

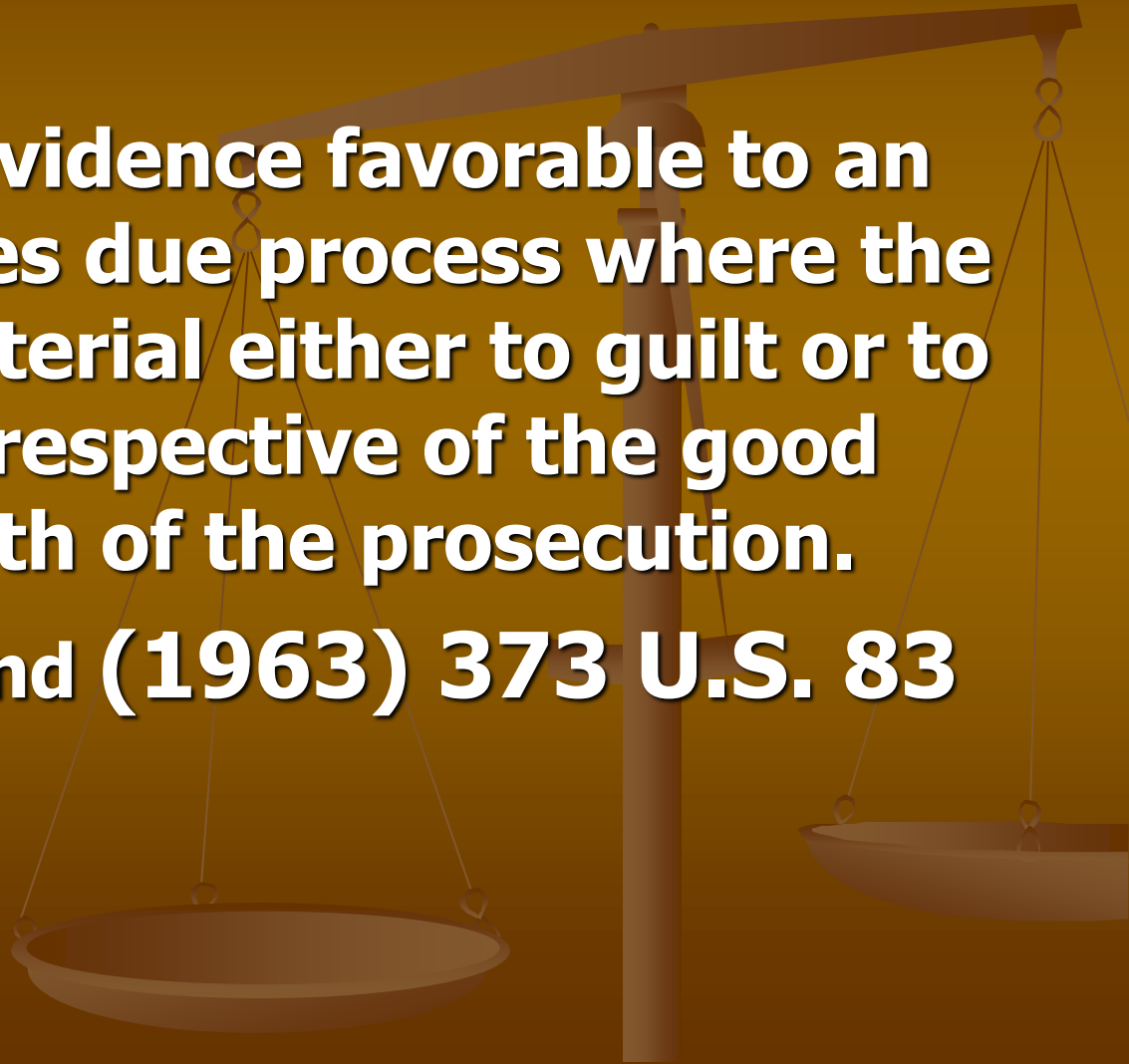
Brady Obligations



Brady v Maryland

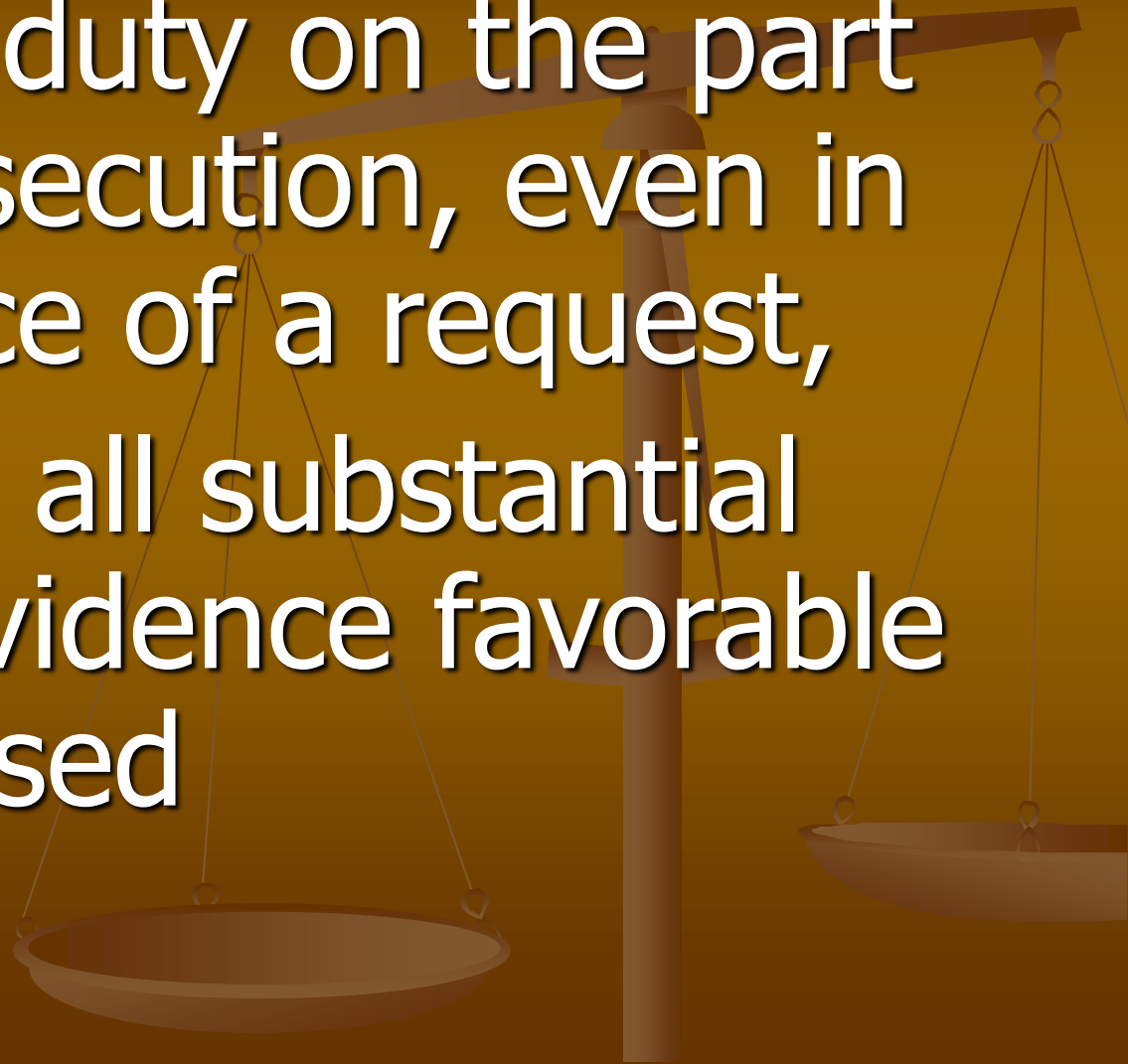
Suppression of evidence favorable to an accused violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

