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9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12 **WESTERN DIVISION**  
13

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 ALEXANDRIA AUGUSTINE,

18 Defendant.  
19  
20  
21  
22  
23

Case No. 2:25-cr-00678-KS

**DEFENDANT’S MOTION *IN*  
*LIMINE* TO COMPEL GRAND  
JURY TRANSCRIPTS AND  
GOVERNMENT WITNESSES’  
PERSONNEL FILES**

Hearing Date: October 2, 2025

Hearing Time: 11:00 a.m.

Location: Courtroom of the Hon.  
Karen L. Stevenson

24 Defendant Alexandria Augustine, through her counsel of record, Aden Kahssai  
25 and Rebecca Abel, hereby moves *in limine* to compel the government to disclose the  
26 grand jury transcripts and personnel records for the officers and agents involved in this  
27 matter.  
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1 This motion is based upon the attached Memorandum of Points and Authorities,  
2 all files and records in this case, and any further evidence as may be adduced at the  
3 hearing on this motion.

4  
5 Respectfully submitted,

6 CUAUHTEMOC ORTEGA  
7 Federal Public Defender

8  
9 DATED: October 1, 2025

By /s/ Aden Kahssai

10 ADEN KAHSSAI  
11 REBECCA M. ABEL  
12 Deputy Federal Public Defenders  
13 Attorneys for ALEXANDRA AUGUSTINE  
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## I. INTRODUCTION

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2 After the complaint was filed, the government attempted to secure a felony  
3 indictment by bringing the evidence to the grand jury. The grand jury returned a no bill.  
4 The government has informed defense counsel that it will not comment on anything that  
5 happened in front of the grand jury and has refused to disclose the transcript of the grand  
6 jury proceeding. Witnesses testified before the grand jury and decided to not charge Ms.  
7 Augustine, thus that testimony is relevant to Ms. Augustine's defense under *Brady v.*  
8 *Maryland*, 373 U.S. 83 (1963) and *Gigilo v. United States*, 405 U.S. 150 (1972). This is  
9 particularly so if testimony to the grand jury will impeach trial witness testimony that  
10 differs, even slightly, in its recitation of the evidence, or if grand jurors asked any  
11 questions that bear on guilt. The defense requests production of the grand jury transcript.  
12 Alternatively, the government should be ordered to disclose the grand jury transcripts to  
13 the Court for an in camera inspection to confirm whether they contain any evidence that  
14 is required to be produced under *Brady*, Rule 16, or otherwise. *See Dennis v. United*  
15 *States*, 384 U.S. 855, 874 (1966).

16 Additionally on September 25, 2025, defense counsel requested the personnel files  
17 of all officers or agents involved in this case and anticipated to testify, citing *United*  
18 *States v. Henthorn*, 931 F.2d 29 (9th Cir. 1990), which requires, upon request, that the  
19 government inspect the personnel files of its law enforcement officer witnesses and turn  
20 over impeachment material.<sup>1</sup> With one week remaining before trial, defense counsel has  
21 received no response from the government on this matter. In addition, the government's  
22 purported *Henthorn* review is insufficient under *Brady* because it includes only a letter  
23 from government counsel containing a summary of sustained allegations in his personnel  
24 file. It does not include any allegations of misconduct, if unsustained, nor the production  
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27 <sup>1</sup> In particular, defense seeks personnel files relating to Officers Alexandro  
28 Guitierrez (A.G.), Anthony L. Sermons, and Lucas Riley - officers government counsel  
anticipates calling to testify at trial.

1 of any underlying evidence. Consistent with obligations under *Brady* and *Henthorn*, the  
2 defense requests that the government produce for in camera review all evidence of any:  
3 (1) criminal arrests, prosecutions, or convictions; and (2) civil or administrative matters  
4 such as personnel actions, disciplinary complaints, citizen complaints, hearing  
5 transcripts, investigative notes or documents that relate to excessive force, credibility,  
6 and/or honesty, including any allegations of excessive force, preparation or approval of  
7 false reports, and the giving of false statements or testimony.

8 Ms. Augustine respectfully requests that the Court compel the government to  
9 disclose grand jury transcripts and *Henthorn* materials, as outlined above, to the defense,  
10 or to the Court for in camera review.

## 11 II. BACKGROUND

12 On July 24, 2025, Ms. Augustine was arrested during a protest against  
13 Immigration and Customs Enforcement (“ICE”) in downtown Los Angeles. She was  
14 initially charged on a Complaint for a violation of 18 U.S.C. § 111(a)(1), assaulting a  
15 federal officer. Dkt. 1. After the complaint was filed, the government sought a felony  
16 indictment for the assault charge from the grand jury. The grand jury returned a no bill.  
17 Subsequently, the Complaint was dismissed and the government filed an Information  
18 charging 18 U.S.C. § 111(a)(1), assault on a federal officer, a Class A misdemeanor.  
19 Dkt. 17. Seven days before trial, the government added two Class C misdemeanor  
20 charges to this case in a Superseding Information for 41 C.F.R. § 102-74.390(c):  
21 impeding or disrupting the performance of official duties by government employees  
22 and 41 C.F.R. § 102-74.385: failing to comply with official signs and directions.

