



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

KATHLEEN G. KANE
ATTORNEY GENERAL

November 19, 2015

Criminal Law Division
Appeals & Legal Services Section
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(717) 787-6348
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*** FILED UNDER SEAL ***

The Honorable John M. Cleland, Senior Judge
McKean County Courthouse
500 West Main Street
Smethport, PA 16749

RE: *Commonwealth of Pennsylvania v. Gerald A. Sandusky*
Docket Nos. CR-2421-2011; CR-2422-2011

FILED
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PROthonary
CENTRE COUNTY, PA

Dear Judge Cleland:

This letter is written in response to your November 12, 2015 Order wherein you directed the Commonwealth of Pennsylvania ("Commonwealth") to disclose to this Court, under seal, whether or not it has in its possession or under its control any document demonstrating that any victim who testified at trial in connection with the above-captioned case had a contingent fee agreement with a civil attorney, book contract, speaking fee, or any other financial incentive to falsify his testimony; and, if so, to attach a copy of any such documents to its disclosure.

Your undersigned counsel certifies to this Court that she engaged in a comprehensive search to determine whether the Office of Attorney General was in possession of, or had control of, any of the documents described in this Court's November 12, 2015 Order. A review of its file materials and discussions with both former and current personnel who were part of the Sandusky investigative and prosecution team revealed that no such documents are within the possession of, or under the control of, the Office of Attorney General.

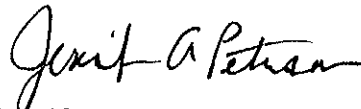
The Commonwealth would note that this position is consistent with the one that it previously maintained in 2012. Although not articulated with the same specificity as the Court's directive, the defendant, Gerald A. Sandusky ("Sandusky"), submitted a request for pre-trial discovery dated December 29, 2011 wherein he requested, *inter alia*, ". . . any benefit expected or hoped for by the witness . . . including but not limited to . . . payments of money,

The Honorable John M. Cleland, Senior Judge
November 19, 2015
Page Two

rewards or fees . . . and anything else which arguably could reveal an interest, motive or bias in the witness . . . in favor of the prosecution or against the defense or which acts as an inducement to testify or to color testimony in this case.” Exhibit “A,” p. 2. Trial counsel renewed the request for such information in a motion to compel discoverable materials dated May 3, 2012. See Exhibit “B,” p. 3. The Commonwealth specifically advised in its response to the motion to compel that there was no such evidence in its possession. See Exhibit “C,” pp. 2-3. The Commonwealth is attaching these documents hereto for the Court’s reference.

Thank you very much for your attention to this matter. Should you require any additional information, kindly let me know.

Sincerely,

A handwritten signature in black ink, reading "Jennifer A. Peterson". The signature is fluid and cursive, with the first name "Jennifer" being more prominent and the last name "Peterson" following in a similar style.

Jennifer A. Peterson
Deputy Attorney General

/jap
Enclosure

cc: Alexander H. Lindsay, Jr., Esquire

EXHIBIT A

JOSEPH L. AMENDOLA

ATTORNEY-AT-LAW

110 REGENT COURT
SUITE 202
STATE COLLEGE, PA 16801-7966

TELEPHONE
814-234-6821

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814-234-6013

December 29, 2011

Joseph McGettigan, Esquire
Deputy Attorney General
Office of Attorney General
Criminal Prosecutions Section
1000 Madison Avenue, Suite 310
Norristown, PA 19403

Jonelle H. Eshbach, Esquire
Senior Deputy Attorney General
Office of Attorney General
Criminal Prosecutions Section
16th Floor Strawberry Square
Harrisburg, PA 17120

In Re: Commonwealth vs. Gerald Sandusky
Defendant's First Request for Pre-Trial Discovery

Dear Joe and Jonelle:

This office represents the named Defendant in the above-captioned criminal action, and, on her behalf, and pursuant to Rule 573(b)(1) of the Pennsylvania Rules of Criminal Procedure and Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10L, Ed. 2d 215 (1963), hereby requests disclosure of the following items and information material to our client's case:

