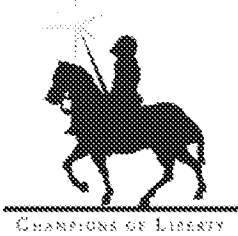


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December 22, 2022

United States Attorney's Office  
555 4th St NW  
Washington, DC 20530

**Re: *United States v. Harry Tucker, 2022 CF2 1977***

Good afternoon,

I represent Mr. Tucker in the above referenced matter. Pursuant to the District of Columbia Court of Appeals' suggestion in Rosser v. United States, 381 A.2d 598 (D.C. 1977), as well as Brady v. Maryland, 373 U.S. 83 (1963), Superior Court Criminal Rule 16, the Innocence Protection Act ("IPA"), D.C. Code § 22-4131 *et seq.*, and the Fifth and Sixth Amendments to the United States Constitution, I am writing to memorialize the discovery received to date and to reiterate prior disclosure requests made on Mr. Tucker's behalf, including those made at the initial hearing. Please let me know if my understanding of the disclosures made to date conflicts with your understanding. Please comply with my additional discovery requests by **December 30, 2022**. Your response enables Mr. Tucker to prepare adequately to file motions and to prepare for trial, if necessary. If I have not heard from you by then, I will assume all representations made in this letter are accurate and that any additional requests are denied.

If the requested materials exist but the government declines to provide them based on a theory that they are not discoverable, please let me know immediately so that I may file appropriate motions in a timely manner. In connection with the following requests, I additionally request that the government take steps immediately to preserve any and all evidence to which Mr. Tucker is entitled access under Rule 16, Brady, or any other applicable law.

**Rule 16 Discovery Requests**

**Documents and Tangible Objects**, Rule 16(a)(1)(E)

Pursuant to Superior Court Rule of Criminal Procedure 16(a)(1)(E), I request documents, tangible objects, and other physical evidence that I have not received. I request that you permit the defense to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody or control of the government, and which are material to the preparation of Mr. Tucker's defense, or are intended for use by the government as evidence in their case in chief at the trial, or were obtained from or belong to Mr. Tucker. **I request audit trail logs for all body worn camera files in this case.**

**Tangible Objects**, Rule 16(a)(1)(E)

Please provide a viewing letter authorizing myself and Avery Wilmore to view and photograph all tangible evidence in this case. The letter can be emailed directly to defense counsel at [vgovindaraju@pdsdc.org](mailto:vgovindaraju@pdsdc.org).

To the extent that any of these documents are not discoverable because they are statements made by prospective government witnesses, pursuant to Rule 16(a)(2), I am requesting that these documents be provided if, and when, it is determined that the author or witness is not going to be a government witness.

**Brady Requests**

I hereby make a general request for exculpatory and impeachment information pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and its progeny.

I also make the following specific requests pursuant to Brady and Lewis v. United States, 408 A.2d 303 (D.C. 1979), and request that the government disclose such information in advance of trial so that the defense may investigate, if necessary, and incorporate into its preparation for trial;

- a. All inconsistencies or differences between any accounts provided by the complainant, or inconsistencies or differences between any accounts by the complainant and other witnesses;
- b. any inconsistencies between the description provided by any witnesses and Mr. Tucker;
- c. any information tending to undermine the reliability of any eyewitness accounts or descriptions;
- d. police bias and credibility information, including source documents, about any lawsuits against, findings of misconduct or complaints sustained against (including information and source documents about any discipline imposed against) any officers involved in the investigation and prosecution of this case, and all adverse credibility findings and findings of constitutional violations (including but not limited to Fourth and Fifth Amendment violations) involving any of the officers involved in the investigation or prosecution of this case. Given the repeated occurrence of the government denying such information exists only for it to be later uncovered by defense investigation, I request a proffer of the steps the government has taken to locate this information, as well as all source documents. I also request that you consult the independent database of this information that is maintained by the Office of the Attorney General for the District;
- e. police bias and credibility information, including source documents, about whether any of the officers involved in the investigation and prosecution of this case had any complaints, intervention plans, lawsuits, or investigations of conduct pending at any point during the pendency of this case, including but not limited to the officers mentioned above. Given the

repeated occurrence of the government denying such information exists only for it to be later uncovered by defense investigation, I request a proffer of the steps the government has taken to locate this information. I also request that you consult the independent database of this information that is maintained by the Office of the Attorney General for the District;