23 According to the complaint, FPS officers (including Officer Alexandro  
24 Gutierrez) were deployed to direct a group of people that were on federal property back  
25 on the sidewalk toward Alameda Street. As the group of FPS officers approached the  
26 group of protestors, many of the protestors were yelling at the FPS officers, and some  
27 in the group (including one who was later identified as AUGUSTINE) started waving  
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1 their umbrellas toward the officers. Dkt. 1 ¶ 5(c). The complaint further alleged that as  
2 the FPS officers moved the protestors back, Officer Gutierrez approached Ms.  
3 Augustine and she extended her umbrella toward him. Then, Officer Gutierrez used his  
4 hand to try to move the umbrella away from him and tore the fabric from the umbrella's  
5 frame. After Officer Gutierrez tore the fabric off the umbrella's frame, Ms. Augustine  
6 threw, and allegedly intentionally assaulted, Officer Gutierrez with the now metal  
7 frame of the umbrella on the left shoulder and upper chest area. *Id.* at ¶ 5(d).

8 Video evidence received from the government does not show the facts alleged in  
9 the complaint: that Ms. Augustine extended her umbrella “towards Officer A.G.,” that  
10 she “threw and intentionally assaulted Officer A.G.,” and that the metal frame of the  
11 umbrella touched Officer A.G. on the shoulder and upper chest area. Given the  
12 contradictory statements, and the fact the grand jury did not return a bill, there is good  
13 reason to believe the grand jury transcripts contain evidence favorable to the defense.

14 In addition, the complaint and the contradictions demonstrate the centrality of  
15 Officer Gutierrez' credibility to this case. A fulsome review and production of *Brady*  
16 and *Henthorn* materials concerning Officer Gutierrez—and the two other officers  
17 testifying in support of Officer Gutierrez—is necessary to ensure Ms. Augustine  
18 receives a fair trial. This review must include production of any evidence concerning  
19 his credibility, honesty, and use of force. The facts as alleged in the complaint  
20 demonstrate that Officer Gutierrez, not Ms. Augustine, was the initial aggressor. He  
21 initiated contact with Ms. Augustine—grabbing her umbrella out of her hands and  
22 tearing it to shreds. Thus, production of any past allegations of force, or any lies  
23 regarding prior uses of force, is a necessity.

1 **III.ARGUMENT**

2 **A. The Court should order production of transcripts of the grand jury**  
3 **proceeding to defense counsel.**

4 Disclosure of grand jury materials under Rule 6(e) is generally permitted upon a  
5 defendant’s showing of a “particularized need.” *See Douglas Oil Co. v. Petrol Stops*  
6 *Northwest*, 441 U.S. 211, 221-22 (1979); *United States v. Sells Eng’g*, 463 U.S. 418, 442-  
7 443 (1983). This showing of “particularized need” requires that the party requesting  
8 disclosure show that the material sought is necessary to “avoid possible injustice in  
9 another judicial proceeding, that the need for disclosure is greater than the need for  
10 continued secrecy, and that their request is structured to cover only material so needed.”  
11 *Id.* at 443.

12 **1. The grand jury transcripts include *Brady/Giglio* evidence.**

13 The prosecutor in a criminal case must disclose evidence favorable to the accused.  
14 The Supreme Court has stated that suppression by the prosecution of evidence favorable  
15 to an accused upon request violates due process where the evidence is material either to  
16 guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.”  
17 *Brady*, 373 U.S. at 87. *Brady* also requires the disclosure of evidence impeaching the  
18 testimony of a government witness when the reliability of that witness may be  
19 determinative of a criminal defendant’s guilt or innocence. *See Giglio*, 405 U.S. at 150  
20 (1972). *See also United States v. Bagley*, 473 U.S. 667, 676 (1985).

21 The mandates of *Brady* and *Giglio* override the requirements of the Jencks Act.  
22 *See e.g., Chavis v. State of NC.*, 637 F.2d 213, 223 (4th Cir. 1980) (*Brady* is broader than  
23 Jencks and may be violated when government fails to disclose material that otherwise is  
24 not discoverable under Jencks); *United States v. Campagnuolo*, 592 F.2d 852, 860 (5th  
25 Cir.1979) (stating without deciding that *Brady* would override Jencks Act when failure  
26 to order pretrial discovery would result in denial of defendant's due process rights);  
27  
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1 *United States v. Tarantino*, 846 F.2d 1384, 1414 n.11 (D.C. Cir. 1988) (government's  
2 *Brady* obligations are in no way lessened by the Jencks Act limitations).