1. Copies of all informations and citations issued in conjunction with this case;
2. any evidence favorable to the accused which is material either to guilt or to punishment and which is within the possession or control of the attorney for the Commonwealth or any agent for the Commonwealth or which could be discovered by it by the exercise on its part of due diligence including, but not limited to the following:
 - a. Any and all evidence that the Defendant was not involved in the acts which gave rise to the allegations in the information(s) herein;
 - b. Any and all statements, reports, summaries, communications, notes, memoranda or the like of any officer, or other individual having any knowledge of the facts of this case, or having any relation to this case when such indicate that the

Defendant was not involved in any of the events alleged to have occurred in the allegations or the information(s);

c. The names and addresses of all persons during the investigation of this case who have been offered immunity, favorable consideration, less pleas or other agreements, for themselves or for others in return for testimony, information or documents;

d. Any and all consideration or promises of consideration given to or made on behalf of any intended witnesses or informant or any benefit expected or hoped for by the witness or informant. By "consideration" the Defendant refers to absolutely anything, formal or informal, direct or indirect, whether bargained for or not, which arguably could be of value or use to a witness or to persons of concern to the witness, including but not limited to leniency, favorable treatment or recommendations or other assistance with respect to any pending action or potential action including but not limited to criminal, parole, probation, pardon, clemency, civil, relief from forfeiture, payments of money, rewards or fees, witness fees and special witness fees, any promises to bring a witness' testimony or cooperation with the Commonwealth to the attention of a court or any other entity in any jurisdiction even if no specific agreement was made between the witness and the Commonwealth and anything else which arguably could reveal an interest, motive or bias in the witness or informant in favor of the prosecution or against the defense or which acts as an inducement to testify or to color testimony in this case;

e. Any threats of or criminal prosecutions, investigations, or potential prosecutions which could be brought against any witness or informant or custodial status of a witness or informant or any other transactions over which the Commonwealth has real, apparent or perceived influence;

f. The existence and identification of each occasion during which any intended Commonwealth witnesses or informant has testified before any court, tribunal or otherwise officially narrated testimony in relation to the Defendant, the investigation or the facts of this case;

g. The records pertaining to the criminal activity, arrest, and/or conviction of any and all witnesses whom the Commonwealth intends to call during the course of this case;

h. Any evidence which would tend to undermine the credibility of prosecution witnesses; including but not limited to the names of any witness or witnesses who have testified either falsely or erroneously, or whether any disciplinary investigations or internal affairs investigations have occurred;

i. The names and addresses of all potential wrongdoers in the incidents which gave rise to this prosecution;

j. Any and all evidence which the Commonwealth has in its possession, custody, control or which could be discovered by it by the exercise on its part of due diligence which arguably conflicts with the prosecution's theory of the case or the expected testimony of any one or more of its witnesses;

k. Any and all evidence in the possession, custody or control of the Commonwealth or which would become available which is arguably favorable or helpful to the defense, including but not limited to, any evidence that is impeachment evidence in regards to any Commonwealth witness; The criminal records, extent of drug or alcohol abuse, past and present and extent of any psychiatric records, past and present;

l. Informal, direct or indirect, of any witnesses whom the Commonwealth intends to call to prove its case in chief or rebuttal or for any other purposes as known or by the exercise of due diligence can become known to the Commonwealth.

3. The names and addresses and written or recorded statements or summaries of oral statements of all individuals whom the Commonwealth or its agents (whether the Commonwealth intends to call the individual as a witness in the case or not) have interviewed;

4. Any written confession or statement of the Defendant or the substance of any oral confession or statement and the identity of the person to whom the confession or exculpatory statement was made which is in the possession or control of the attorney for the Commonwealth or which by the exercise of due diligence may become known to the Commonwealth;

5. The Defendant's prior criminal record, including but not limited to a printout or list of the Defendant's local record created or generated by the District Attorney's Office and which the Commonwealth intends to use at sentencing;

6. The circumstances and results of any identification of the Defendant by voice, photograph, video surveillance or in-person identification;