Brady v. Maryland (1963) 373 U.S. 83



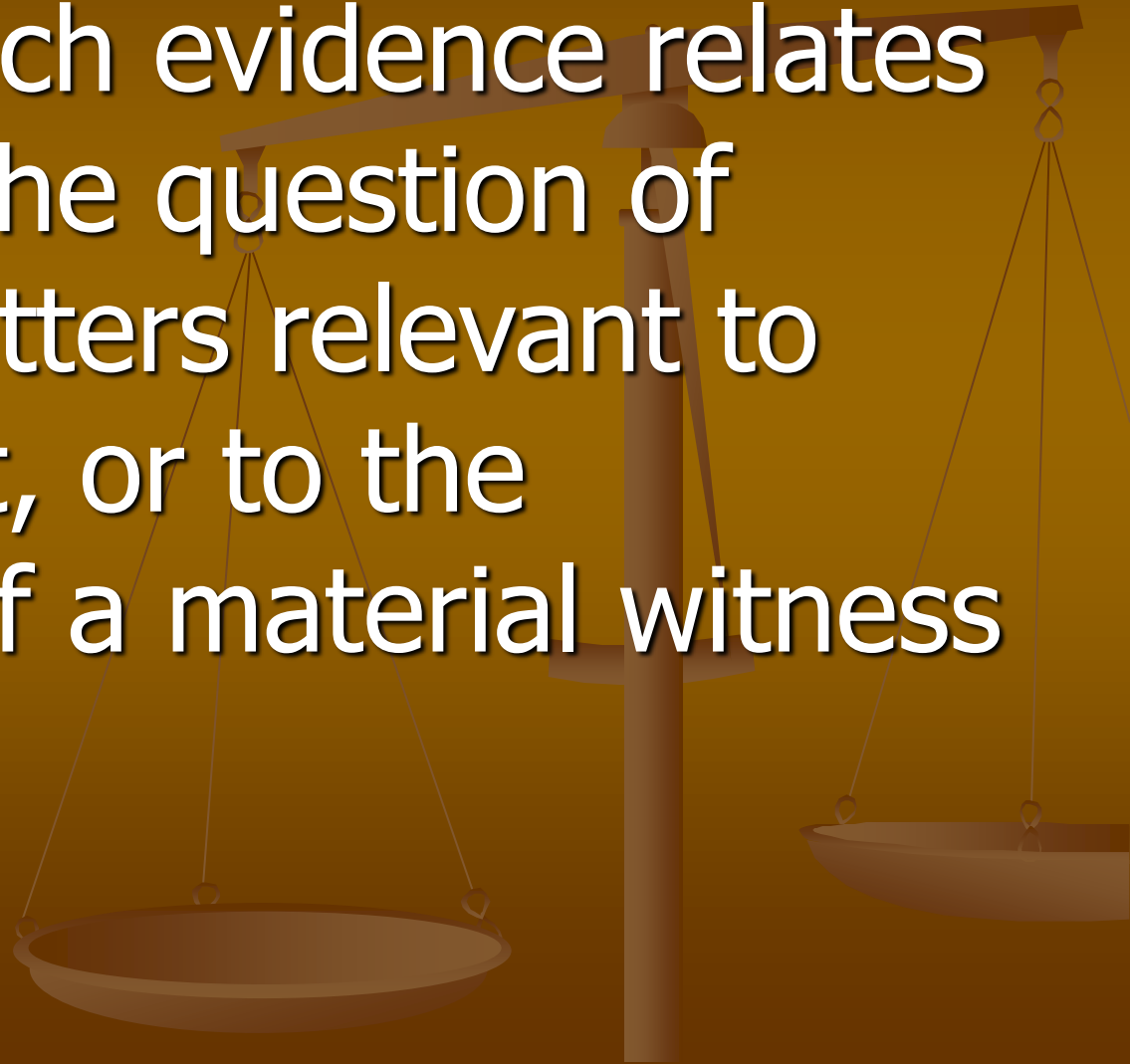
Disclosure

There is a duty on the part of the prosecution, even in the absence of a request, to disclose all substantial material evidence favorable to an accused



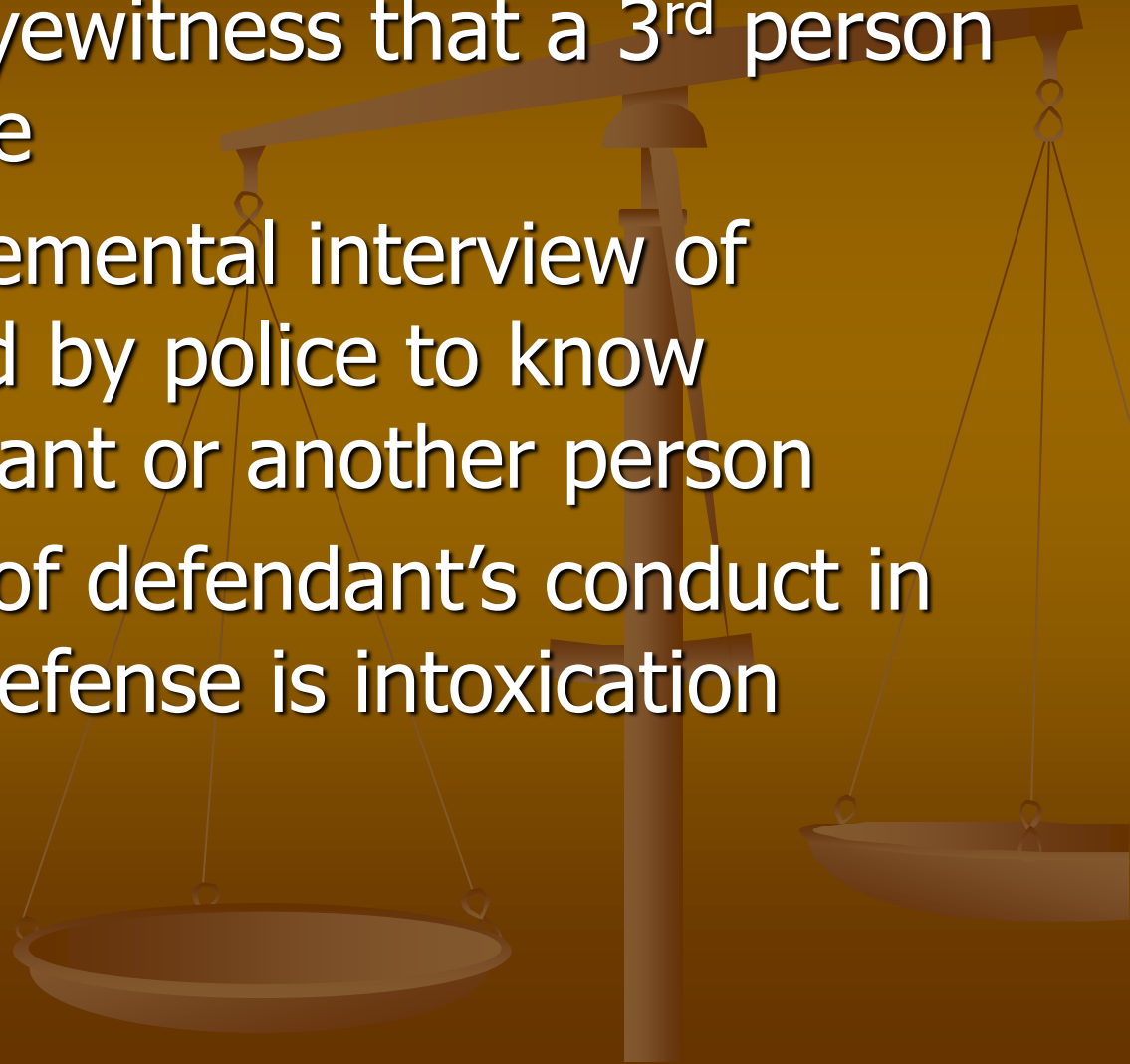
Disclosure

Whether such evidence relates directly to the question of guilt, to matters relevant to punishment, or to the credibility of a material witness