3 The government must make a “reasonable effort” to aid the defense in obtaining  
4 favorable evidence and witnesses. *United States v. Henao*, 652 F.2d 591, 592 (5th Cir.  
5 1981); *United States v. Hernandez Gonzalez*, 608 F.2d 1240, 1246 (9th Cir. 1979).  
6 Furthermore, the government must disclose *Brady* material at a time that permits the  
7 defense to use these materials for trial preparation. *See, e.g., United States v. Elmore*, 423  
8 F.2d 775, 779 (4th Cir. 1970); *United States v. Davenport*, 753 F.2d 1460, 1462 (9th Cir.  
9 1985).

10 Here, no charges were returned against Ms. Augustine by the grand jury, so this  
11 raises a valid inference that the grand jury transcripts are unfavorable to the government  
12 and favorable to the defense. They, in addition, may impeach trial witnesses if trial  
13 witness testimony differs in any respect from the testimony provided to the grand jury.  
14 If key witnesses at the grand jury seemed unreliable, inconsistent, or biased, the grand  
15 jury could have discounted their testimony in returning a no bill. In this case, which  
16 hinges on one alleged victim’s word, this is especially relevant to the defenses’ ability to  
17 impeach that witness. Grand juries rarely ever return a no bill in federal court, so this  
18 case in particular suggests that the grand jury may have distrusted the witnesses. If so,  
19 this information is critical to Ms. Augustine’s trial preparation.

20 **2. There is little interest in protecting the secrecy of the grand jury**  
21 **proceedings.**

22 There is little interest in secrecy at this point in the proceedings. Ordinarily, courts  
23 weigh the need for disclosure against the traditional policies underlying grand jury  
24 secrecy:

- 25 (1) To prevent the escape of those whose indictment may be  
26 contemplated;

1 (2) to insure the utmost freedom to the grand jury in its  
2 deliberations, and to prevent persons subject to indictment of  
3 their friends from importuning the grand jurors;

4 (3) to prevent subornation of perjury or tampering with the  
5 witnesses who may testify before the grand jury and later appear  
6 at [t]he trial of those indicted by it;

7 (4) to encourage free and untrammelled disclosures by persons  
8 who have information with respect to the commission of crimes;

9 (5) to protect the innocent accused who is exonerated from  
10 disclosure of the fact that he has been under investigation

11 *See U.S. Indus, Inc. v. U.S. Dist. Court for the Southern Dist. of Cal., Central Division,*  
12 *345 F.2d 18, 21 (9th Cir. 1965).*

13 None of those considerations apply here. Ms. Augustine has already been charged  
14 via criminal information; there is no further grand jury deliberation to be had. There is  
15 no threat of witness intimidation, particularly since the witnesses are law enforcement,  
16 not lay persons. Indeed, after a grand jury's investigation has terminated, most of the  
17 reasons for grand jury secrecy are no longer applicable and the others are less than  
18 compelling.

19 **B. The Court should order the government to produce witnesses'**  
20 **personnel documents under Rule 16, *Brady*, and *Giglio*.**

21 Federal Rule of Criminal Procedure requires that the government provide the  
22 defense with all material in the government's possession, custody, or control if the item  
23 is material to preparing the defense. Fed. Rule Crim. Proc. 16(a)(1)(e)(i). Evidence is  
24 material if it is helpful to the development of a possible defense. *United States v.*  
25 *Budziak*, 697 F.3d 1105, 1111 (9th Cir 2012); *United States v. Olano*, 62 F.3d 1180,  
26 1230. "Any evidence that would tend to call the government's case into doubt is  
27 favorable for Brady purposes." *Milke v. Ryan*, 711 F.3d 998, 1012 (9th Cir. 2013).

1           There can be no dispute that any acts of misconduct—sustained or not—or  
2 material in a personnel file that bears on credibility or use of force can be used as  
3 impeachment evidence in this matter. *See also Bagley*, 473 U.S. at 676. Furthermore,  
4 the Ninth Circuit has already held that, with respect to *Brady* and *Giglio* evidence, the  
5 defendant does not have to make an initial showing of materiality in order to access  
6 such information. *United States v. Cadet*, 727 F.2d 1453 (9th Cir. 1984); *United States*  
7 *v. Henthorn*, 931 F.2d 29, 30 (9th Cir. 1990). Thus, if any of the personnel files for law  
8 enforcement witnesses in this case contain acts of misconduct or material that bears on  
9 credibility, or accusations of use of force, the Constitution (and Rule 16) require that  
10 those materials be produced.