7. Any and all scientific reports, the results of the analysis or examinations conducted on any specimens or objects or upon the Defendant herself regardless of the location of the specimens examined or the process by which they were obtained for analysis, including but not limited to the following:

a. Fingerprint identification, handwriting analysis, voiceprint analysis, ballistic examination, gunshot or gun powder residue test, bullet identification test, psychiatric and psychological

examinations of all Commonwealth witness, firearm identification, microbiological analysis of hair and blood, DNA analysis, polygraph examinations, and autopsy reports;

b. A list and diagram of the location or locations of each object or specimen of physical evidence recovered or found and from whom it was taken or received before being taken into custody by any Commonwealth agent, police officer, any agent of the police or any other investigator and which was submitted for examination; specifically the precise location where latent fingerprints, cartridge cases, spent bullets and/or impressions trajectories thereof were found;

8. Any tangible objects, including but not limited to, documents photographs, fingerprints, charts, diagrams, videotapes or any other tangible evidence;

9. The names and addresses of eyewitnesses and all investigation officials and agents and any evidence reflecting adversely on the credibility of any Commonwealth witness, including but not limited to, results of mental examinations or prior criminal records. In addition, if the testimony of any witness whom the Commonwealth intends to call has been refreshed or enhanced through hypnosis or any other psychological technique;

10. The names and addresses and all written or recorded statements and substantially verbatim oral statements and the substance of proposed testimony of witnesses the Commonwealth intends to call at trial, including but not limited to Victim Impact Statements;

11. A copy of the complete police report of investigation in its undeleted form and all supplemental reports;

12. All written or recorded statements, and substantially verbatim oral statements of eyewitnesses the Commonwealth intends to call at trial, including but not limited to, statements made to any member of the prosecutor's office, any police officer or other law enforcement agent during the investigation which preceded or followed the arrest herein;

13. All written or recorded statements and substantially verbatim oral statements made by accomplices, if any, whether such individuals have been charged or not;

14. The names and addresses of any persons who have retracted or deviated from statements made to any agent of the Commonwealth investigating or assisting in the investigation into the incident;

15. Any other evidence, the disclosure of which is in the interest of justice and/or might be deemed exculpatory;

16. Copies of all medical/psychological records/examinations and all other materials related to the accusers, which the Commonwealth has referred to as Victim Nos. 1 through 10 inclusive, which were conducted pursuant to the investigation and/or allegations related to the charges filed against the Defendant in this matter;

17. Copies of the accusers'/also referred to as Victim Nos. 1 through 10 inclusive by the Commonwealth and any other non-law enforcement Commonwealth witnesses', phone, text, emails and all other electronic communications as well as the substance of all texts and emails made between the accusers/alleged victims and the Defendant between November 1, 2008 and December 29, 2011 having anything to do with contact with the Defendant and/or with each other;

18. Copies of all transcripts of testimony by all individuals who appeared before the investigating Grand Jury between 2008 and December 29, 2011 in this matter;

19. Copies of all materials taken from the Defendant's home as a result of the execution of a search warrant on or about June 21, 2011.

These requests shall be deemed continuing to the time of trial. If any additional information not included in responses to the above requests become available to the Commonwealth or its agents between the time responses are made and the time of trial, such information shall forthwith be made known to the Defendant's counsel. The above information is needed to prepare a full, adequate defense, thereby its disclosure is in the interests of justice. Your prompt attention to this matter is greatly appreciated.

Truly,

A handwritten signature in dark ink, appearing to read 'Joe' or 'Joseph', with a stylized flourish at the end.

Joseph L. Amendola, Esquire

JLA:dka

EXHIBIT B

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)	
)	
vs.)	Nos. CP-14-CR-2421-2011 &
)	CP-14-CR-2422-2011
GERALD A. SANDUSKY)	

Commonwealth Attorneys:

Joseph McGettigan, Esquire

Jonelle H. Eshbach, Esquire

Defense Attorney:

Joseph L. Amendola, Esquire

**SECOND MOTION TO COMPEL COMMONWEALTH TO PROVIDE DEFENDANT
WITH REQUESTED PRE-TRIAL DISCOVERY MATERIALS**

TO THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE SPECIALLY ASSIGNED
TO THESE MATTERS IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA:

AND NOW, comes the Defendant, GERALD A. SANDUSKY, through his
attorney, Joseph L. Amendola, Esquire, who respectfully represents the following:

1. On or about November 5, 2011, the Defendant was arrested in
Criminal Information No. CP-14-CR-2422-2011 by Cpl. Scott F. Rossman of the
Pennsylvania State Police, Avondale Barracks and Agent A.L. Sassano of the
Pennsylvania Office of Attorney General and charged with various offenses stemming
from conduct which allegedly occurred on diverse dates between January 1994 and
December 2008, in College Township, Centre County, Pennsylvania and various other
locations.

