



# MAINE STATE POLICE GENERAL ORDER

**E-121**

**SUBJECT:** MAINE STATE POLICE *GIGLIO* INFORMATION POLICY

**EFFECTIVE DATE:** 09.16.2020

**EXPIRATION DATE:** 09.16.2027

**RECENT HISTORY:** AMENDED (09.16.2020); AMENDED (08.01.2020); AMENDED (01.01.2019); AMENDED (08.08.2016); AMENDED (03.02.2016); NEW (08.01.2014)

**DISTRIBUTION CODE:** 2 (MAY BE PUBLICLY DISCLOSED)

**APPLICABILITY CODE:** CRIME LAB PERSONNEL; S; Z

**SIGNATURE OF COLONEL:**

A handwritten signature in black ink, appearing to read "W. B. R.", is written over the signature line.

## I. PURPOSE

1. The purpose of this General Order is to establish the Maine State Police *Giglio* information policy.

## II. POLICY

1. The policy of the Maine State Police is:
  - A. To disclose to prosecutorial authorities *Giglio* information that pertains to past and current Maine State Police employees who likely or in fact will be witnesses in a criminal prosecution;
  - B. To require with this General Order that each Maine State Police employee who likely or in fact will be a witness in a criminal prosecution to proactively



disclose to relevant prosecutorial authorities *Giglio* information pertaining to her- or himself.

### III. DEFINITIONS

1. For the purposes of this General Order, the terms included in this section are defined as follows, unless otherwise indicated in the order.
  - A. Colonel. "Colonel" means the Chief of the Maine State Police, or her or his designee.
  - B. *Giglio* information. "*Giglio* information" means credible information of material significance that, if true, would tend to adversely reflect upon the credibility of a Maine State Police employee.
    1. "Information of material significance" includes, but is not limited to:
      - a. Any sustained finding resulting from a personnel investigation that establishes a record of untruthfulness or bias on the part of a Maine State Police employee;
      - b. Any stated or written finding by a Justice, Judge, or Administrative Hearings Officer that a Maine State Police employee has been untruthful or biased during a judicial or administrative proceeding;
      - c. Any conviction that adversely reflects upon the credibility of a Maine State Police employee; and
      - d. Any allegation about which there is probable cause to establish the basis of a pending investigation and that, if true, would adversely reflect upon the credibility of a Maine State Police employee.
    2. "*Giglio* information" does **not** include *de minimis* allegations, unsubstantiated allegations, rumors, or other inconclusive information regarding the possible untrustworthiness or bias of a Maine State Police employee.
  - C. Maine State Police employee. "Maine State Police employee" means a Maine State Police employee to whom this policy applies.
  - D. Prosecutorial authority. "Prosecutorial authority" means a district attorney's office, a State Department of the Attorney General, a United States Attorney's Office, or the United States Department of Justice.

### IV. PROCEDURE

1. DISCUSSION
  - A. In *Giglio v. United States*, 405 US 150 (1972), the United States Supreme Court established the disclosure requirements regarding information defined in Part III, Section 1, subsection B of this policy.

**B. The duty of a Maine State Police employee to disclose *Giglio* information is an affirmative one.**

C. Maine State Police employees about whom *Giglio* information exists are subject to having their testimony impeached at trial.

1. Such employees also are subject to disciplinary action, up to and including termination of employment.

**2. PROCESS**

A. When requested to do so by a prosecutorial authority, the Colonel shall complete and submit a *Giglio* information compliance form furnished by the prosecutorial authority, to that prosecutorial authority.

B. A Maine State Police employee who likely or in fact will be a witness in a criminal prosecution shall ***proactively*** disclose to the relevant prosecutorial authorities all *Giglio* information pertaining to her- or himself.

C. Each Maine State Police employee has a ***continuing obligation*** to update the Office of Professional Standards about *Giglio* information pertaining to her- or himself.

D. The Colonel may confer with any prosecutorial authority about any potential or actual *Giglio* information regarding a Maine State Police employee.

E. The Maine State Police shall maintain records of the Maine State Police employees about whom *Giglio* information exists.

1. Upon request, the Maine State Police shall make such records accessible to prosecutorial authorities.

**3. RESPONSIBILITY OF A PROSECUTING AUTHORITY AFTER RECEIVING POTENTIAL *GIGLIO* INFORMATION**

A. After disclosure of *Giglio* information by the Colonel to a prosecutorial authority, that prosecutorial authority must determine whether the information must be further disclosed, as a matter of law.

**NOTICE**

**THIS GENERAL ORDER IS FOR USE OF THE MAINE STATE POLICE AND NOT FOR ANY OTHER AGENCY. THE GENERAL ORDER IS NOT INTENDED TO BE RELIED UPON BY ANY OTHER INDIVIDUAL OR PRIVATE OR PUBLIC AGENCY. THE GENERAL ORDER EXPRESSLY DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, A HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS ORDER ONLY MAY FORM THE BASIS FOR ADMINISTRATIVE SANCTIONS BY THE MAINE STATE POLICE.**