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SUPERIOR COURT
OF GUAM



IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

Plaintiff,

vs.

BRENNON DENALI MARTIN CHACO, et
al.,

Defendant.

CRIMINAL CASE NO. CF0402-25

DECISION AND ORDER
*(Motion to Dismiss for Failure to Provide
Discovery)*

Before the Court is Defendant Brennon Denali Martin Chaco's Motion to Dismiss for Failure to Provide Discovery. The People of Guam filed an opposition to the motion. Having reviewed the parties' submissions, the exhibits attached thereto, the record in this case, and the applicable law, the Court DENIES the motion.

I. BACKGROUND

Defendant is charged by indictment with Aggravated Assault, as a Third Degree Felony, and two counts of Assault, as Misdemeanors, arising from an incident alleged to have occurred on or about June 8, 2025. The charged offenses identify Darrell Elliot and Cliff Reyes as alleged victims.

Defendant seeks dismissal based on the People's alleged failure to provide certain discovery. Defendant principally identifies two categories of information: (1) Police Report No. 25-14534, which is referenced in Police Report No. 25-14657; and (2) communications involving alleged victim Cliff Reyes that Defendant contends may contain information favorable to the defense.

1 Defendant represents that Police Report No. 25-14534 concerns the initial police response
2 to the incident underlying the charges. Defendant argues that the report may contain exculpatory
3 information concerning Reyes, Elliot, or the participants in the alleged altercation.

4 Defendant further represents that defense investigators contacted Reyes and that Reyes
5 stated he did not file a complaint, could not see what occurred, did not know who was involved
6 in the altercation, sustained minor injuries, and did not want to be involved. According to
7 Defendant, Reyes also stated that he had communicated substantially the same information to the
8 Office of the Attorney General. Defendant argues that the People were required to disclose those
9 communications under 8 GCA § 70.10 and the constitutional disclosure principles established in
10 *Brady v. Maryland* and its progeny.
11

12 The People respond that Police Report No. 25-14534 was subsequently provided to
13 defense counsel as supplemental discovery. In support of that position, the People submitted
14 documentation reflecting that the report, consisting of ten pages, was transmitted to the Public
15 Defender Service Corporation on March 25, 2026, and that receipt was acknowledged.
16

17 The People further contend that communications between Reyes and personnel of the
18 Crime Victim Advocates unit are protected by the victim advocate privilege established under 6
19 GCA §9102. The People argue that Defendant has not established that any privileged
20 communication contains material exculpatory information that was withheld from the defense.
21

22 Finally, the People maintain that Defendant has not demonstrated prejudice sufficient to
23 warrant dismissal and that dismissal would be a disproportionate discovery sanction.
24

25 II. LEGAL STANDARD

26 Under 8 GCA §70.10(a)(7), the prosecuting attorney must disclose material or information
27 within the government's possession or control that tends to negate the defendant's guilt as to the
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1 charged offense or tends to reduce the defendant's punishment. The prosecution's disclosure
2 obligation extends to material information in the possession or control of members of its staff and
3 other persons who participated in the investigation or evaluation of the case and who report to the
4 prosecution.

5 The suppression by the prosecution of evidence favorable to an accused violates due
6 process when the evidence is material to guilt or punishment. Evidence is material when there is
7 a reasonable probability that its disclosure would have produced a different result in the
8 proceeding. A reasonable probability is one sufficient to undermine confidence in the outcome.

9
10 When a party fails to comply with a discovery order, 8 GCA §70.45 authorizes the Court
11 to order compliance, grant a continuance, or enter another order that is just under the
12 circumstances. Dismissal of criminal charges is an extraordinary and disfavored remedy. In
13 determining the appropriate sanction for a discovery violation, the Court considers the reason
14 disclosure was not made, the extent of any prejudice to the opposing party, the feasibility of curing
15 that prejudice by a continuance or another remedy, and any other relevant circumstances.

16
17 The party seeking dismissal must establish more than a speculative possibility that
18 undisclosed information could be favorable. The moving party must demonstrate a discovery
19 violation and prejudice that cannot adequately be addressed through a remedy less severe than
20 dismissal.

21 22 23 **III. DISCUSSION**

24 **A. Police Report No. 25-14534**

25 Defendant's motion was based in substantial part on the assertion that the People had
26 failed to provide Police Report No. 25-14534. The record now before the Court reflects that the
27 report was transmitted to defense counsel as supplemental discovery on March 25, 2026. The
28

1 People submitted documentation identifying the report by number and page range, together with
2 an acknowledgment of receipt by defense personnel.