2. On or about December 7, 2011, the Defendant was arrested in
Criminal Information No. CP-14-CR-2421-2011 by Trooper Robert Yakicic of the
Pennsylvania State Police, Bureau of Criminal Investigations, and Agent A.L. Sassano of

the Pennsylvania Office of Attorney General, and charged with additional offenses stemming from conduct which allegedly occurred on or about January 1997 to December 2008 in College Township, Centre County, Pennsylvania and various other locations.

3. On December 13, 2011, the Defendant waived his preliminary hearing in this matter, and thereafter waived his arraignment on January 11, 2012.

4. The Defendant timely requested pre-trial discovery materials from the Commonwealth attorneys by correspondence dated December 29, 2011 entitled "Defendant's First Request for Pre-Trial Discovery".

5. The Commonwealth provided pre-trial discovery materials to Defendant's counsel on or about January 17, 2012 and January 23, 2012.

6. Pursuant to a previous motion to compel the Commonwealth to provide Defendant with requested pre-trial discovery materials dated on or about February 6, 2012, a hearing was held before this Honorable Court on or about February 10, 2012 after which the Court directed the Commonwealth to provide the Defendant with certain additional discovery materials.

7. To date, while the Commonwealth has provided the Defendant with certain of those discovery materials, the Commonwealth has failed to provide the Defendant with certain other discovery materials.

8. To date, the Defendant has made thirty-six (36) discovery requests to the Commonwealth.

9. In reviewing the aforementioned thirty-six (36) discovery requests made by the Defendant to the Commonwealth, Defendant and counsel have determined

The following materials, reports and information have not been provided to the Defendant by the Commonwealth:

a. December 29, 2011, First Request for Pre-Trial

Discovery.¹ With the exception of receiving arrest records pertaining to Accuser/Alleged Victims 1, 3, 4, 5, 6, 7, 9 and 10 as requested in Paragraph Nos. 1 and 2g, psychiatric records from Dr. John Seasock and Dr. Alicia Chambers as requested in Paragraph No. 2k, the information requested in Paragraph Nos. 4, 5, 6, 7b and 19 as well as receipt of non-redacted discovery materials provide to the Defendant on March 7, 2012, **(the Commonwealth has not provided the Defendant with much of the information requested in Paragraph Nos. 2a, b, c, d, e, f, h, i, j and l; 3, 7(a), 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 as well as those items which the Commonwealth has indicated are protected as part of the Grand Jury investigation or those items which the Commonwealth has indicated are protected by the ongoing "continuing investigation" of Pages 62, 87, 186-188, 194-199, 208-210, 212-214 and 222-223 as requested in the Defendant's first request for pre-trial discovery. The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his request contained in Defendant's First Request for Pre-Trial Discovery material along with all supplemental reports and attachments related thereto.**

¹ A copy of Defendant's First Discovery Request has been marked as Exhibit "A", attached hereto, and incorporated herein by reference.

b. February 6, 2011, Second Request for Pre-Trial

Discovery.² With the exception of receiving some of the former addresses and telephone numbers associated with Accusers/Alleged Victims 1, 3, 5, 6, 7, 9 and 10, the Defendant has not received in its entirety the information requested in Paragraph Nos. 20 and 21. The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his request contained in Defendant's Second Request for Pre-Trial Discovery material along with all supplemental reports and attachments related thereto.

c. February 15, 2012, Third Request for Pre-Trial

Discovery.³ With the exception providing the Defendant with the requested information in Paragraph No. 22, which was a previously redacted page from the initial discovery provided by the Commonwealth and copies of redacted materials in Attorney General Supplemental Report Nos. 2, 5, 8, 9, 10, 20, 22, 23, 24 Page 2 of 28 w/attachments, 31, 32, 34, 35, 36, 38 through 47, 49, 51 through 58 and 60 through 65 from PSP Incident Report No. G07-11461135, the Commonwealth has not provided the Defendant with much of the information requested in Paragraph Nos. 23, 24 and 25. The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his

² A copy of Defendant's Second Supplemental Discovery Request has been marked as Exhibit "B", attached hereto, and incorporated herein by reference.

