

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

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
v.	:	
	:	CP-22-CR-5165-2011 (Curley)
TIMOTHY MARK CURLEY	:	CP-22-CR-5164-2011 (Schultz)
	:	
GARY CHARLES SCHULTZ,	:	
	:	
Defendants.	:	

ORDER

AND NOW, to-wit, this _____ day of _____, 2011,
upon due consideration of the Motion for Discovery, it is hereby ORDERED and
DECREED that the Commonwealth provide the discovery listed above on or before
August 1, 2012.

BY THE COURT:

_____, J.

AND NOW THIS DATE

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COURT ADMINISTRATORS
OFFICE
DAUPHIN COUNTY

SERVICE (SEE ATTACHED)
AND CCP (SEE ATTACHED)
Edward M. Roberto
DISTRICT ATTORNEY

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

COMMONWEALTH OF PENNSYLVANIA, :

v. :

TIMOTHY MARK CURLEY :

CP-22-CR-5165-2011 (Curley)

CP-22-CR-5164-2011 (Schultz)

GARY CHARLES SCHULTZ, :

Defendants. :

DEFENDANTS' MOTION FOR DISCOVERY

AND NOW, comes the defendants, Timothy Mark Curley and Gary Charles Schultz, by and through their attorneys, Caroline M. Roberto, Esquire, and Thomas J. Farrell, Esquire, and respectfully file the following Motion for Discovery:

1. Defendants, Timothy Mark Curley and Gary Charles Schultz, are each charged with one count of Perjury in violation of 18 Pa.C.S. § 4902, a felony of the third degree, and one count of Failure to Report, a violation of 23 Pa.C.S. § 6319, a summary offense.
2. As required under Rule 573(A), prior to filing of the present motion, Counsel for Messrs. Curley and Schultz have made the following informal and formal requests, in a good faith effort to resolve discovery:
 - a. November 22, 2011, Letter to Senior Deputy Attorney General Jonelle H. Eshbach from Attorneys Farrell and Roberto requesting discovery and preservation of evidence;
 - b. January 18, 2012, Letter to Deputy Attorney General Bruce Beemer from Attorney Roberto requesting discovery;

- c. May 16, 2012, Letter to Deputy Attorney General Bruce Beemer from Attorney Farrell supplementing previous discovery requests;
 - d. May 24, 2012, Letter to Deputy Attorney General Bruce Beemer from Attorney Roberto supplementing previous discovery requests;
 - e. June 7, 2012, Letter to Deputy Attorney General Bruce Beemer from Attorneys Farrell and Roberto supplementing previous discovery requests;
3. The Commonwealth has provided pre-trial discovery materials to Defense counsel on or about December 16, 2011; March 5, 2012; April 20, 2012; April 23, 2012 and finally, May 25, 2012.
4. Defendant is entitled to the following documents pursuant to Pa.R.Cr.P. Rule 573(B)(1)
- (a) Any evidence favorable to the accused that is material either to guilt or to punishment, and is within the possession or control of the attorney for the Commonwealth;
 - (b) any written confession or inculpatory statement, or the substance of any oral confession or inculpatory statement, and the identity of the person to whom the confession or inculpatory statement was made that is in the possession or control of the attorney for the Commonwealth;
 - (c) the defendant's prior criminal record;
 - (d) the circumstances and results of any identification of the defendant by voice, photograph, or in-person identification;
 - (e) any results or reports of scientific tests, expert opinions, and written or recorded reports of polygraph examinations or other physical or mental examinations of the defendant that are within the possession or control of the attorney for the Commonwealth;
 - (f) any tangible objects, including documents, photographs, fingerprints, or other tangible evidence; and

(g) the transcripts and recordings of any electronic surveillance, and the authority by which the said transcripts and recordings were obtained.

5. As provided under Rule 573(B)(2), Defendant requests additional materials

(a) In all court cases, except as otherwise provided in Rule 230 (Disclosure of Testimony Before Investigating Grand Jury), if the defendant files a motion for pretrial discovery, the court may order the Commonwealth to allow the defendant's attorney to inspect and copy or photograph any of the following requested items, upon a showing that they are material to the preparation of the defense, and that the request is reasonable:

(i) the names and addresses of eyewitnesses;

(ii) all written or recorded statements, and substantially verbatim oral statements, of eyewitnesses the Commonwealth intends to call at trial;

(iii) all written and recorded statements, and substantially verbatim oral statements, made by co-defendants, and by co-conspirators or accomplices, whether such individuals have been charged or not; and

(iv) any other evidence specifically identified by the defendant, provided the defendant can additionally establish that its disclosure would be in the interests of justice.