11           Under Rule 16 and *Henthorn*, the defense is entitled to personnel files of  
12 government agents and employees whom the government intends to rely on for  
13 testimony at a hearing or a trial. *Henthorn*, 931 F.2d at 30-31; *see also Cadet*, 727 F.2d  
14 at 1468; Fed. R. Evid. 608(b). Under *Cadet*, the government must disclose material  
15 information favorable to the defense. 727 F.2d at 1467-68. If the prosecution is  
16 uncertain about the materiality of information within its possession, it may submit the  
17 information to the trial court for an in camera inspection and evaluation. *Id.* The  
18 government has a duty to examine personnel files upon a defendant’s request for their  
19 production. *Id.*

20           Just because a sustained finding was not made does not mean that the evidence is  
21 not subject to disclosure. *Brady* encompasses evidence that tends to exculpate and tends  
22 to impeach credibility. *See Milke*, 711 F.3d at 1012. It does not require that a sustained  
23 finding be made prior to disclosure, and indeed courts have held that *Brady* mandates  
24 disclosure of “any complaint, investigation or internal administrative or disciplinary  
25 proceeding regardless of whether the complaint or allegation was found to be credible  
26 by the agency.” *See United States v. Jack*, No. 07-cr-266, 2009 WL 425982, at \*2 (E.D.  
27 Cal. Feb. 20, 2009); *United States v. Fletes*, 2:23-CR-556-MEMF, Dkt. No. 80 (C.D.  
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1 Cal. Nov. 12, 2024) (ordering in camera review of testifying officer’s personnel files to  
2 include (1) criminal arrests or prosecutions and (2) civil or administrative matters  
3 concerning allegations of mishandling, destroying, or falsifying evidence, preparation  
4 or approval of false reports, and the giving of false statements or testimony); *United*  
5 *States v. Vega*, No. 21-cr-537-FMO, ECF No. 66 at 3-4 (C.D. Cal. May 6, 2023)  
6 (“complaints regarding law enforcement conduct are discoverable, regardless of the  
7 disposition of the complaints.”); *United States v. Johnson*, No. 14-cr-00412-TEH, 2014  
8 WL 6068089, at \*10 (N.D. Cal. Nov. 13, 2014) (denying motion to quash state law  
9 enforcement personnel records and clarifying “the Court does not agree with the [San  
10 Francisco Police Department’s] contention that the subpoenaed materials should be  
11 limited to sustained findings, as the cases cited by the SFPD relate only to civil  
12 proceedings and jury trials, and the Court is not restricted by the Federal Rules of  
13 Evidence during a suppression hearing.”); *United States v. Kiszewski*, 877 F.2d 210,  
14 215-16 (2d Cir. 1989) (finding error where district court refused to compel disclosure  
15 of personnel files even where “the FBI exonerated [the agent] on the first complaint,  
16 issued a letter of reprimand on the second and deemed the other allegations  
17 unfounded”). Moreover, the Ninth Circuit has clearly stated that to the extent there are  
18 doubts as to the Brady value of evidence, in a pretrial posture, those doubts should be  
19 resolved “in favor of full disclosure.” *United States v. Bundy*, 968 F.3d 1019, 1041 (9th  
20 Cir. 2020).

21 Because Officer Gutierrez’ credibility—and the two other testifying officers—  
22 are not only relevant, but central, to the defense’s trial strategy, any evidence  
23 concerning their credibility, honesty and past uses of force must be produced. The  
24 defense has no objection, and in fact requests, that the Court conduct an in camera  
25 review of the officers’ personnel files to determine whether they contain any  
26 discoverable information.

**IV. CONCLUSION**

For the foregoing reasons, Ms. Augustine requests that the Court compel the government to disclose any impeachment material to the defense. Specifically, Ms. Augustine requests that the Court compel disclosure of the grand jury transcript(s), or alternatively, this Court can order the government to disclose the transcript for this Court’s inspection, or issue a protective order authorizing disclosure to defense counsel and the defense team only. In addition, Ms. Augustine requests production, or in camera review, of (1) criminal arrests, prosecutions, or convictions; and (2) civil or administrative matters such as personnel actions, disciplinary complaints, citizen complaints, hearing transcripts, investigative notes or documents that relate to excessive force, credibility, and/or honesty, including any allegations of excessive force, preparation or approval of false reports, and the giving of false statements or testimony, for all of the three testifying officers: Officers Alexandro Guterrez, Anthony L. Sermons, and Lucas Riley.

Respectfully submitted,

CUAUHTEMOC ORTEGA  
Federal Public Defender

DATED: October 1, 2025

By */s/ Aden Kahssai*

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