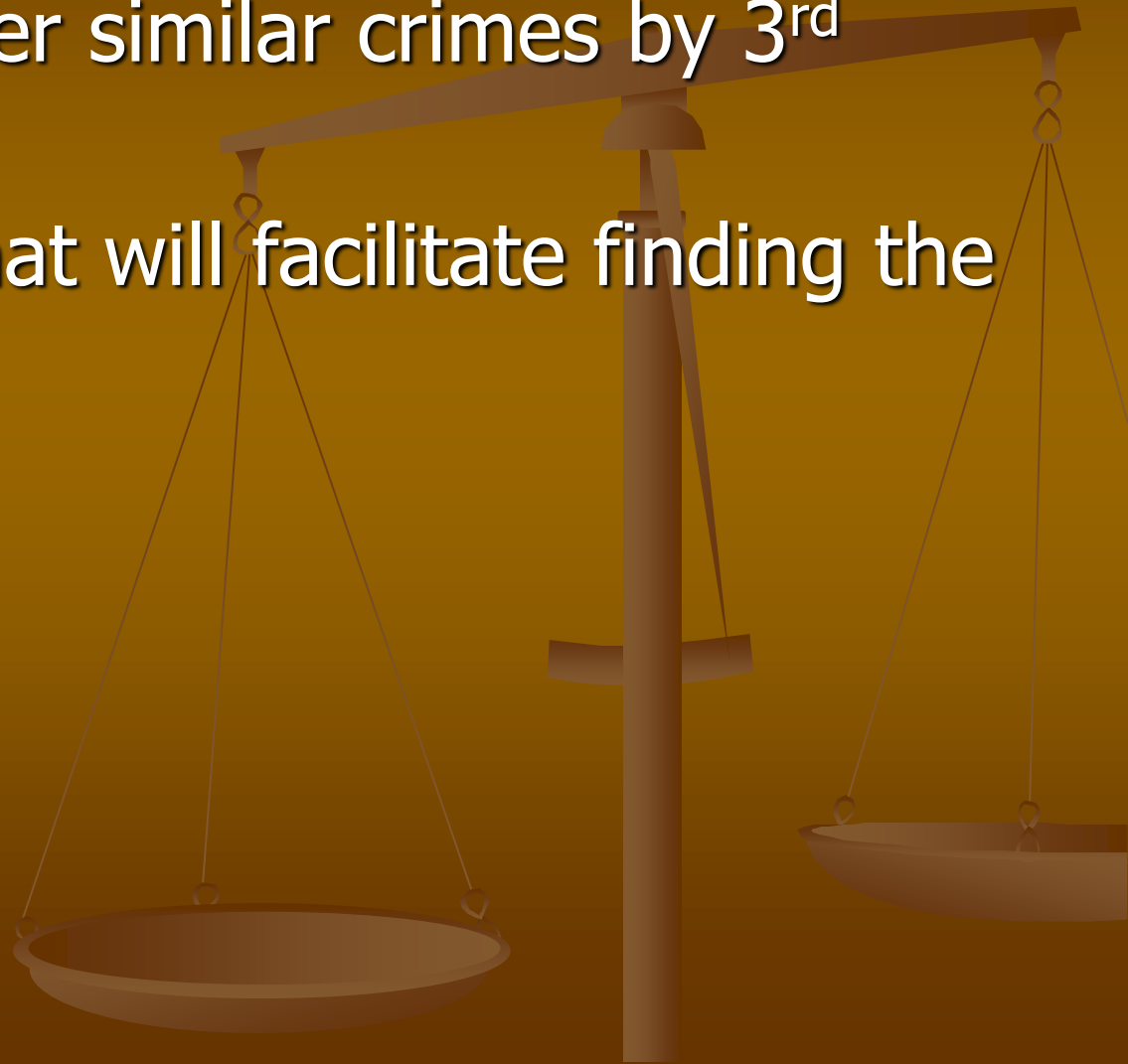
Directly Opposing Guilt

- Statement by eyewitness that a 3rd person committed crime
- Report of supplemental interview of witness believed by police to know whether defendant or another person
- Tape recording of defendant's conduct in custody when defense is intoxication



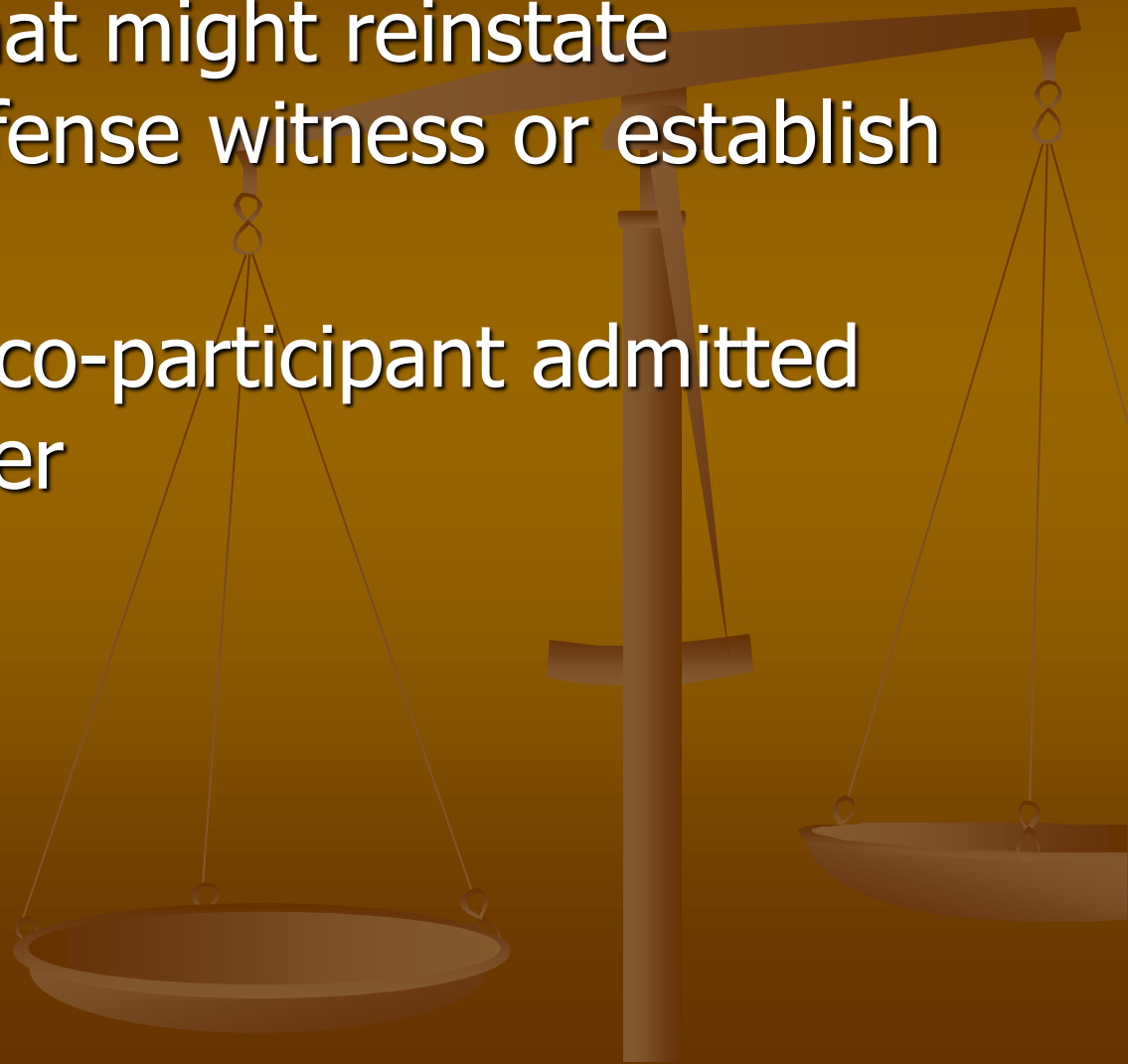
Indirectly Oppose

- Evidence of other similar crimes by 3rd party
- Any evidence that will facilitate finding the truth



Evidence Supporting Defense

- Any evidence that might reinstate credibility of defense witness or establish truth testimony
- Statement that co-participant admitted being actual killer



Brady

How it Heated Up

- “Judge Blames DA Kamala Harris....”