³ A copy of Defendant's Third Supplemental Discovery Request has been marked as Exhibit "C", attached hereto, and incorporated herein by reference.

request contained in Defendant's Third Request for Pre-Trial Discovery material along with all supplemental reports and attachments related thereto.

d. **March 12, 2012, Fourth Request for Pre-Trial Discovery:**⁴

The Defendant has not received the information requested in Paragraph Nos. 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40. The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his request contained in Defendant's Fourth Request for Pre-Trial Discovery material along with all supplemental reports and attachments related thereto.

e. **March 12, 2012, Fifth Supplemental Discovery Request Based Upon the Commonwealth's Response to Defendant's Request for Bill of Particulars dated February 21, 2012:**⁵

The Defendant has not received the information requested in Paragraph Nos. 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58 and 59. The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his request contained in Defendant's Fifth Supplemental Discovery Request along with all supplemental reports and attachments related thereto.

f. **March 21, 2012, Sixth Supplemental Discovery Request Based Upon Commonwealth's Response to Order of Court Directing Pre-Trial**

⁴ A copy of Defendant's Fourth Supplemental Discovery Request has been marked as Exhibit "D", attached hereto, and incorporated herein by reference.

⁵ A copy of Defendant's Fifth Supplemental Discovery Request has been marked as Exhibit "E", attached hereto, and incorporated herein by reference.

Discovery Dated February 29, 2012.⁶ The Defendant has not received the information requested in Paragraph Nos. 60, 61, 62, 63, 64, 65, 66, 67, 68, 69 and 70.

The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his request contained in Defendant's Sixth Supplemental Discovery Request along with all supplemental reports attachments related thereto.

g. March 27, 2012, Seventh Supplemental Discovery Request Based Upon Office of Attorney General's Discovery Response Dated

March 12, 2012.⁷ The Defendant has not received the information requested in Paragraph Nos. 86, 87, 88, 89, 90, 91, 92, 93, 94, 95 and 96. The Defendant is asking the Court to enter an Order directing the Commonwealth to provide Defendant's counsel with full, complete, and non-redacted copies of these materials pursuant to his request contained in Defendant's Seventh Supplemental Discovery Request along with all supplemental reports attachments related thereto.

h. All the remaining Eighth through Thirty-Third Supplemental Discovery requests have not been addressed by the Office of Attorney General.⁸

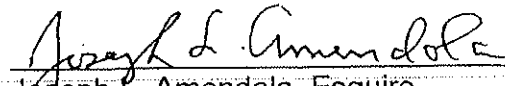
⁶ A copy of Defendant's Sixth Supplemental Discovery Request has been marked as Exhibit "F", attached hereto, and incorporated herein by reference.

⁷ A copy of Defendant's Seventh Supplemental Discovery Request has been marked as Exhibit "G", attached hereto, and incorporated herein by reference.

⁸ Copies of Defendant's Eighth through Thirty-Sixth Supplemental Discovery Requests have been marked as Exhibit "H", attached hereto, and incorporated herein by reference. The Defendant acknowledges that on April 30, 2012, the Commonwealth provided Defendant's counsel with additional discovery materials which counsel had not had an opportunity to review prior to the filing of Defendant's Second Motion to Compel Discovery. The Defendant presumes the additional discovery materials provided to his counsel on April 30, 2012 may make certain portions of his Second Motion to Compel Discovery moot regarding the over thirty (30) discovery requests made by the Defendant to the Commonwealth over the past five (5) weeks. The Defendant submits, however, that, prior to receiving the discovery materials on April 30, 2012, neither he nor counsel had received additional discovery materials requested in his Seventh through Thirty-Sixth Supplemental Discovery Requests since March 27, 2012.

WHEREFORE, the Defendant submits the above-requested information is critical to the preparation of his defense and respectfully requests this Honorable Court to enter an Order directing the Commonwealth to provide the Defendant with the requested discovery materials forthwith so that he may properly prepare for trial.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joseph L. Amendola", is written over a horizontal line.

Joseph L. Amendola, Esquire
Attorney for Defendant
110 Regent Court, Suite 202
State College, PA 16801
(814) 234-6821
I.D. No. 17667

Date: May 3, 2012.