3 Accordingly, the record does not establish that Police Report No. 25-14534 remains
4 undisclosed. Whatever deficiency may have existed when the report was initially requested, the
5 People's subsequent production provided the defense with access to the document.

6
7 Defendant has not identified any particular statement or item in the produced report that
8 tends to negate Defendant's guilt or reduce his potential punishment. Instead, the motion asserts
9 that the report may contain exculpatory information. That possibility justified Defendant's request
10 for production and the People's obligation to review the report. Standing alone, however,
11 speculation that a report may contain favorable evidence does not establish the suppression of
12 material exculpatory evidence or justify dismissal of the charges.

13
14 The Court therefore finds that the production of Police Report No. 25-14534 has cured the
15 principal nondisclosure identified in the motion. This conclusion does not determine whether
16 every item referenced in that report has been produced or whether any distinct item remains
17 subject to disclosure. It establishes only that the report itself has been provided and that the present
18 record does not identify specific material exculpatory information contained in the report that
19 remains withheld.

20
21 **B. Communications Involving Cliff Reyes**

22 Defendant also seeks relief based on communications allegedly made by Cliff Reyes to
23 representatives associated with the Office of the Attorney General.

24
25 Under 6 GCA §9102, a crime victim generally has a privilege to refuse to disclose, and to
26 prevent another person from disclosing, confidential communications made to a crime victim
27 advocate and records created while advising, counseling, or assisting the victim. The statute
28

1 restricts disclosure by a crime victim advocate unless the victim consents or a statutory exception
2 applies. The privilege does not extend to communication containing exculpatory material.

3 The existence of the statutory privilege does not eliminate the prosecution's obligation to
4 disclose material exculpatory information. If communication contains information that is
5 favorable and material to the defense, the People may not avoid their constitutional disclosure
6 obligations merely by characterizing the communication as privileged. At the same time, the
7 defense is not entitled to unrestricted access to privileged victim advocate communications
8 without a sufficient basis to conclude that the communications contain discoverable material.
9

10 On the present record, Defendant has not identified a specific communication containing
11 material exculpatory information that remains in the People's possession and has not been
12 disclosed. Defendant's motion instead relies on what Reyes reportedly told defense investigators
13 about his communications with the Attorney General's Office.
14

15 The motion itself establishes that defense investigators contacted Reyes directly and
16 obtained the substance of his account. According to the defense, Reyes stated that he did not see
17 what happened, could not identify the persons involved, did not file a complaint, sustained only
18 minor injuries, and did not want to participate in the case. Thus, the defense is aware of the
19 allegedly favorable information and has had direct access to its asserted source.
20

21 The Court does not conclude that information is exempt from disclosure merely because
22 the defense later learned it through its own investigation. The relevant point for present purposes
23 is that Defendant has not shown that the alleged nondisclosure deprived the defense of the
24 substance of Reyes's account, prevented the defense from locating Reyes, or otherwise foreclosed
25 an investigative opportunity.
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1 The Court therefore finds that Defendant has not established the suppression of an
2 unknown, favorable, and material statement by Reyes. Nor has Defendant established a sufficient
3 basis for wholesale disclosure of privileged victim advocate records.

4 **C. Timeliness of the People's Disclosures**

5 The Court separately considers whether the timing of the People's disclosures warrants
6 dismissal.
7

8 The record reflects that discovery was produced in stages. Police Report No. 25-14657
9 and related materials were transmitted through multiple supplemental disclosures. Those
10 disclosures included additional report pages, investigative supplements, notes, photographs, and
11 other materials. Police Report No. 25-14534 was not transmitted until March 25, 2026, despite
12 having been referenced in the discovery previously provided to the defense and despite
13 Defendant's earlier request for it.
14

15 The Court finds that Police Report No. 25-14534 was not timely produced when measured
16 against the People's continuing discovery obligations and Defendant's specific request for the
17 report. The report should have been located, reviewed, and produced, or its status adequately
18 explained, with greater promptness. A reference to a separate police report within discovery
19 already produced should have resulted in a timely inquiry concerning whether the referenced
20 report was within the possession or control of law enforcement and whether it contained
21 discoverable information.
22

23 The fact that discovery obligations are continuing does not excuse avoidable delay.
24 Supplemental disclosure is appropriate when additional information is later obtained or becomes
25 known. It should not be treated as a substitute for reasonable diligence in identifying and
26 producing materials already within the government's possession or control.
27
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1 Nevertheless, untimely disclosure does not automatically require dismissal. The
2 appropriate remedy depends on the circumstances of the delay, the resulting prejudice, and the
3 availability of measures capable of curing that prejudice.

