

California Court of Appeal Protects Peace Officer Confidential Personnel Files From Fishing Expeditions by Defense Attorneys

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ATTORNEYS

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A defense attorney seeking “Brady” information from a peace officer’s confidential personnel file must state how the file contains Brady material relevant to the case. Prosecutors are required to turn over to the defense all evidence that might exonerate the defendant, under the landmark U.S. Supreme Court decision in *Brady v. Maryland*. The California Court of Appeal has clarified the minimum requirements that must be met by a defendant seeking Brady material favorable to the case from a peace officer personnel file.

In *People v. M.C.*, the court ruled that a defense attorney filing a motion for Brady material must include in the accompanying declaration information about sustained allegations of specific misconduct even in situations where the district attorney has alerted the defense that a police officer’s personnel file contains potential Brady information.

This ruling confirms that merely reciting the magical name “Brady” and making a bare bones declaration that the information “pertains to the credibility of a necessary and material prosecution witness” will not be enough for a defense attorney to gain access to a peace officer’s confidential personnel file. Instead, such basic declarations by a defense attorney without some explanation of how the officer’s credibility might be relevant to the case will be rejected as a “fishing expedition.”

If you have any questions or would like further information, please contact **David Lim**.