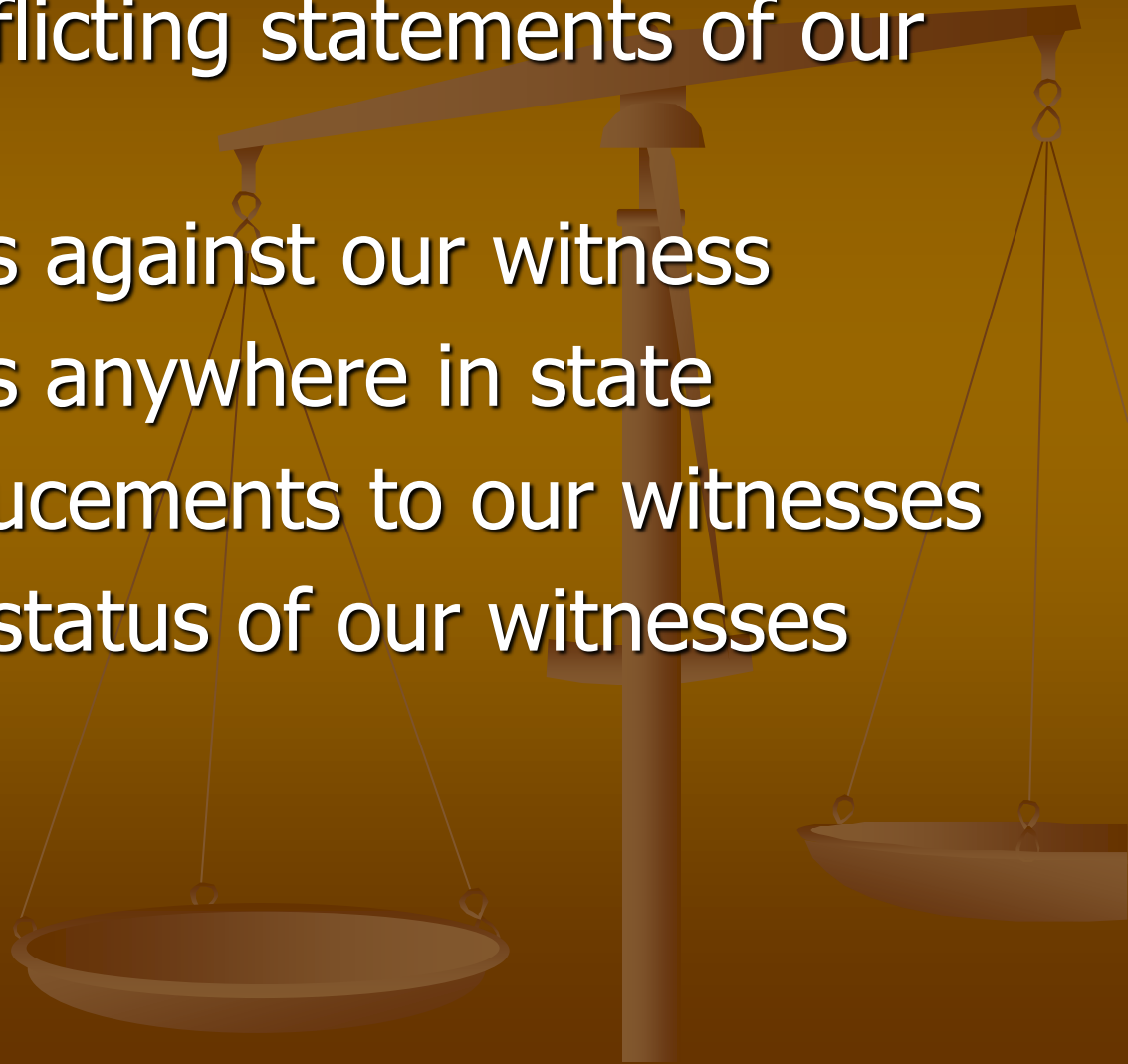
Brady

How it Heated Up

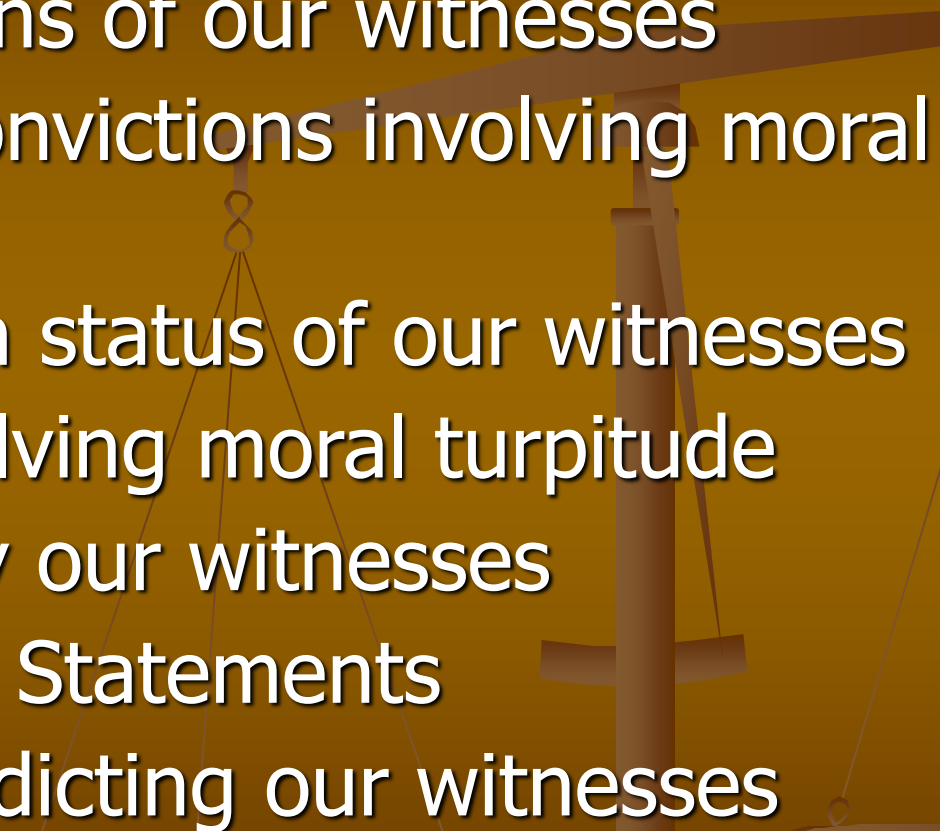


Witnesses

- Contrary or conflicting statements of our witnesses
- Pending charges against our witness
- Pending charges anywhere in state
- Promises or inducements to our witnesses
- Past Informant status of our witnesses