(b) If an expert whom the attorney for the Commonwealth intends to call in any proceeding has not prepared a report of examination or tests, the court, upon motion, may order that the expert prepare, and that the attorney for the Commonwealth disclose, a report stating the subject matter on which the expert is expected to testify; the substance of the facts to which the expert is expected to testify; and a summary of the expert's opinions and the grounds for each opinion.

6. Finally, under Rule 573(D), the Commonwealth is under a continuing duty to disclose.

7. In addition, Rule 404(b)(4) of the Pennsylvania Rules of Evidence provides that in advance of trial, the prosecution shall provide reasonable notice of any "other

crimes, wrongs, or acts” which the prosecution will offer for any purpose other than to show actions in conformity with character. The Rule includes non-criminal and good acts offered for the enumerated purposes,.

8. Having reviewed the discovery provided to date, Counsel for Messrs. Curley and Schultz identify and request the following materials:

- a. All witness interviews, proffer and interview statements and reports of investigation, including notes and other records of interviews and electronic or other communications made in the course of the Grand Jury investigation and trial preparation in the instant matter. Rule 573(B)(1)(a), (b) & (f) and 573(B)(2)(a)(i)-(iv); *Smith v. Cain*, 132 S.Ct. 627 (2012).

This includes, but is not limited to

- i. Interviews, proffers, statements, notes (including all those preserved under the Court’s December 22, 2011, interim preservation order) etc. relating to any potential witnesses or representatives thereof or any of the following persons or representatives thereof or entities or representatives thereof:
 1. Accuser #2 including any person who claims or is believed to be Accuser #2
 2. Accuser #5 and any others who claim to have been abused by Sandusky on PSU property or during PSU activities from 1997 to 2010
 3. Accuser #6

4. Attorney Cynthia Baldwin
5. Tom Bradley
6. Co-defendants, co-conspirators or accomplices, whether such individuals have been charged or not
7. Attorney Wendell Courtney
8. Timothy Mark Curley
9. Dr. Jonathan Dranov
10. Katherine Genovese
11. Thomas Harmon
12. John McQueary
13. Michael McQueary
14. Joseph V. Paterno
15. Penn State University (PSU)
16. PSU Board of Trustees
17. Dr. Jack Raykovitz
18. Gerald Sandusky
19. Ronald Schreffler
20. Gary Charles Schultz
21. The Second Mile
22. The Second Mile Board of Trustees
23. Mark Sherburne
24. Dr. Graham B. Spanier

- ii. Interviews and notes of PSU employees conducted by Pennsylvania Office of Attorney General (OAG) investigators in connection with the Sandusky and PSU investigations, such as notes of interviews of Dr. Spanier of March 22, 2011, and April 13, 2011.
 - iii. Drawings, diagrams or other materials drawn or labeled by potential witnesses, such as diagrams of Lasch building showers drawn or labeled by potential witnesses and any other such documents used by investigators in the course of interviews.
- b. Any and all written or recorded statements and substantially verbatim oral statements made by any witnesses the Commonwealth intends to call at trial, and any of the above-listed persons (para. 8(a)(i)(1)-(24))
- c. Grand jury testimony, notes of interviews, and all other materials submitted to the Grand Jury or produced to OAG by the above-listed persons and entities or on their behalf (para. 8(a)(i)(1)-(24)); Rule 230, 573(B)(1)(a); *Commonwealth v. Hemingway*, 13 A.3d 491 (Super. 2011)). This specifically includes, but is not limited to:
- i. Materials and documents produced to OAG by Paterno, his family member, attorney, administrative assistant, secretary or other person (see Agent Sassano, May 13, 2011, Report, Supplemental 12)

