

# EXHIBIT E

*People v. Jonathan Majors*, No.: CR-008579-23NY



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August 21, 2023

**Via Email**

ADA Kelli Galaway  
ADA Michael Perez  
New York County District Attorney's Office  
Trial Bureau 30  
One Hogan Place  
New York, New York 10013

**Re: *People v. Jonathan Majors*, CR-008579-23NY  
The People's Failure to Comply with CPL § 245.20**

Counsel:

We are in receipt of several tranches of discovery provided in conjunction with the People filing their Certificate of Compliance ("COC") on August 4, 2023,<sup>1</sup> and Certificate of Readiness ("COR") filed on August 7, 2023.

We write in an effort to diligently confer regarding the discovery that the People have failed to produce pursuant to CPL § 245.20. As such, we believe the COC and all supplemental COCs are invalid.

***Brady/Giglio Obligations***

First, pursuant to *Brady v. Maryland*, we request that the People comply with their obligation to disclose to us all materially favorable evidence in the People's possession. The People are obligated to disclose any evidence and information that tends to negate Mr. Majors' guilt or mitigate Mr. Majors' culpability as to a charged offense; support a potential defense thereto; impeach the credibility of a testifying prosecution witness; undermine the evidence of Mr. Majors' identity as a perpetrator of a charged offense; provide a basis for a motion to suppress evidence; and mitigate punishment.<sup>2</sup>

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<sup>1</sup> The People have also provided Supplemental COCs on August 7, 8, and 11, 2023.

<sup>2</sup> The defense did receive a *Brady* disclosure from the People on August 18, 2023, regarding Dr. William Chiang's opinion that a fracture like Ms. Jabbari sustained on her finger is commonly found in patients who had direct trauma, such as hitting an object or falling, and it is medically uncommon that such a fracture would result from pulling, grabbing or twisting a hand or finger.

Favorable evidence is evidence that tends to negate the defendant's guilt or to impeach the credibility of the government's witnesses. Evidence that is impeaching in nature includes "benefits conferred on a witness by a prosecutor" because those benefits "provide a basis for the jury to question the veracity of a witness on the theory that the witness may be biased in favor of the People." *People v Colon*, 13 N.Y.3d 343, 350 (2009). It also includes tacit agreements. *People v. Giuca*, 33 N.Y.3d 462, 474 (2019). The existence of an agreement between the prosecution and a witness that is made to induce the testimony of the witness is evidence that must be disclosed to the defense under *Brady* principles. *Id.* at 475. Even if there is no tacit agreement, the prosecutor's duty includes promises of leniency given to the witness. *People v. Steadman*, 82 N.Y.2d 1, 7 (1993).

Notably, under *Brady*, a prosecutor is obligated to provide a correct and complete recitation of the *full terms* of an agreement with a witness. In *People v. Johnson*, the court accepted the defendant's argument that the "Supreme Court erred in denying her motion to set aside the verdict which...was premised upon the People's failure to disclose certain Brady material, i.e., the **full terms** of [the witness's] cooperation agreement, which she contend[ed] impaired the defense's ability to impeach [the witness's] credibility (see CPL 330.30[1] )." 107 A.D.3d 1161, 1163 (2013). (Emphasis Added). Similarly, in *People v. Grice*, the First Department affirmed an order granting the defendant's motion to vacate his judgment of conviction and ordering a new trial because the prosecutor did not ascertain and disclose **full details** of the cooperation agreement entered into by a material witness. 188 A.D.2d 397 (1992).

Here, it is evident that the prosecution has conferred benefits on Grace Jabbari, which could potentially affect her credibility as a witness, *and* the People have failed to disclose this information to the defense. It has been publicly reported<sup>3</sup> and confirmed by the NYPD that there is an open NYPD investigation card (commonly referred to as an I-card) for the arrest of Grace Jabbari, based on the NYPD's determination that there is probable cause to arrest Ms. Jabbari for assaulting Mr. Majors and stealing his property. Upon information and belief, the New York County District Attorney's Office ("DANY") has attempted to deactivate the open NYPD I-card for her arrest, attempted to convince Detective Mejia not to arrest her, and apparently has made the decision not to investigate or charge her for the crimes committed against Mr. Majors, despite evidence indicating her involvement. Additionally, the prosecution has allowed Ms. Jabbari to retain valuable items belonging to Mr. Majors, despite his requests for their return.

In addition to the benefits conferred upon Ms. Jabbari by not investigating or charging her, and DANY's attempt to interfere with the NYPD investigation, upon information and belief, Ms. Jabbari has also received immigration benefits from DANY. Ms. Jabbari is not a United States citizen and travels to the United States on a work visa. However, said visa would and should be revoked if Ms. Jabbari was arrested and charged in accordance with the evidence.

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<sup>3</sup> <https://www.nytimes.com/2023/06/29/nyregion/jonathan-majors-accuser.html>  
<https://www.insider.com/ex-girlfriend-of-marvel-kang-actor-jonathan-majors-wanted-nypd-2023-6>

It is unknown what other immigration benefits DANY has conferred or attempted to confer on Ms. Jabbari.

Yet, despite the above, the People have not provided the defense with any *Brady/Giglio* material regarding the NYPD investigation into Ms. Jabbari, DANY's role in the investigation and probable cause determination leading to the issuance of the I-card, or any communications between DANY and the NYPD regarding Ms. Jabbari's imminent arrest. At a minimum, the People must provide all written correspondence to and from DANY with the NYPD regarding the investigation into Grace Jabbari and a list of all non-written communications between DANY and the NYPD regarding this investigation, including but not limited to date, time, individuals involved, and substance of each communication.