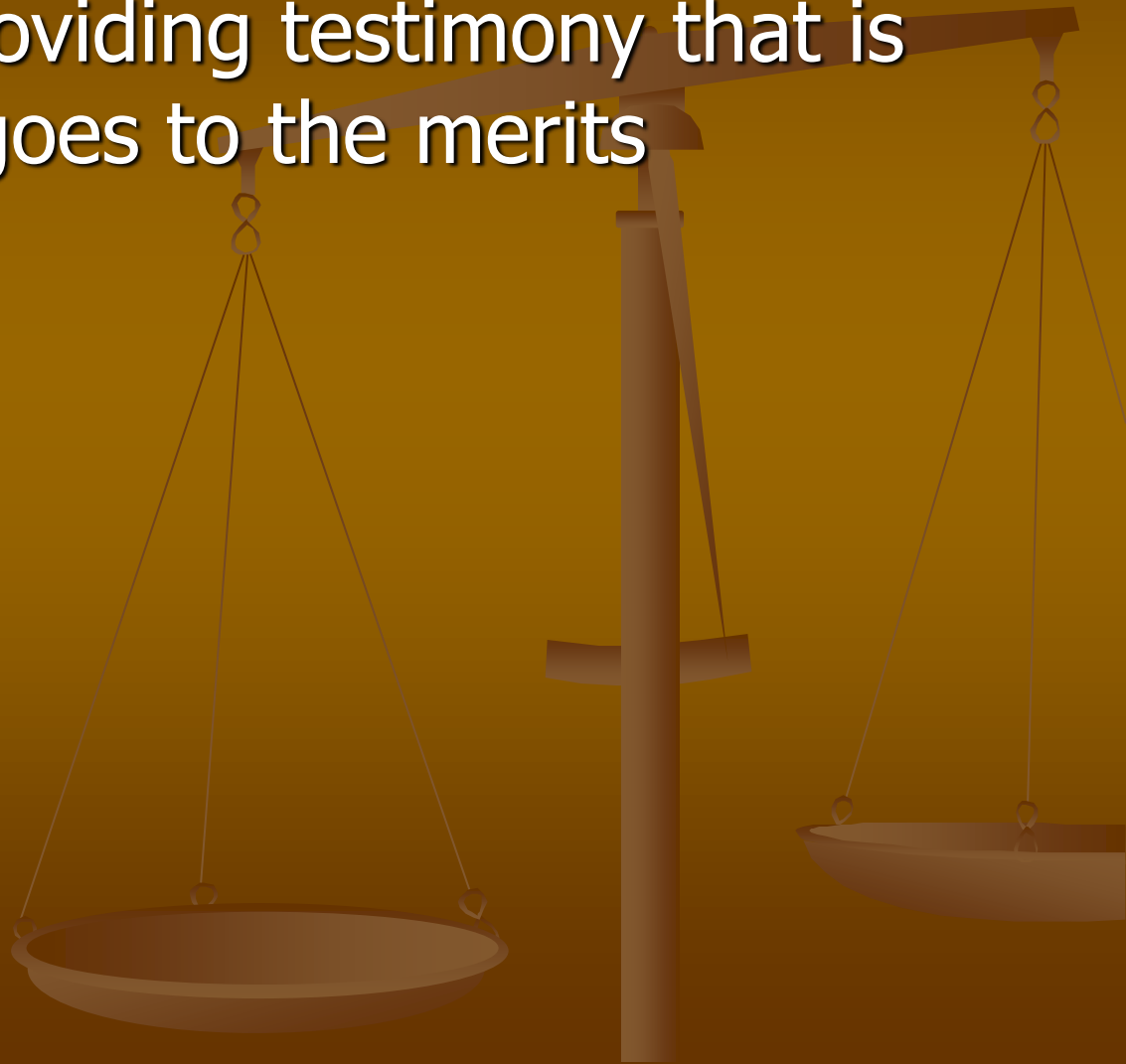


Witnesses

- Felony convictions of our witnesses
 - Misdemeanor convictions involving moral turpitude
 - Parole/Probation status of our witnesses
 - Misconduct involving moral turpitude
 - False Reports by our witnesses
 - Prior Inaccurate Statements
 - Evidence contradicting our witnesses
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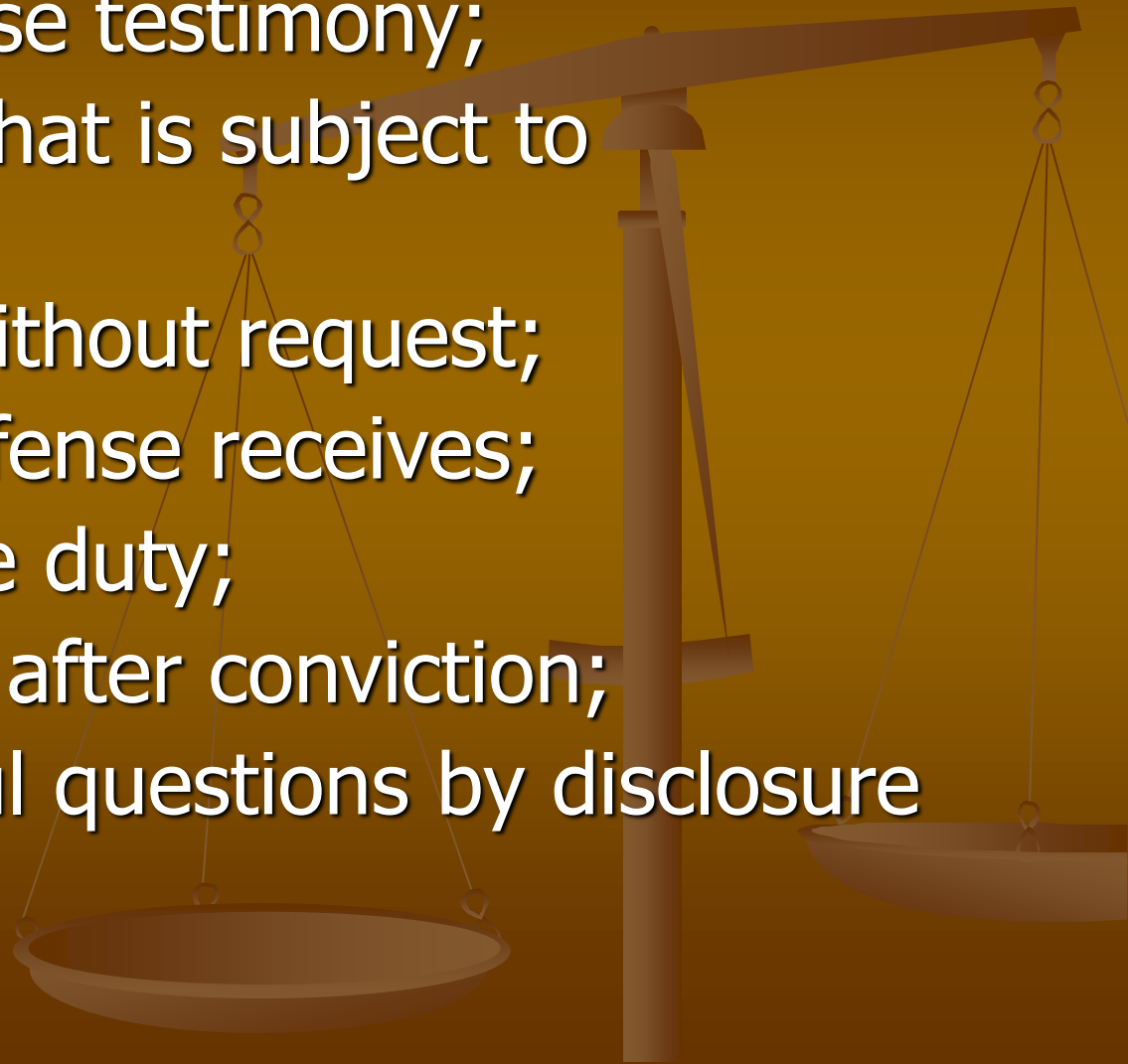
Material Prosecution Witnesses

- All witnesses providing testimony that is necessary and goes to the merits



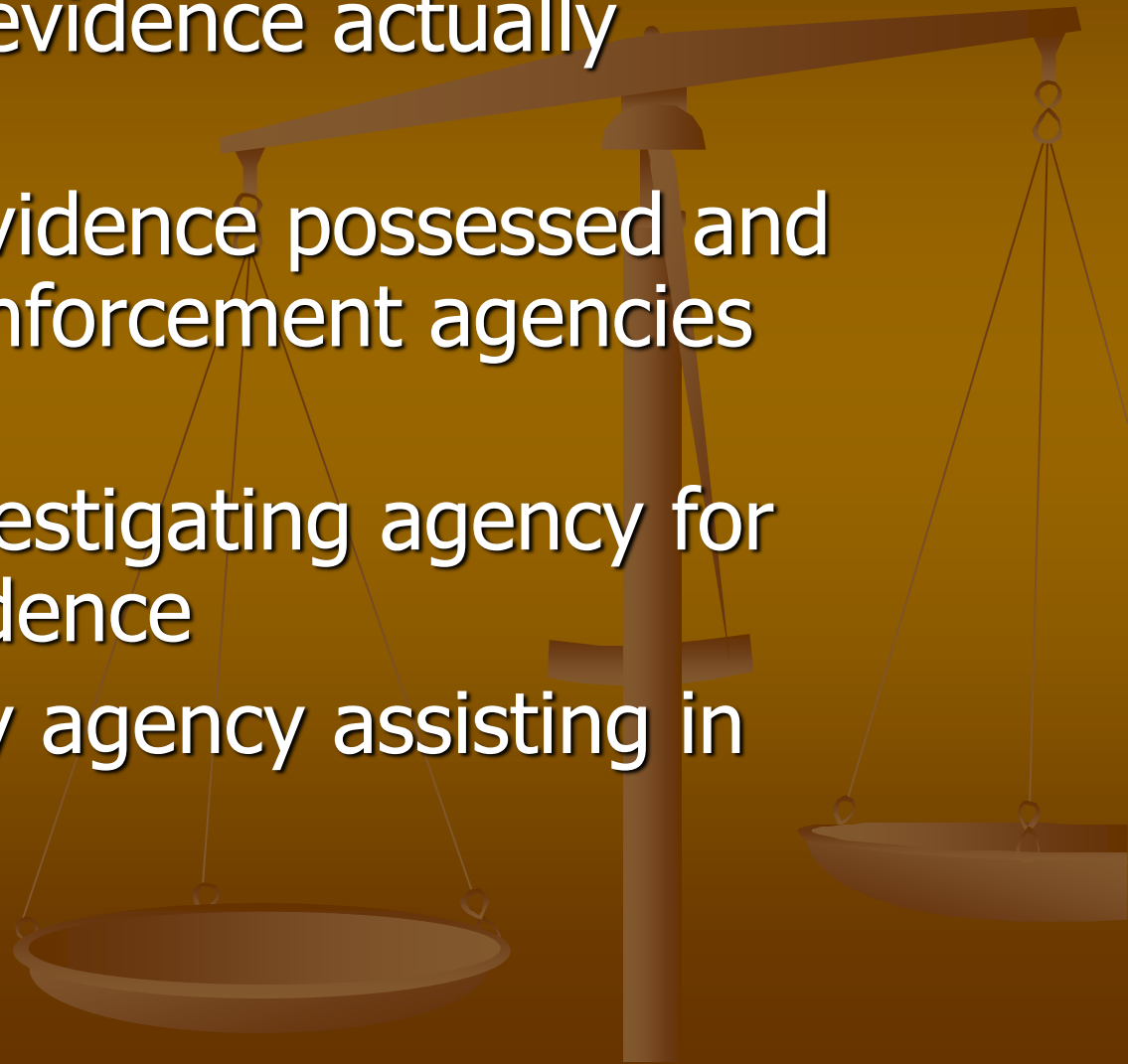
Prosecutor's Obligations

- Must correct false testimony;
- Sole judge of what is subject to disclosure;
- Must disclose without request;
- Must ensure defense receives;
- Cannot delegate duty;
- Continues even after conviction;
- Resolve doubtful questions by disclosure



