

Beyond “If you have to ask...”: Understanding *Brady* and the Michael Morton Act in 2023

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Introduction

1963 - *Brady v. Maryland*

2014 - Michael Morton Act

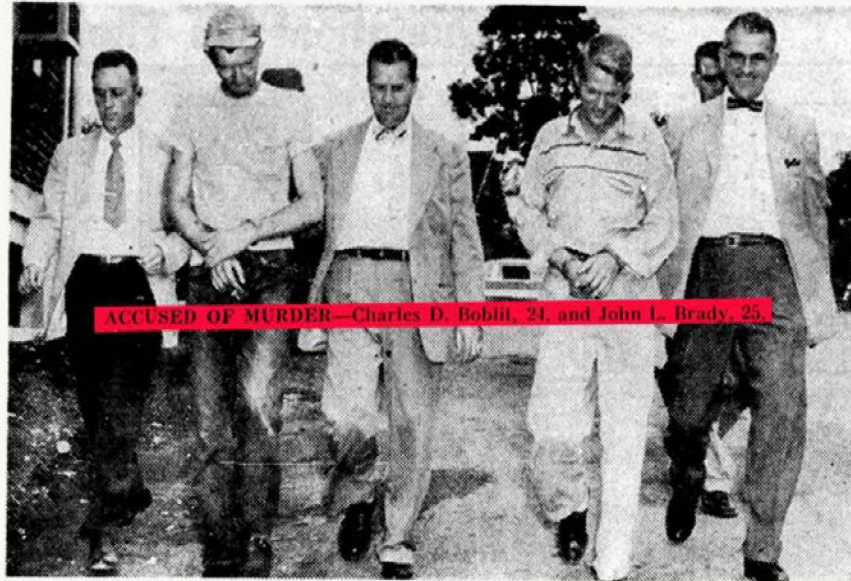
2021 - *Watkins v. State*

Recent cases



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Brady v. Maryland, 1963

- Brady & Boblit convicted of murder & sentenced to death
- Brady testified & admitted participating but claimed Boblit killed V
- Brady's counsel had asked for Boblit's extrajudicial statements
- Boblit's statement admitting he killed V was withheld

Brady & Progeny

- Held: A prosecutor has a duty to disclose evidence favorable to the defendant upon request
- Due process violation occurs if withheld evidence is “material” to either guilt or punishment—irrespective of good faith or bad faith of prosecution
- “Material”: there is a reasonable probability that had the evidence been disclosed, the result of the proceeding would have been different

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Kyles v. Whitley, 1995

- Prosecutors “have a duty to learn of any evidence favorable to the defense that is known to others acting on the government’s behalf in the case, including the police”
- No difference between exculpatory & impeachment evidence for *Brady* purposes (*Bagley*)

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