- f. All intervention plans that were in place as of April 8, 2022, or which have been imposed since that date for Officer Griffin, Officer Bell, and any other officer or member of MPD present.
- g. any information that others were arrested or questioned regarding this case;
- h. the identities of and contact information for any witnesses who indicate that Mr. Tucker did not commit this offense, and the substance of those witnesses' statements;
- i. the identities of and contact information for any witnesses who do not fully corroborate the government's case or who serve to impeach the government's evidence;
- j. any information tending to show the unreliability of a government witness, or which would tend to discredit the testimony of a government witness;
- k. any evidence of bias for the government or against Mr. Tucker for all civilian and police witnesses, pursuant to Giglio v. United States, 405 U.S. 150 (1972);
- l. any evidence of bias or motive by any witnesses who have an immigration concern which the witness might believe or might have believed would be favorably affected by government action in this case, including but not limited to any conversations with any agents of the government, including police, victim advocates, or other staff of the U.S.A.O., regarding immigration status or obtaining immigration benefits, such as U, T, or S visas, through cooperation with law enforcement. See generally Delaware v. Van Arsdall, 475 U.S. 673 (1986). I request the dates and substances of all statements made by either government actors or witnesses regarding possible immigration issues or benefits.
- m. any prior bad acts of government, civilian, and police witnesses, pursuant to Giles v. Maryland, 386 U.S. 66 (1976), including use of false documents for employment or immigration purposes;
- n. any prior false reports pursuant to Lawrence v. United States, 482 A.2d 374 (D.C. 1984), including but not limited to prior complaints or reports to the police or enforcement agencies that did not result in conviction;
- o. any prior inconsistent, non-corroborative, or other witness statement that will not reflect the witness's trial testimony;
- p. all information in the government's possession indicating that the mental state or capacity of any government witness is below normal or is in any way abnormal;

- q. any evidence that any government witness or informant was under the influence of any alcohol, narcotics, or any other substance at the time of the incident about which the witness will testify, or that the witness's faculties were impaired in any way;
- r. information concerning any impeachable convictions of any government witnesses;
- s. all information indicating that:<sup>1</sup>
  - 1. any government witness had a pending juvenile, immigration or criminal case at the time of the incident in the present case and/or has had any such cases since that date;
  - 2. any government witness had a pending school disciplinary proceedings at the time of the incident in the present case and/or has had any such cases since that date;
  - 3. any government witness had an arrest, guilty plea, trial, fact-finding hearing, sentencing or disposition pending at the time of Mr. Tucker's arrest and/or since that date;
  - 4. any government witness was committed or on probation, parole, or supervised release in any juvenile or adult case at the time of the incident in the present case or since that time;
  - 5. any government witness has now, or has had, any liberty interest that the witness might believe or might have believed would be favorably affected by government action; and,
  - 6. any deals, promises, or inducements that have been made to any government witness in exchange for their testimony;
- t. any information that any government witness was, has been, or is a police informant, from the time of the incident in this case up to and including the day(s) of trial. If any witness is or has been an informant, I request disclosure of the following information:
  - 1. Length and extent of witness's informant status;
  - 2. Amounts normally paid to the informant;
  - 3. Non-monetary assistance also provided to the informant, including but not limited to assistance in avoiding or minimizing harm from any pending charges, whether the charges existed at the time of the offense or any other time through the day of trial;

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<sup>1</sup> With respect to the below information, I hereby request docket numbers, dates, and jurisdictions for any and all requested cases.

4. All benefits or promises of benefits to an informant or statements that a benefit would not be provided to an informant without his or her cooperation, whether or not such a promise or threat was fulfilled. "Benefits" refers to any monetary compensation, assistance of the prosecutor or the Court concerning pending charges against the informant, or any other sort of consideration of value;
  5. The nature of any such assistance provided to the informant in the past, including the number of occasions and form of help;
- u. any evidence or information that tends to even arguable link another individual to the crime charged;
  - v. any other information in the possession of the government that is favorable to the defense, whether or not admissible in court, and that is material to the issues of guilt and/or punishment.

**With respect to any of the information requested above, I hereby request any reports, records or other documents containing such information. If such reports, records or other documents are in the custody, control or possession of the government, they must be disclosed to the defense.**

In carrying out your constitutionally mandated Brady obligations, you should:

1. Speak to all members of the "prosecution team";
2. Speak to all employees of the Office of the Attorney General involved with the case;
3. Speak with all police investigators who handled the case;
4. Review all case files maintained by your office, not just concerning the instant case but any related case;
5. Search all criminal record databases to which you have access for criminal records concerning any potential witnesses in this case;
6. Ask the FBI, DEA, and Metropolitan Police Department if they have any relevant files; and
7. Examine any CSS reports and probation files relevant to this case.

In addition to the above *Brady* request, I specifically request that I be provided with:

1. Identification. The names and addresses of any person(s) who:
  - a. identified some person other than Mr. Tucker as a perpetrator of the alleged offense. See Johnson v. United States, 136 A.3d 74, 85 (D.C. 2016); See also Cannon v. Alabama, 558 F.2d 1211 (5th Cir. 1977); Grant v. Alldredge, 498 F.2d 376 (2d Cir. 1974).

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