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I am an Assistant Chief Attorney at the San Francisco Public Defender's Office and have been in this position since 2022. I oversee seven units, including the Integrity Unit, which tracks and files complaints regarding law enforcement misconduct and prepares *Brady* motions requesting that the prosecution turn over any potentially "exculpatory" evidence or evidence that may be favorable to the accused person. Prior to joining this office, I was a Senior Staff Attorney managing the Criminal Justice Reform Program and the Policy Director at the Asian Law Caucus, a nonprofit civil rights organization in San Francisco. From 2010 to 2014, I served on the San Francisco Police Commission, a civilian oversight body that sets policy for the San Francisco Police Department (SFPD) and adjudicates discipline cases involving alleged misconduct by SFPD officers. I clerked for the U.S. District Court, Southern District of California. I earned a Juris Doctor from Harvard Law School and graduated in 2005.

The Public Defender's Office is concerned that under the leadership of District Attorney Brooke Jenkins, the District Attorney's Office has a pattern and practice of late discovery that has violated our client's constitutional due process rights. In *Brady v. Maryland*, (1963) 373 U.S. 83, the U.S. Supreme Court established that the prosecution's suppression of evidence favorable to an accused person violates due process when the evidence is material to guilt or punishment. This means prosecutors have a duty to disclose exculpatory evidence, evidence that could potentially exonerate the accused person, or evidence that could reduce

1 the severity of the punishment. The ruling was based on the Fourteenth
2 Amendment's Due Process Clause, which ensures fairness in criminal proceedings.

3 Under District Attorney Jenkins' tenure, the District Attorney's Office has
4 frequently engaged in late discovery in both misdemeanor and felony cases,
5 illegally withholding evidence that has been in their possession for weeks, if not
6 months or years, before disclosure. From September 1, 2024 to February 28, 2025,
7 a six-month period, the Misdemeanor Unit tracked 50 late discovery violations by
8 the District Attorney's Office. This includes the District Attorney's Office failing to
9 turn over exculpatory evidence until the eve of trial and in a number of egregious
10 cases, even in the middle of trial. Evidence withheld by the prosecution have
11 included:

- 12 • Police reports that contradict police officer's testimony on the stand,
- 13 • Prosecution witness's statements that contradict the witness's testimony on
14 the stand,
- 15 • Evidence that undercuts the credibility of the complaining witness's
16 testimony,
- 17 • Photos taken of the scene of an alleged crime, and
- 18 • Body-worn camera footage of responding officers.

19 As a remedy for these *Brady* late discovery violations, our office has
20 requested and obtained from the San Francisco Superior Court late discovery
21 instructions to the jury that the prosecution failed to provide timely disclosure of
22 material evidence and that the jury may consider this failure when evaluating the
23 credibility of the prosecution's case. See attached for an excerpt of a jury instruction
24 given in a case this year with identifying information redacted. We have also
25 obtained from the court dismissals of cases due to the prejudice caused by the
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1 District Attorney's office's repeated discovery violations that impede proper
2 investigation within speedy trial constraints.

3 If the State Bar or Complaint Review Unit has any questions, please feel free
4 to contact me at [REDACTED]

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6 Date: 4/21/25

7 Angela Chan

8 Assistant Chief Attorney

9 San Francisco Public Defender's Office
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

[REDACTED]

Defendant.

Case No. [REDACTED]

JURY INSTRUCTIONS (AS READ)

DATE: [REDACTED] 2025

TIME: 9:00 AM

DEPT: 29

1 **303. Limited Purpose Evidence in General**

2 During the trial, certain evidence was admitted for a limited purpose. You may consider that
3 evidence only for that purpose and for no other.

4 **306. Untimely Disclosure of Evidence**

5 Both the People and the defense must disclose their evidence to the other side before trial, within
6 the time limits set by law. Failure to follow this rule may deny the other side the chance to produce all
7 relevant evidence, to counter opposing evidence, or to receive a fair trial.

8 The People failed to disclose the observation report of San Francisco Police Department Officer
9 [REDACTED].

10 In evaluating the weight and significance of that evidence, you may consider the effect, if any, of
11 that late disclosure.

12 **318. Prior Statements as Evidence**

13 You have heard evidence of statements that a witness made before the trial. If you decide that
14 the witness made those statements, you may use those statements in two ways:

15 1. To evaluate whether the witness's testimony in court is believable;

16 AND

17 2. As evidence that the information in those earlier statements is true.

18 **332. Expert Witness Testimony**

19 Witnesses were allowed to testify as experts and to give opinions. You must consider the
20 opinions, but you are not required to accept them as true or correct. The meaning and importance of any
21 opinion are for you to decide. In evaluating the believability of an expert witness, follow the instructions
22 about the believability of witnesses generally. In addition, consider the expert's knowledge, skill,
23 experience, training, and education, the reasons the expert gave for any opinion, and the facts or
24 information on which the expert relied in reaching that opinion. You must decide whether information
25 on which the expert relied was true and accurate.

26 You may disregard any opinion that you find unbelievable, unreasonable, or unsupported by the
27 evidence.
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