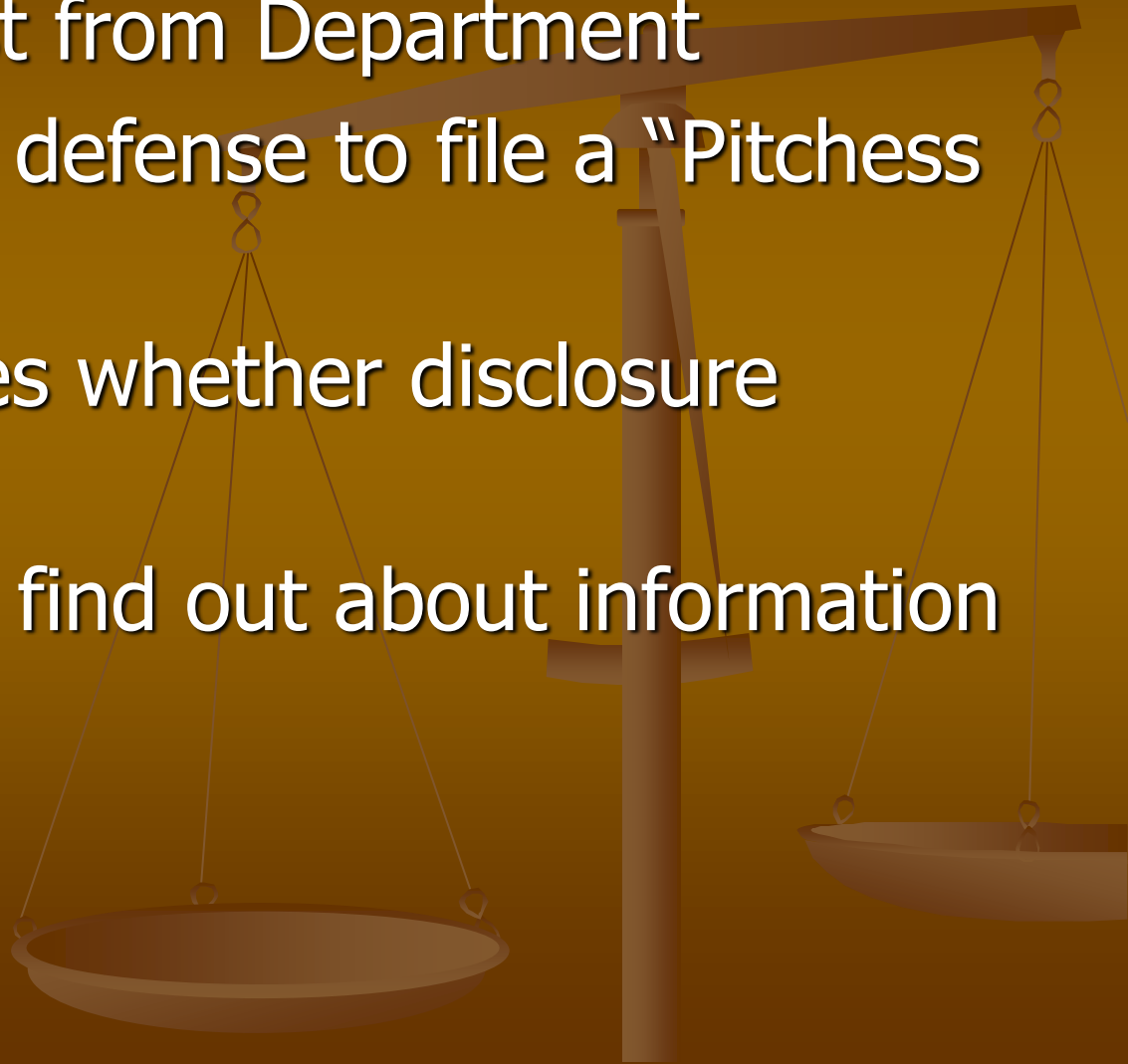
Prosecutor's Obligations

- Must disclosed evidence actually possessed
- Must disclose evidence possessed and known to law enforcement agencies participating
- Must search investigating agency for exculpatory evidence
- Must search any agency assisting in investigation



Brady and Peace Officers

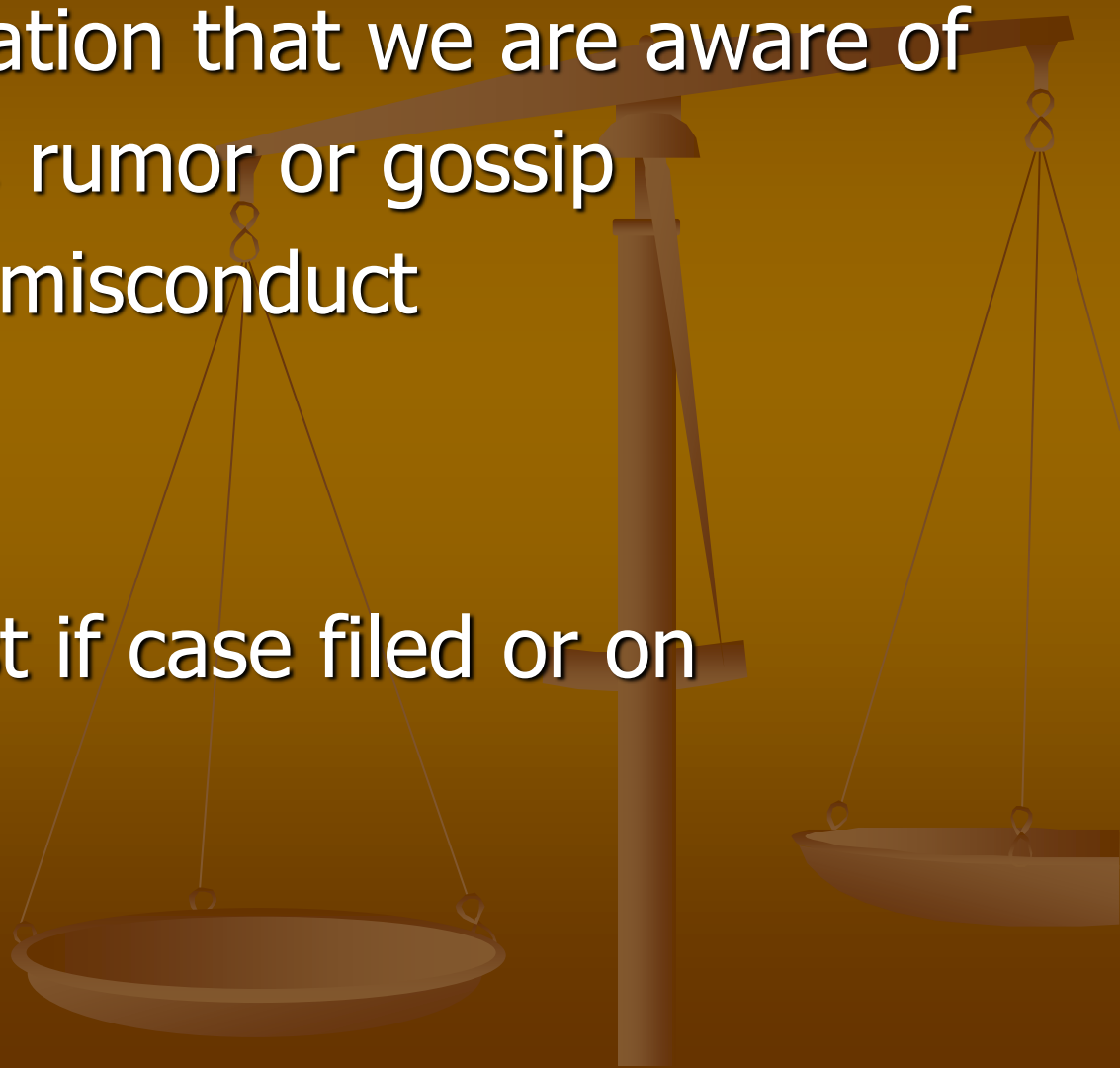
- Informal request from Department
- Response invite defense to file a "Pitchess Motion"
- Court determines whether disclosure occurs
- May or may not find out about information in file



Brady Index

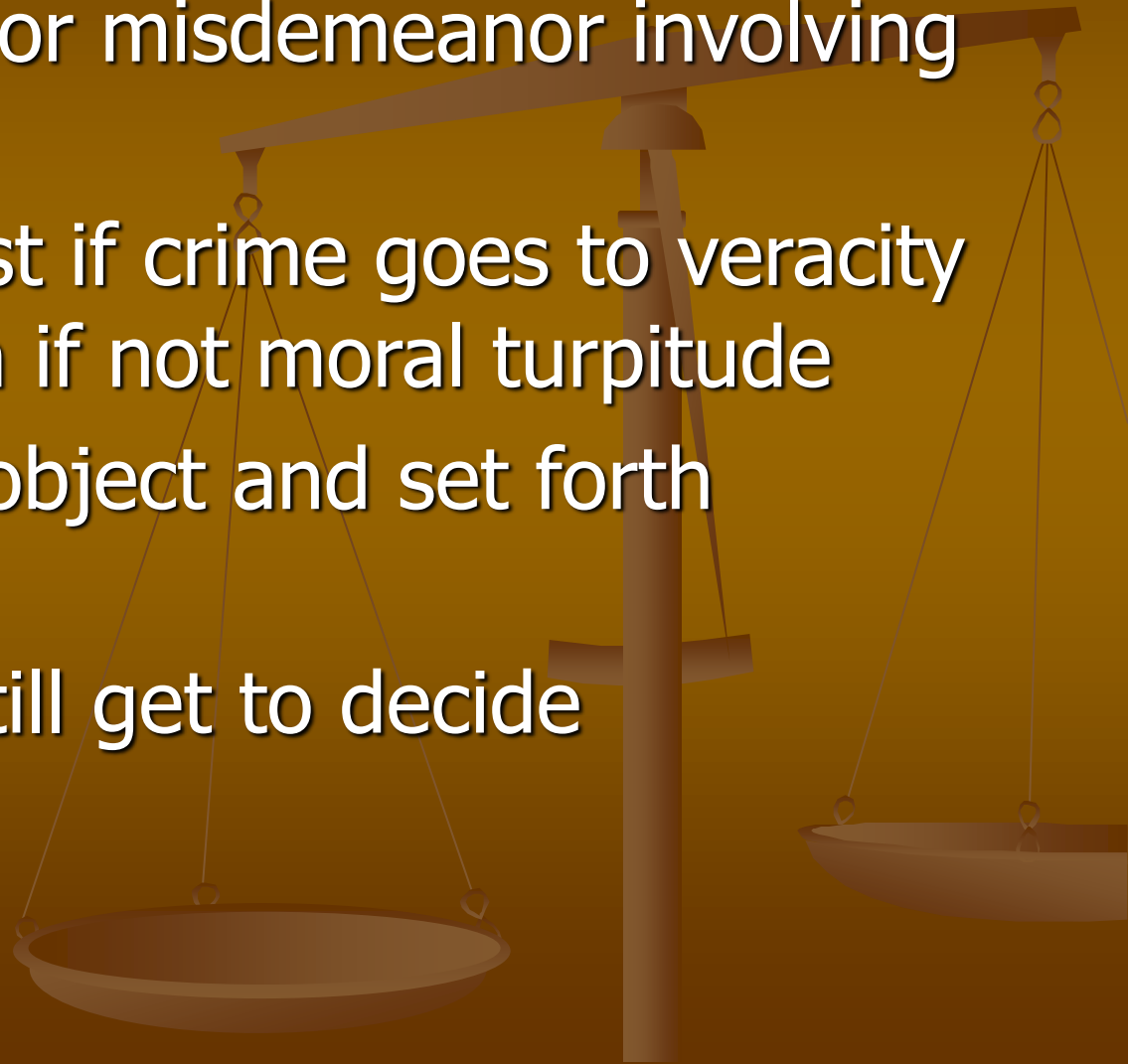
- Involves information that we are aware of
- Not speculative, rumor or gossip
- Police report of misconduct
- Criminal Filing
- Probation grant

