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**Re: Concern about the constitutionality of proposed “Brady/Giglio” list requirement bills SF 599, and SF 1813**

Dear Members of the Senate Judiciary and Public Safety Committee,

The American Civil Liberties Union of Minnesota is an organization devoted to preserving the rights and liberties enshrined in our constitution and laws. We have grave concerns about three proposed bills regarding “*Brady/Giglio* lists” and “*Brady/Giglio*-impaired officers.” These bills attempt to put the interests of peace officers who commit misconduct over the interests of the people of Minnesota in several ways: 1) they remove discretion from the prosecutor, a minister of justice, to fairly and reasonably charge, manage, and dismiss their cases; 2) they prevent the prosecutor from performance of their constitutionally-mandated duty to disclose impeachment evidence to people accused of crimes, thereby depriving them of a fair trial; and 3) they create more work for already over-burdened court systems with no benefit to anyone except a few problem officers.

SF 599 removes a prosecutor’s ability to effectively fulfill their obligations under the Minnesota Constitution, the Rules of Criminal Procedure, and the ethics rules. It impairs prosecutors’ ability to ensure that a Minnesotan accused of a crime receives a fair trial. It additionally creates out of whole cloth due process requirements for police officers who have committed misconduct on top of the process for the discipline itself. These “rights” in effect supersede the constitutional rights of Minnesotans who may lose their liberty. The process would make disclosure of *public* data more cumbersome and make government and the criminal legal process more opaque.

SF 1813, while purporting not to interfere with a prosecutor’s duty to disclose materials to criminal defendants in the final subdivision, does exactly that. The bill forces prosecutors to create a list and devote significant resources in explaining and justifying an officer’s inclusion on that list where they may not otherwise have created a list in the first place. To fulfill constitutional and ethical obligations, each prosecutor must simply request the files on the officers involved in that single case and evaluate whether disclosure is warranted.

Peace officers do not have the right to not be cross-examined in court. They do not have the right to not be on a list of officers who have been disciplined. Nor should they. The people of Minnesota deserve peace officers who admit their mistakes and learn from them. The people of Minnesota deserve transparency from their government officials and in the criminal legal system. The ACLU of MN shares these concerns in good faith and is more than willing to work with Senate members on bill language going forward.

**Regards, Alicia Granse, ACLU-MN Staff Attorney**