EXHIBIT C



IN THE COURT OF COMMON PLEAS OF
CENTRE COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA : No. CP-14-CR-2421-2011;
: CP-14-CR-2422-2011

vs.

GERALD A. SANDUSKY

TO: THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE

DEBRA C. JIMEL
PROTHONOTARY
CENTRE COUNTY, PA

2012 MAY -7 P 3:48

FILED FOR RECORD

COMMONWEALTH'S RESPONSE TO DEFENDANT'S
SECOND MOTION TO COMPEL DISCOVERY

AND NOW, this 7th day of May, 2012, comes the Commonwealth of Pennsylvania, by the undersigned counsel and responds as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted in part and denied in part. It is admitted that the Commonwealth provided a large quantity of discovery materials on January 17, 2012, and January 23, 2012. The Commonwealth additionally provided discovery materials on February 2, 2012, March 1, 2012, (re-redacted materials), March 12, 2012, April 27, 2012, and May 4, 2012. A copy of each letter is attached as Exhibit 1. Additional discovery materials are being sent on May 7, 2012. By way of further response, the delay between installments of discovery is attributable in part to the necessity for the Supervising Judge of the 33rd Statewide Investigating Grand Jury ("Grand Jury") to address and dispose of Defendant's Motion for Disclosure.

6. Admitted.
7. Admitted in part and denied in part. It is admitted that the Commonwealth has provided additional discovery materials. It is denied that the Commonwealth has failed to provide items this Honorable Court has directed it to provide.
8. Admitted. By way of further response, this number is inflated, in as much as the Defendant sometimes issued as many as four individually numbered requests in one day (i.e. Defendant's 5th and 6th discovery requests were dated March 21, 2012. Defendant's 7th and 8th discovery requests were issued March 27, 2012 ; his 9th and 10th were issued on March 28, 2012; Defendant's 11th, 12th, 13th, 14th and 15th discovery requests were issued on April 3, 2012. April 4, 2012, brought requests 16 and 17. April 9, 2012, brought requests 18 and 19. April 10, 2012, brought request 20. April 13, 2012, brought requests 21, 22, 23 and 24. April 16, 2012, brought requests 25 and 26. April 18, 2012, brought requests 27, 28, 29 and 30. April 19, 2012, brought requests 31, 32 and 33. Request 34 was dated April 23, 2012. Request 35 was dated April 24, 2012; Today's mail brings eight additional supplemental discovery requests which were actually produced in a single mailing. In reality, there have been less than half the number of actual requests Defendant claims.

9.

- a. With regard to Defendant's December 29, 2011, initial request for Pre-Trial Discovery. (as numbered by Defendant's request)
the Commonwealth responds as follows:

- 2.a. The Commonwealth is fully aware of its continuing duty to disclose exculpatory evidence and evidence which may be used to impeach the credibility of witnesses.
- b. The Commonwealth is fully aware of its continuing duty to disclose exculpatory evidence and evidence which may be used to impeach the credibility of witnesses.
- c. There are none.
- d. There are none.
- e. There are none.
- f. The described occasions are grand jury sessions which will be disclosed in conformity with the Grand Jury Supervising Judge's orders.
- h. The Commonwealth is fully aware of its continuing duty to disclose exculpatory evidence and evidence which may be used to impeach the credibility of witnesses.
- i. Gerald A. Sandusky
- j. The Commonwealth is fully aware of its continuing duty to disclose exculpatory evidence and evidence which may be used to impeach the credibility of witnesses.
- l. The Commonwealth is unable to understand this request and is unable to respond to it.
- 3. The names and addresses of every individual interviewed in this case has been disclosed, except where the individual is part of the ongoing investigation.