4 Here, the report was ultimately produced, and the defense acknowledged receipt. The
5 record does not establish that the People destroyed, concealed, or permanently withheld the report.
6 Nor does the record establish that the delay was undertaken for the purpose of obtaining a tactical
7 advantage or preventing the defense from using the report.
8

9 The Court therefore finds that the production of Police Report No. 25-14534 was untimely
10 but that the delay, on the record presented, does not rise to the level of misconduct warranting
11 dismissal.
12

13 **D. Prejudice**

14 The Court next considers whether Defendant suffered prejudice as a result of the delayed
15 disclosure or the alleged failure to disclose communications involving Reyes.
16

17 Defendant has not identified any specific exculpatory statement contained in Police
18 Report No. 25-14534. Defendant has not shown that the timing of its production resulted in the
19 loss of evidence, the unavailability of a witness, the expiration of an investigative opportunity, or
20 the inability to pursue a defense that otherwise would have been available.

21 The defense has also not identified a particular trial-preparation decision that was
22 materially and irreversibly affected by the delay. Although delayed disclosure may impose
23 additional work on the defense and may require counsel to revisit earlier assessments, such
24 burdens do not, without more, establish the substantial and incurable prejudice necessary to
25 dismiss an indictment.
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1 With respect to Reyes, Defendant's own motion establishes that defense investigators
2 located and interviewed him. The defense therefore obtained the substance of the allegedly
3 favorable information directly from Reyes. The present record does not show that the defense was
4 prevented from investigating his account, evaluating its relevance, or determining how it may
5 bear upon the charge in which he is identified as an alleged victim.
6

7 The Court further finds that Defendant has not demonstrated that any remaining prejudice
8 could not be cured through a less severe remedy, including additional disclosure, a reasonable
9 opportunity to investigate, a continuance if necessary, or an appropriately tailored evidentiary
10 remedy. Dismissal would terminate the prosecution without a showing that the delayed disclosure
11 has rendered a fair adjudication impossible.
12

13 Accordingly, the Court finds that Defendant has not demonstrated actual, substantial, and
14 incurable prejudice resulting from the timing of the disclosures or the alleged nondisclosure of
15 communications involving Reyes.
16

17 **E. Dismissal Is Not an Appropriate Sanction**

18 Even assuming a discovery violation occurred, dismissal is not proportionate to the
19 violation established by the present record.

20 The primary document identified in Defendant's motion has been produced. Defendant
21 has not shown that material exculpatory evidence remains suppressed. The defense independently
22 obtained Reyes's account and has not demonstrated the loss of a meaningful investigative or
23 litigation opportunity. Finally, the record does not establish willful misconduct, bad faith, or
24 prejudice that cannot be cured through a lesser remedy.
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1 Under these circumstances, dismissal would not serve the remedial purpose of the
2 discovery rules. A lesser remedy, if one becomes necessary, would adequately protect
3 Defendant's right to review the evidence, investigate the allegations, and prepare a defense.

4 The Court emphasizes, however, that the People's discovery obligations are continuing.
5 The People must promptly review and disclose any additional material within the scope of 8 GCA
6 § 70.10, including material favorable to Defendant that is known to law enforcement or others
7 acting on the government's behalf. If a genuine question arises concerning whether particular
8 privileged material contains exculpatory information, the People may seek appropriate guidance
9 from the Court, including in camera review, rather than unilaterally withholding material that may
10 be constitutionally discoverable.
11

12 IV. CONCLUSION

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14 The Court finds that Police Report No. 25-14534 was not produced as promptly as
15 required. The report, however, was subsequently transmitted to defense counsel, and its receipt
16 was acknowledged. Defendant has not identified specific material exculpatory evidence in the
17 report that remains withheld.
18

19 The Court further finds that Defendant has not established that the People suppressed
20 material exculpatory communications involving Cliff Reyes. The defense independently
21 contacted Reyes and obtained the substance of the information described in the motion.

22 Finally, Defendant has not demonstrated that the timing of the disclosures caused actual,
23 substantial, and incurable prejudice. Defendant has not shown the loss of evidence, the
24 unavailability of a witness, the foreclosure of an investigative opportunity, or any other harm that
25 cannot be addressed through a remedy less severe than dismissal.
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The People shall continue to comply promptly with their statutory and constitutional discovery obligations.

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