Must be on the list if case filed or on probation



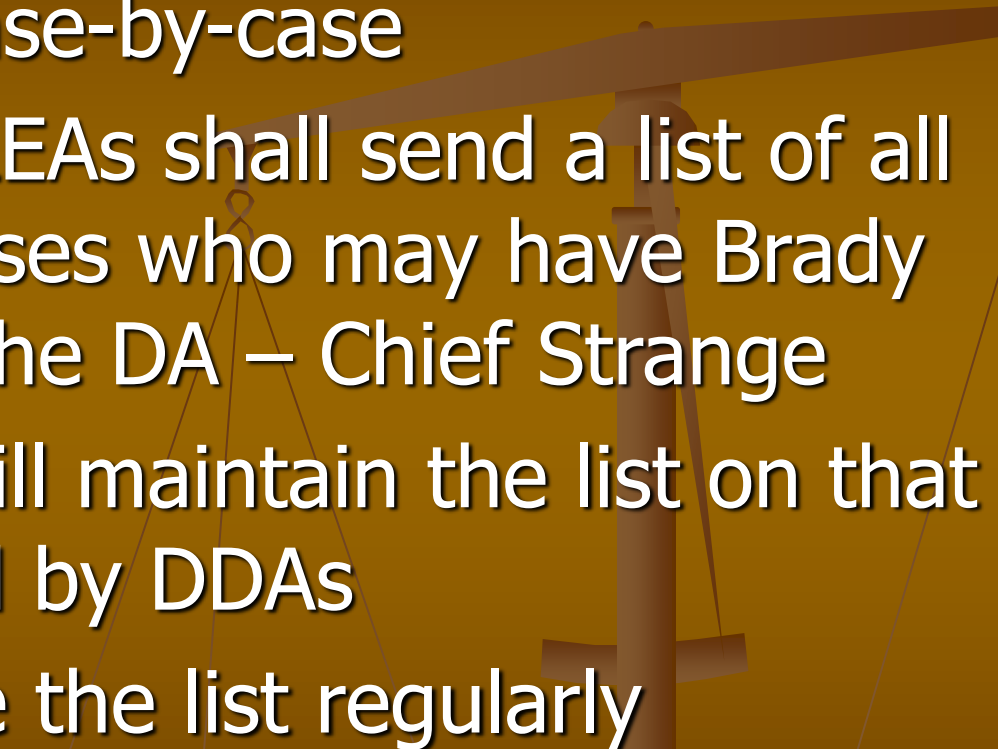
Criminal Conviction

- On list if felony or misdemeanor involving moral turpitude
- Potentially on list if crime goes to veracity or honesty even if not moral turpitude
- Opportunity to object and set forth position
- Ultimately we still get to decide



Yolo County DA Protocol

External Index

- Old System – case-by-case
 - New System – LEAs shall send a list of all potential witnesses who may have Brady Information to the DA – Chief Strange
 - Chief Strange will maintain the list on that can be accessed by DDAs
 - LEAs will update the list regularly
- 

Yolo County DA Protocol

External Index

- Prior to PX or right after PTC, the DDA shall check the “Comprehensive Brady Index” - see link under DA Staff Page – INTERNAL BRADY INDEX (Brady4DDAs)
- If one of the DDAs witnesses is on the Index, that DDA shall advise defense counsel to file a Pitchess motion (see Yolo DA Staff Page under “Pitchess Motion Notification”)

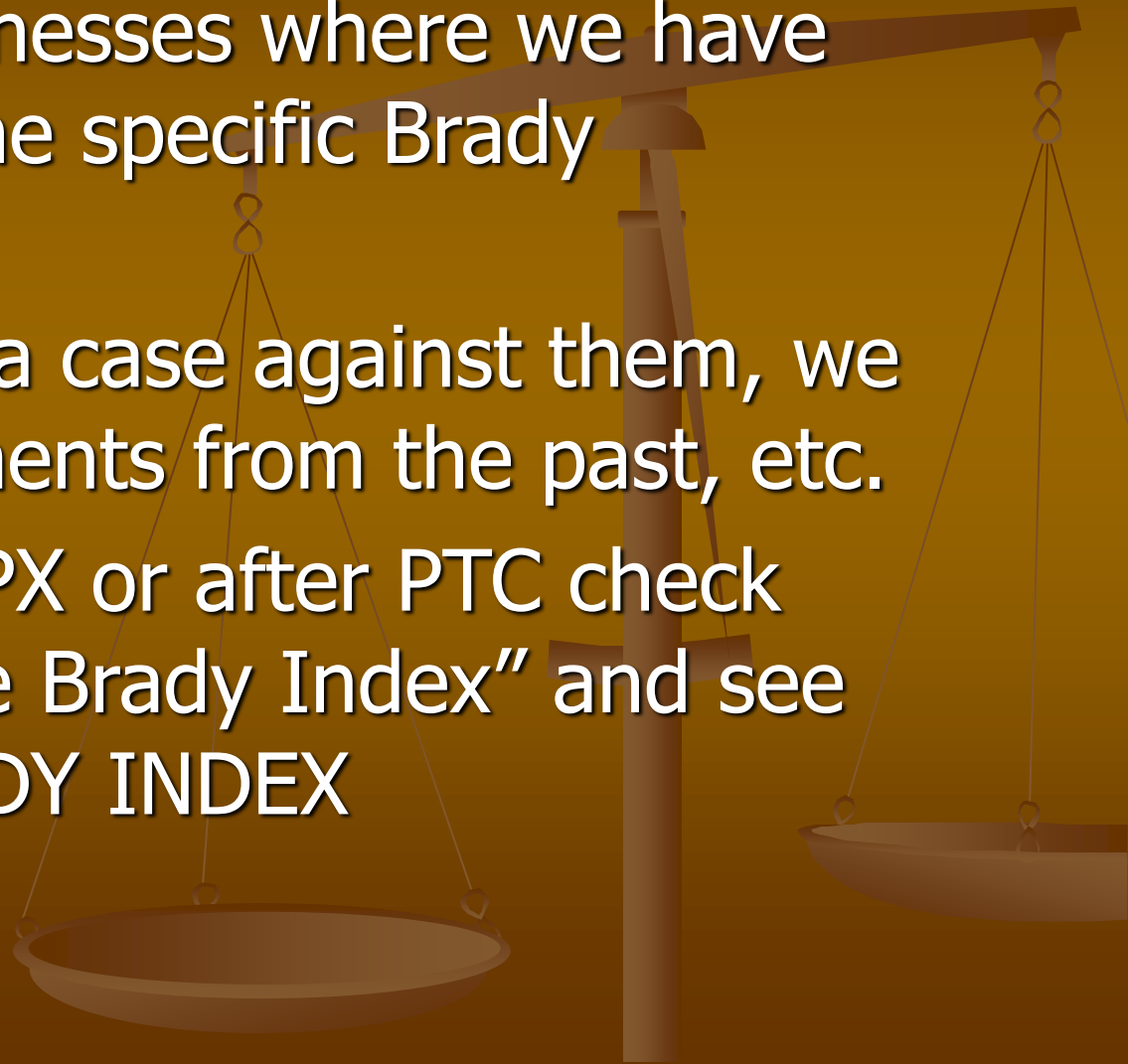
Yolo County DA Protocol

External Index

- Comprehensive INTERNAL INDEX includes DPD, UCDPD, WSPD, WiPD, WPD, YCSO, Solano County Crime Lab
- If Attorney General, Fish & Wildlife, CDCR Parole, CSLB, Probation, Sac FBI, Sac PD, Victim Services... use links for those agencies to make a request on each case to them
- If another agency, ask Chief DDA