- 7.a. Nothing which meets this description exists except for psychological/psychiatric evaluations, which have, over the Commonwealth's objection, been disclosed.
8. These items have been disclosed.
9. To the extent such items exist, they have been disclosed. There has been no refreshment or enhancement of testimony through hypnosis or any other means.
10. The names, addresses and statements of witnesses have been disclosed. Victim Impact Statements are being compiled and will be disclosed prior to sentencing.
11. This has been disclosed except where protected by Order of Court.
12. These have been disclosed.
13. No such items exist.
14. The names, addresses and statements of witnesses have been disclosed, except for grand jury testimony which will be disclosed pursuant to Court order.
15. All properly disclosed evidence, whether exculpatory or inculpatory, has been disclosed.
16. This request has been answered in the Commonwealth's Response dated May 4, 2012.
17. This request has been answered in the Commonwealth's Response dated May 4, 2012.
18. These will be disclosed pursuant to Court Order. By way of further response, ongoing investigations materials which are not exculpatory and/or are not directly relevant to Defendant's charges have not been disclosed.
- b. With regard to February 6, 2011 [sic] Second Request for pre-trial discovery:

the addresses and known telephone numbers for the victims and other witnesses have been supplied, for interviews from the date of Victim 1's disclosure for his sexual abuse by Gerald Sandusky to the present. Although dates of birth for Victims, 1,3,4,5,6,7,9 and 10 were previously disclosed, they are contained in a **sealed attachment B.**

c. With regard to February 15, 2012, Third Request for pre-trial discovery:

OAG Supplemental 2 will not be disclosed because it is grand jury protected and because the items therein are equally accessible to Defendant. OAG Supplemental 5 will not be disclosed because it is grand jury protected; however, the subject matter, the Defendant's employment records, was previously disclosed on March 12, 2012. OAG supplemental 8 and 9 will not be disclosed because they are an ongoing investigation and grand jury protected. OAG Supplemental 10, 20 and 24 were disclosed. Supplements 22,23,and 28 with attachments will not be disclosed as grand jury protected; however, the subject matter of these supplements was previously disclosed. The remaining supplements are related to ongoing investigations and/or grand jury protected and will not be disclosed. Furthermore, all investigative reports regarding Victim 8 and Victim 10 have been disclosed.

d. With regard to Defendant's March 12, 2012 Fourth Request for Pre-Trial Discovery:

26. All items meeting this description in the Commonwealth's possession have been provided.
 27. All items meeting this description in the Commonwealth's possession have been provided.
 28. All items meeting this description in the Commonwealth's possession have been provided.
 29. This is an improper discovery request.
 30. These items have been provided.
 31. This is an improper discovery request.
 32. This is an improper discovery request.
 33. This is an improper discovery request.
 34. This is an improper discovery request.
 35. This is an improper discovery request.
 36. The Commonwealth is aware of its ongoing duty of disclosure, exculpatory and impeachment evidence.
 37. This is an improper discovery request. To the extent any such records are in the Commonwealth's possession and are relevant, they have been disclosed.
 38. This is an improper discovery request.
 39. These items have been disclosed.
 40. The criminal histories of Victims 1,3,4,5,6,7,9 and 10 have been disclosed.
- e. With regard to Defendant's March 20, 2012, Fifth Supplemental Discovery request:

All of the information sought in Defendant's Fifth Supplemental Request is contained in the PSP Report and the OAG supplemental reports, and attachments. Furthermore, paragraphs 41-51 are redundant.

- 52. This is an improper discovery request.
- 53. This is an improper discovery request.
- 54. This is an improper discovery request.
- 55. This is an improper discovery request.
- 56. This is an improper discovery request.
- 57. NCIC/CLEAN records have been provided.
- 58. This is an improper discovery request.
- 59. a.-f. This is an improper discovery request.

f. With regard to Defendant's March 21, 2012, Sixth Supplemental Discovery Request:

- 60. a-g. The Defendant has received a complete copy for the 1998 report in discovery on January 23, 2012, together with the psychological evaluations of Chambers and Seasock. There is not separate "Administrative File." There are no daily logs that relate to the 1998 incident.
- 61. This item was disclosed and turned over on January 23, 2012.
- 62. All appropriate Penn State University and Second Mile information in the Commonwealth's possession has been disclosed.
- 63. a. These disks of CYS interviews with Victim 1 have previously been provided.
b. This is an improper discovery request.

- 64. These have already been provided.
- 65. These have already been provided.
- 66. a-c. All items related to this request have been disclosed.
- 67. The attachment described will be provided under separate cover. It is neither relevant nor material but will be disclosed in an abundance of caution.
- 68. This item was disclosed on January 17, 2012.
- 69. All items relevant to the Defendant have been previously disclosed.