- ii. Materials and documents produced to OAG by The Second Mile (see Agent Sassano, July 14, 2011, Report)
 - iii. All documents, thumb drives and other materials produced to OAG by Attorney Baldwin, on behalf of PSU, on behalf of PSU Board of Trustees, on behalf of those who she accompanied to the Grand Jury (i.e., Curley, Schultz, Dr. Spanier, or any others), or on her own behalf with regard to the ongoing investigations into the Sandusky/PSU matter
- d. Any written or recorded reports of mental examinations, scientific tests, or expert opinions of any witnesses (Rule 573(B)(1)(e)), specifically including:
- i. John McQueary
 - ii. Michael McQueary
- e. Correspondence and communication between OAG staff, investigators, the Grand Jury Supervising Judge and any of the above-listed people, including, specifically, but not limited to the following:
- i. Attorney Cynthia Baldwin,
 - ii. Timothy Mark Curley,
 - iii. any co-defendants, co-conspirators, and accomplices, whether such individuals have been charged or not
 - iv. John McQueary
 - v. Michael McQueary

- vi. Gary Charles Schultz
- vii. Dr. Graham B. Spanier
- f. A copy of all subpoenas or other requests for materials or testimony sent by OAG (or investigative team working with OAG) in the course of the Sandusky/PSU investigation
- g. The criminal records and any civil litigation in which the above-listed persons are named as a party (para. 8(a)(i)(1)-(24); Rule 573(B)(1)(a) and (c))
- h. PSU university disciplinary complaints against any of the above-listed persons (para. 8(a)(1)-(24))
- i. Files or other materials regarding Sandusky that were kept or maintained by the above-listed persons and entities (para. 8(a)(i)(1)-(24))
- j. Statements and evidence, including photographs, newspaper articles and electronic or other communications, concerning witnesses' contacts with Sandusky after the February 2001 incident, in particular John and Michael McQuearys' contacts with Sandusky, their attendance of The Second Mile or other Sandusky events and support, financial or otherwise, of Sandusky and The Second Mile
- k. Materials, including correspondence, agreements, draft agreements, terms, human resource/personnel/ employment files and their contents regarding Sandusky's employment and retirement from PSU
 - i. Correspondence concerning retirement choices and benefits

available

- ii. PSU formal retirement/separation agreement with Sandusky granting emeritus status and access to PSU facilities
 - iii. Materials reflecting the scheduling, timing, planning and follow-up to meetings and discussions relating to employment and retirement
- I. Materials and documents retrieved from the offices of any of the above listed persons (para. 8(a)(i)(1)-(24)). This specifically includes, but is not limited to:
- i. Documents and materials retrieved from the office or files of Attorney Baldwin or the office or files of administrative or graduate assistants, secretaries, interns and other persons working with Attorney Baldwin
 - ii. Documents and materials retrieved from the office or files of Attorney Courtney or the office or files of his administrative assistants, secretaries, interns and other persons working with Attorney Courtney
 - iii. Documents and materials retrieved from the office or files of Curley or the office or files of administrative or graduate assistants, secretaries, interns and other persons working for PSU with Curley
 - iv. Documents and materials retrieved from the office or files of Genovese or the office of administrative assistants, secretaries, interns and other persons working with Genovese for The Second

Mile

- v. Documents and materials retrieved from the office or files of Michael McQueary or the office or files of administrative or graduate assistants, secretaries, interns and other persons working for PSU with Michael McQueary
- vi. Documents and materials retrieved from the office or files of Paterno or the office or files of administrative or graduate assistants, secretaries, interns and other persons working for PSU with Paterno, such as those retrieved on or about February 6, 2012, by Agents of OAG
- vii. Documents and materials retrieved from the office or files of Dr. Raykovitz or the office of administrative assistants, secretaries, interns and other persons working with Dr. Raykovitz for The Second Mile
- viii. Documents and materials retrieved from the office or files of Schultz or the office of administrative or graduate assistants, secretaries, interns and other persons working for PSU with Schultz, such as those retrieved on or about February 7, 2012, by Agents of OAG
- ix. Documents and materials retrieved from the office or files of Sherburne or the office of administrative or graduate assistants, secretaries, interns and other persons working for PSU with

Sherburne

- x. Documents and materials retrieved from the office or files of Dr. Spanier or the office of administrative or graduate assistants, secretaries, intern and other persons working for PSU with Dr. Spanier, such as those retrieved on or about February 7, 2012, by Agents of OAG
- xi. Documents and materials retrieved from the office or files of The Second Mile or any of its employees
- m. Any documents, materials and information turned over to OAG by Sherburne and any documents, materials and information allegedly initially withheld from OAG. This includes but is not limited to any reports, interviews, notes of interviews, memoranda or other materials
- n. All witness interviews, proffer and interview statements and reports of investigation, including notes and other records of interviews and electronic or other communications made in the course of the Grand Jury investigation and trial preparation in the instant matter relating to Tom Bradley, James Bradley Caldwell, Kirk Allan Diehl and Thomas Venturino.
 - i. Complete and unredacted copies of witness interviews, proffer and interview statements, etc. which have been previously provided with redactions, including but not limited to Supplemental Reports 79, 82, 85, 94.
 - ii. Any documents or materials received by OAG from Bradley,

