. DA Wright did forward me an email, which he sent his office on August 26, 2020 (email attached), regarding the issue. The email says:

Officer Travis Hakes, with the Chetek PD, resigned effective August 21, 2020. For any remaining open cases we have where Ofc. Hakes would be a witness, and, at the discretion of each attorney in open cases they have with a Chetek police officer, we discussed disclosing the following:

Officer Travis Hakes has resigned from the Chetek Police Department effective August 21, 2020.

Please be advised that, in addition to any CD/DVDs that are included in this referral from law enforcement, the District Attorney's office also has a CD recording of Officer Hakes' body camera and police report in Chetek PD Agency #20CH0209, involving Steven A. Stence where Officer Hakes made statements that he can try to just omit or shut off the video taken from his body camera; that the video doesn't have to be admitted; and we won't release the video because there are times when the video gets lost, they don't request it, or the camera doesn't work. You may obtain a copy/copies of same by contacting the agency directly and pre-paying for your copy/copies.

Alternatively, you may schedule an appointment with our office to review, copy or inspect the same at your earliest opportunity. Our office does not have duplication equipment so if you wish to make your own copy of the CD/DVDs please bring your own equipment.

Going forward with open Chetek PD cases not involving Ofc. Hakes, the only arguable reason for disclosing would be Ofc. Hakes' statement that sometimes "we" won't release the video because there are times when the video gets lost, they don't request it, or the camera doesn't work. I would ask all of the prosecutors to challenge the relevancy in a pretrial motion if any defense attorney intends to use this statement to impeach other officers with the Chetek PD. In watching the entire video, Ofc. Hakes made this statement off the cuff and not because other officers at the Chetek PD are failing to include with their referrals the complete video taken from their body cameras.

Nothing further was provided to the Chippewa County District Attorney's Office, on this matter until this issue was raised again as part of the current investigation of Sheriff Hakes requested by the County. On October 4, 2023, I was advised that Thomas Frost, a

defense attorney and former prosecutor, had information to provide. It was Attorney Frost's understanding that Travis Hakes had the choice of resigning or being fired from the Chetek Police Department. Attorney Frost noted that he filed a motion to dismiss a case involving a body camera video of Officer Hakes, which was not properly preserved (see attached motion: State v. Quilan Thomas, Barron County Case No. 2017 CF 451, provided by Attorney Frost). It does not appear that the case was ever dismissed by the Court. However, the case was ultimately dismissed by the prosecution.

On October 5, 2023, I had a phone conversation with Chetek Chief of Police Ron Ambrozaitis. Chief Ambrozaitis did confirm that Travis Hakes was given the choice of resigning or having the issues raised in Chetek PD Agency #20CH0209 investigated. Chief Ambrozaitis noted that was not his decision, but the decision of the attorneys involved. Chief Ambrozaitis stated that he supports Travis Hakes 100%, and does not believe that Travis was talking about the destruction of evidence. Chief Ambrozaitis stated that Travis Hakes was allowed to testify in other cases, and that he does not have any concerns about any evidence being destroyed by Travis Hakes. (Note: The investigation in Chetek PD #20CH0209, ultimately resulted in charges in State v. Steven Stence – Barron County Case No. 2020 CF 188).

On October 26, 2023, I followed up with Sheriff Hakes regarding some things he had put in his October 2, 2020, packet of information provide to me (see attached email). Sheriff Hakes provided a written response (response attached).

On November 6, 2023, Jill Pedigo Hall forwarded an email she received from Julie Matucheski. In the email Attorney Matucheski states the following:

I wanted to make you aware that there was an issue with Sheriff Hakes' lack of candor and appearance of dishonesty while he was still employed with the Chetek Police Department. I saw that you noted there may be information related to his prior employment in your report, but I wanted to provide you with what I know.

I was employed as a prosecutor with Barron County during the summer of 2020, at which time Hakes was an officer with the Chetek Police Department. I became concerned after being assigned to handle State v. Steven Stence (Barron Co. Case. No. 20 CF 188) a few weeks before a scheduled trial, at which point I reviewed the body camera footage associated with the incident. In the body-camera footage, my recollection was Hakes made representations to the victim about lying about her involvement in the incident in his report and that he would be able to keep her out of it.

My recollection is that the video further showed that Hakes omitted facts when he spoke with a probation officer to get authorization to take the defendant into custody and/or conduct a search of the defendant's residence. More concerning was that his report was laden with what most generously could be described as inaccuracies as compared to what actually happened as demonstrated in the body-camera footage.

I reported my concerns to DA Wright who then reported the information to the Chetek chief of police. The concerns I conveyed to DA Wright were that I would never be able to trust the accuracy of Hakes' reports or his testimony given his lack of candor and that I did not believe I would be able to prove any case investigated by him by proof beyond a reasonable doubt given these credibility concerns. It was my view that a Brady disclosure would likely be required in any case he handled in the future if he remained in law enforcement. I do not know ultimately how the issue was resolved beyond that Hakes agreed to resign shortly after I took my concerns to DA Wright. I believe there may have been some outside investigation, but I am not aware of the extent of any investigation conducted by the police department or any other agency.

I make this disclosure to you in an abundance of caution in light of the new information contained in your report with the full expectation that you may already be aware of this prior conduct and/or have access to Hakes' personnel file from Chetek PD. I believe transparency is necessary and appropriate in these matters and believe I would be failing in fulfilling my ethical obligations as a lawyer and prosecutor by not making you aware of this information.

I am no longer with Barron County. I left my employment as an assistant district attorney in February 2022. I am now employed as a prosecutor in the State of Alaska.

I don't make the ultimate decision as to whether Sheriff Hakes will be allowed to be impeached with any of the information contained within this memo, at any future trial involving him as a witness. That is left up to the court to decide on a case-by-case basis. Unfortunately, the Chippewa County District Attorney's Office will now have to spend a tremendous amount of time litigating whether Sheriff Hakes will be allowed to be impeached in any case involving him as a witness, with either the alleged deceptive statements in the investigative report, or the statements made by Sheriff Hakes during his time as a Chetek Police Officer.

The prosecutors within the District Attorney's Office have serious concerns that the above information will be used effectively, by defense attorneys, to impeach the credibility of Sheriff Hakes. The concern is that any impeachment of Sheriff Hakes' credibility will negatively affect the prosecution of cases involving Sheriff Hakes. Unfortunately, the only way to ensure that prosecutions are not negatively affected is for Sheriff Hakes to avoid

actively being involved in any investigations, or handling physical evidence. For the criminal justice system generally, and the District Attorney's Office specifically, to be effective the public must have confidence that the actors within the system are acting with integrity and honesty. It is very important that the District Attorney's Office not risk losing the public's confidence in the criminal justice system. To avoid the appearance of impropriety, I have no choice but to release the above information according to my Brady/Giglio disclosure obligations.

A handwritten signature in black ink, appearing to read "Wade C. Maxwell". The signature is fluid and cursive, with a large, sweeping flourish at the end.