The Commonwealth is cognizant of and has complied with its obligations under Pa. Rule of Crim. Pro. 573, *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. After review of the serial discovery requests of the Defendant, it appears necessary to note that it is well-settled that a criminal defendant is entitled by the discovery rules, and/or by *Brady*, to only certain types of materials, not everything he may desire. As our Supreme Court has made clear, defendants are not entitled by *Brady* or by any other authority to unfettered access to the Commonwealth's case or investigative files. See generally *Commonwealth v. Ly*, 980 A.2d 61, 84 (Pa. 2009); *Commonwealth v. Paddy*, 15 A.3d 431, 450 (Pa. 2011) ("Brady does not require the disclosure of information 'that is not exculpatory but might merely form the groundwork for possible arguments or defenses'")(citation omitted); *Commonwealth v. Counterman*, 719 A.2d 284, 297 (Pa. 1998)(explaining that the "constitutional duty to disclose under *Brady* encompasses only exculpatory evidence; it is not a general rule of discovery"). The Superior Court, too, has reiterated these principles. In *Commonwealth v. Lambert*, 765 A.2d 306 (Pa. Super. 2000), the court stressed that "the rationale underlying *Brady* is not to supply a defendant with all of the evidence in the government's possession which might conceivably assist the preparation of his defense, but to assure that the defendant will not be denied access to exculpatory evidence only

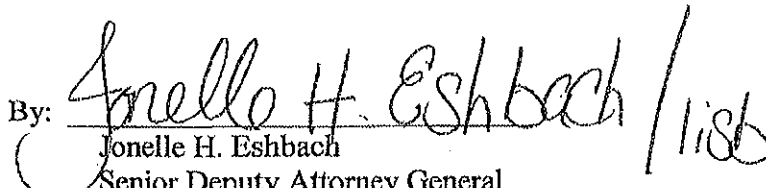
known to the government.” *Id.* at 325 (quoting *Commonwealth v. Santiago*, 654 A.2d 1062, 1068-1070 (Pa. Super. 1994), *app. denied*, 664 A.2d 540 (Pa.), *cert. denied*, 516 U.S. 995 (1995)). *Accord Commonwealth v. Burkett*, 5 A.3d 1260, 1267-68 (Pa. Super. 2010)(“[a] prosecutor is not required to deliver his entire file to defense counsel, nor is a prosecutor’s duty to disclose such that it would provide a defendant with a right to discovery”). Based on this precedent, it is clear that the Commonwealth has no duty to disclose everything in its possession to the defense. However, the defendant appears to believe the simple act of requesting information under the guise of “discovery”, no matter how speculative or inadmissible in nature, vests authority for the request. A review of the defendant’s “Requests for Pretrial Discovery” letters demonstrates the extraordinary nature of many of these requests. These are requests that fall squarely outside of the Commonwealth’s discovery or *Brady* obligations. Such a “fishing expedition” is clearly prohibited by the law and should be ruled as such by this Honorable Court.

Respectfully submitted,

LINDA L. KELLY
Attorney General

Dated: May 7, 2012

By:


Jonelle H. Eshbach
Senior Deputy Attorney General
Criminal Prosecutions Section

IN THE COURT OF COMMON PLEAS OF
CENTRE COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : No. CP-14-CR-2421-2011;
: CP-14-CR-2422-2011

vs.

GERALD A. SANDUSKY

DEBRA C. IMEL
PROTHONOTARY
CENTRE COUNTY, PA

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FILED FOR RECORD

CERTIFICATE OF SERVICE

I, Jonelle H. Eshbach, Senior Deputy Attorney General, Attorney for the
Commonwealth, at Attorney General's Office, 16th Floor, Strawberry Square, Harrisburg,
Pennsylvania, 17120, hereby certify that I served a true and correct copy of the Commonwealth's
Response to Defendant Second Motion to Compel Discovery on:

Joseph L. Amendola, Esquire
110 Regent Court
Suite 202
State College, PA 16801-7966

by email and first class mail, postage prepaid at Harrisburg, Pennsylvania on the date noted
below.

I certify under penalty of perjury that the foregoing is true and correct.

Date: May 7, 2012

BY:

FRANK G. FINA

Chief Deputy Attorney General
Criminal Prosecutions Section
Attorney for the Commonwealth