As stated above, evidence impeaching in nature, such as benefits conferred on a witness, must be disclosed to the defense under *Brady* principles. The obligation of the prosecution to disclose arises not from the form or labeling of the benefits but from either the understanding reached between the parties, wherein the witness's cooperation is exchanged for some *quid pro quo* from the prosecution, or the prosecution conferring benefits to the witness. Given the significance of these benefits in potentially influencing the credibility of Ms. Jabbari as a witness, the full details of the benefits conferred to her must be disclosed to the defense. The People have wholly failed to do so. The prosecution's failure to provide these details prior to filing the COC and COR is improper as it violates CPL § 245.20(1)(k) and (l).

### ***Search Warrant***

In discovery, you provided a hard drive which purports to contain the result of search warrants you obtained for Mr. Majors' device and iCloud accounts. However, we cannot identify from the discovery provided which materials were recovered pursuant to the search warrants, several files are unreadable, and some folders are empty, as discussed below.

As such, we ask you to 1) identify what you have obtained as a result of your search warrants, 2) identify what you have provided to us (please indicate the name you gave the folders, and the purported contents of the folder), and 3) indicate whether you obtained any of those materials through an independent source other than your search warrants. An inventory of all property seized under the warrant is required (pursuant to CPL 245.20(1)(n)).

We are trying to determine if any motions regarding the search warrants are necessary and are attempting not to seek the court's intervention if it is not necessary. We ask that you provide this information by 10 a.m. on Friday, August 25, 2023.

### ***Missing Discovery***

Second, the People failed to disclose items which are plainly required under CPL § 245.20. This includes but is not limited to:

1. All 911 calls placed at the time of the incident or immediately thereafter at Centre Street and Canal Street (pursuant to CPL § 245.20(1)(g));
2. All Radio Runs at the time of the incident or immediately thereafter at Centre Street and Canal Street which led to the police responding to the location (pursuant to CPL § 245.20(1)(g));
3. All SPRINT reports from the time of the incident or immediately thereafter at Centre Street and Canal Street (pursuant to CPL § 245.20(1)(g));
4. Complete medical records from Bellevue Hospital which include documentation from the Orthopedics or Plastic Surgery department (pursuant to CPL § 245.20(1)(j));
5. Complete medical records from Ms. Jabbari's therapist "Kari" (pursuant to CPL § 245.20(1)(j));
6. A copy of the I-card for Ms. Jabbari's arrest (pursuant to CPL § 245.20(1)(k) and (l));
7. All correspondence between DANY and the NYPD regarding the investigation into Grace Jabbari and the I-card for Ms. Jabbari's arrest (pursuant to CPL § 245.20(1)(k) and (l));
8. An inventory of all property seized under the warrants (pursuant to CPL 245.20(1)(n)); and
9. The name and list of publications of the expert witness the People intend to call (as opposed to a disclosure of four expert witnesses without disclosing the one whom the prosecutor intends to call) (pursuant to CPL § 245.20(f)).

Next, several documents you list as produced are missing from your production. Attached as **Exhibit A** is a copy of the People's August 7, 2023, "Rosario and Discovery List" (the "List"), which breaks down the discovery by production. We have compared the List with the actual productions and noted the following discrepancies in **Exhibit B**: (a) highlighted in yellow are four individual files missing from the relevant productions; and (b) highlighted in green is the section entitled, "13) Communications (Texts and Emails)," which we have marked because the People only provide the names of the folders without listing the individual files (or even providing the number of files per folder), making it impossible to know what you indicate you have turned over. Thus, we ask for a complete index of what is in that section so we can compare that with what you have actually turned over.

Finally, the productions contained 108 unreadable or otherwise inaccessible files, forty-five of which are highlighted in pink on the List in **Exhibit B**, and the remainder listed in **Exhibit C**. Further, we cannot open any of the X-rays you have provided. Please either provide the X-rays in a format we can open, provide us with a CD containing the X-rays, or provide us with the information for whatever software is required to open them.

Accordingly, we request the People promptly

1. Disclose all *Brady/Giglio* material, including all favorable evidence in the People's possession, including the full terms of the benefits conferred on Ms. Jabbari;
2. Provide the above-referenced missing discovery, including but not limited to:
  - a. missing 911 calls;

- b. missing Radio Runs;
  - c. missing SPRINT reports;
  - d. complete medical records from Bellevue and Ms. Jabbari's therapist;
  - e. a copy of the I-card for Ms. Jabbari's arrest;
  - f. a copy of all correspondence between DANY and the NYPD regarding the investigation into Ms. Jabbari and the I-card for her arrest;
  - g. an inventory of all property seized under the warrants; and
  - h. the expert witness the People intend to call as trial is less than three weeks away;
3. Provide readable, uncorrupted versions of the files enumerated above, highlighted in pink on Exhibit B, and listed on Exhibit C;
  4. Provide all unreadable and inaccessible files; and
  5. Provide viewable/openable versions of all X-rays (or provide us with information for what software will open them).

We appreciate your prompt attention to this matter. We remain available to discuss with you at any time. Mr. Majors reserves all rights to file any applicable motions with the Court.

Very truly yours

A handwritten signature in black ink, appearing to be 'Priya Chaudhry', enclosed within a hand-drawn oval.

Priya Chaudhry