

United States Courts
Judicial Council of the Eighth Circuit
Thomas F. Eagleton United States Courthouse
111 South 10th Street – Suite 26.325
St. Louis, Missouri 63102-1116

Millie B. Adams
Circuit Executive


Voice (314) 244-2600
Fax (314) 244-2605
www.ca8.uscourts.gov

EIGHTH CIRCUIT JUDICIAL COUNCIL

ORDER

I hereby certify that the Eighth Circuit Judicial Council has promulgated the attached model order in compliance with the Due Process Protections Act, Pub. L. No. 116-182, 134 Stat. 894 (Oct. 21, 2020), which amends Criminal Rule 5 (Initial Appearance). The Due Process Protections Act provides in Section 2. Reminder of Prosecutorial Obligations:

In all criminal proceedings on the first scheduled court date when both prosecutor and defense counsel are present, the judge shall issue an oral and written order to prosecution and defense counsel that confirms the disclosure obligation of the prosecutor under *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, and the possible consequences of violating such order under applicable law.



Millie B. Adams
Circuit Executive

St. Louis, Missouri
October 30, 2020

cc: Judicial Council Members
 District Judges
 Magistrate Judges
 District Clerks of Court

Approval was given by the Eighth Circuit Judicial Council.

JCO 3153

Due Process Protections Act, Pub. L. No. 116-182 (October 21, 2020)
Direct Amendment of Criminal Rule 5 (Initial Appearance)

Model Written Order

“Pursuant to the Due Process Protections Act, the Court confirms the United States’ obligation to disclose to the defendant all exculpatory evidence- that is, evidence that favors the defendant or casts doubt on the United States’ case, as required by *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, and ORDERS the United States to do so. Failure to disclose exculpatory evidence in a timely manner may result in consequences, including, but not limited to, exclusion of evidence, adverse jury instructions, dismissal of charges, contempt proceedings, disciplinary action, or sanctions by the Court.”