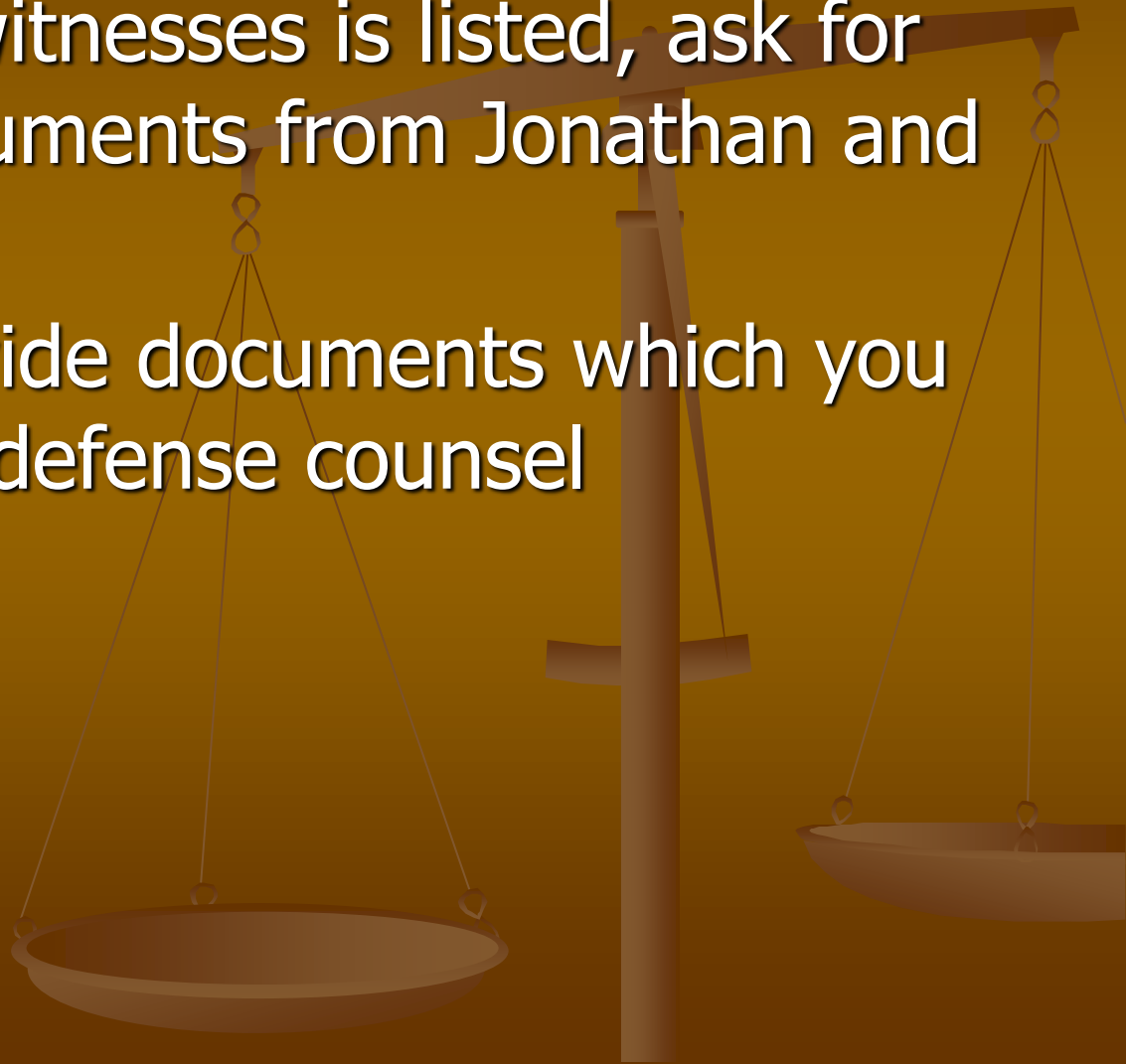
Yolo County DA Protocol Internal Index

- Potential LE witnesses where we have knowledge of the specific Brady Information
- We prosecuted a case against them, we have the documents from the past, etc.
- Again, prior to PX or after PTC check “Comprehensive Brady Index” and see INTERNAL BRADY INDEX



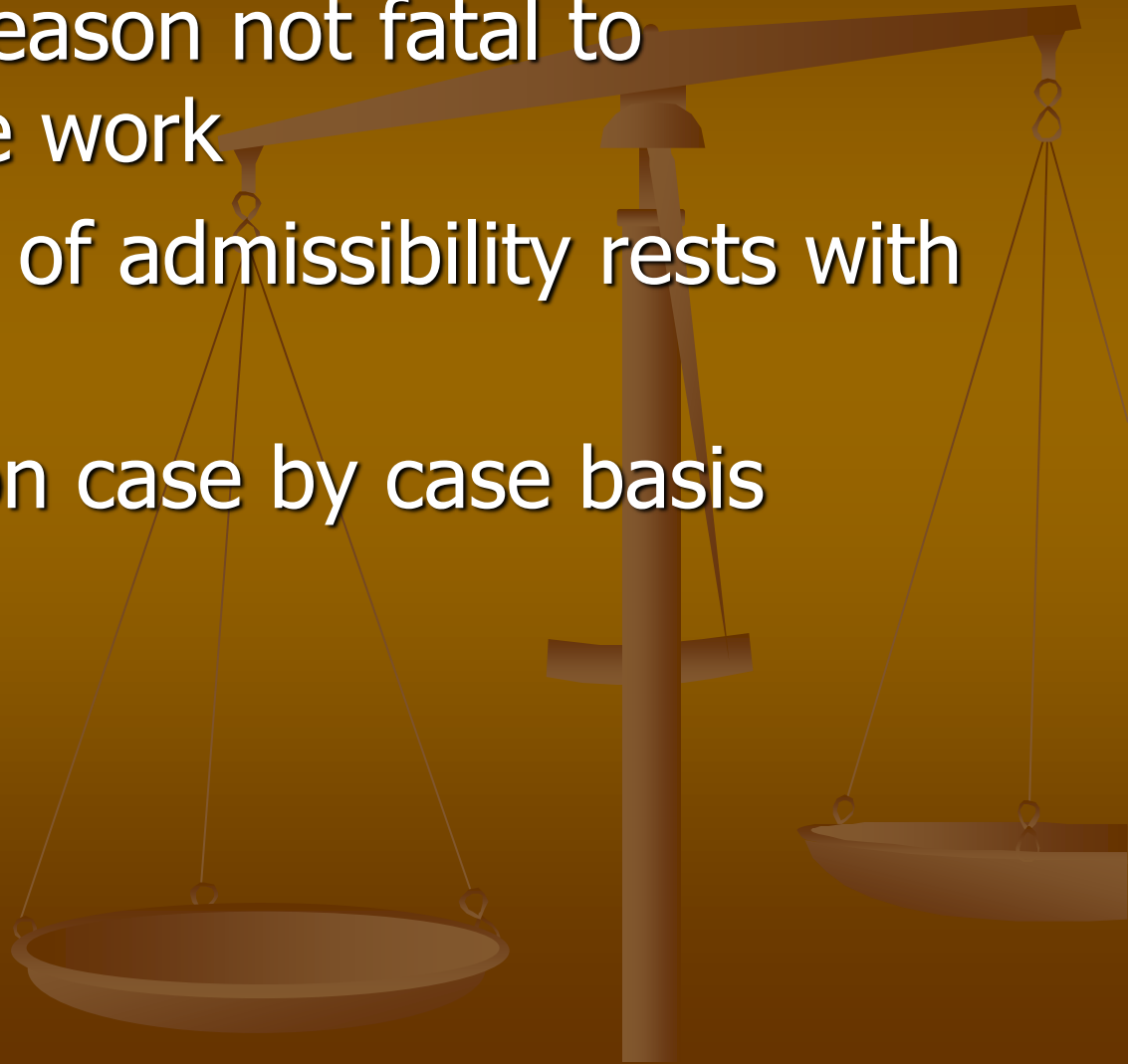
Yolo County DA Protocol Internal Index

- If one of your witnesses is listed, ask for package of documents from Jonathan and Rob Strange
- Wendy will provide documents which you will discover to defense counsel



Brady Index

- Depending on reason not fatal to continued police work
- Ultimately issue of admissibility rests with judge
- Litigate issues on case by case basis



Brady