Caldwell, Diehl or Venturino

- o. PSU employment/personnel/human resource files, including but not limited to the Athletic Department personnel files, for the following individuals:
 - i. Attorney Cynthia Baldwin
 - ii. co-defendants, co-conspirators, and accomplices, whether such individuals have been charged or not
 - iii. Attorney Wendell Courtney
 - iv. Timothy Mark Curley
 - v. Michael McQueary
 - vi. Joseph V. Paterno
 - vii. Gerald Sandusky
 - viii. Gary Charles Schultz
 - ix. Mark Sherburne
 - x. Dr. Graham B. Spanier
- p. Any other personnel files retrieved from the PSU Athletic Department or Curley's office
- q. Materials and other documents which reflect Attorney Courtney's billing records and invoices to PSU from 1998 to 2002
- r. Materials, including emails, correspondence, interview notes or memoranda involving Attorney Baldwin, co-defendants, co-conspirators, and accomplices, whether such individuals have been charged or not,

Attorney Courtney, Curley, Genovese, Paterno, PSU, PSU Board of Trustees, Dr. Raykovitz, Sandusky, Schultz, The Second Mile, The Second Mile Board of Trustees, Dr. Spanier, and/or any others in the time period of January 1998 through December 2011 and relating to the Sandusky investigation or the grand jury investigation in which Curley, Schultz, and Dr. Spanier testified. This includes but is not limited to:

- i. Materials related to the Sandusky investigation, in particular the 2001/2002 shower incident alleged by Michael McQueary and any other alleged instances of abuse by Sandusky at PSU;
- ii. Materials indicating whether PSU police, State College police or any other law enforcement were informed of the 2001 incident;
- iii. Materials, including email correspondences, in which Michael McQueary indicated that he informed police or law enforcement and materials in which he indicated that he otherwise stopped or attempted to stop the incident;
- iv. Materials indicating that other alleged incidents of abuse by Sandusky were brought to the attention of Attorney Baldwin, Attorney Courtney, Curley, co-defendants, co-conspirators, and accomplices, whether such individuals have been charged or not, Genovese, Paterno, PSU, Dr. Raykovitz, Sandusky, Schultz, The Second Mile, Dr. Spanier,
- s. Materials, including but not limited to emails, correspondence, interview

notes, minutes of meetings and/or memoranda of PSU or PSU Board of Trustees related to the Sandusky/PSU investigation

- t. Materials, including but not limited to emails, correspondence, interview notes, minutes of meetings and/or memoranda of Genovese, Dr. Raykovitz, The Second Mile Board, or The Second Mile Board of Trustees related to the Sandusky/PSU investigation
- u. Any communications or correspondence between accusers or witnesses and PSU, PSU Board of Trustees, The Second Mile or The Second Mile Board of Trustees
- v. Documents and information including but not limited to text messages, pictures, videos, calendars, emails, retrieved from Michael McQueary's computer(s) and cell phone(s)
 - i. A copy of the Michael McQueary hard drive(s), documents retrieved from the hard drive(s), and any reports related to computer forensics efforts to retrieve information from the hard drive(s)
 - ii. A copy of the hardware from the Michael McQueary cell phone(s), including all data/information extracted and any report related to forensics efforts to retrieve information
 - iii. Materials received or retrieved by the OAG indicating Michael McQueary's scheduling from 2001 to 2012, including calendars, appointments, memos, schedule books and reminders from the

Michael McQueary cell phone, computer and office as well as calendars, appointments, memos, schedule books and reminders from administrative or graduate assistants, secretaries, interns and other persons working for PSU with Michael McQueary

- iv. Any travel records from Michael McQueary from 2001 to 2012
- w. Documents and information including but not limited to text messages, pictures, videos, calendars, emails, retrieved from Curley's computer(s) and cell phone(s)
 - i. A copy of the Curley hard drive(s), documents retrieved from the hard drive(s), and any reports related to computer forensics efforts to retrieve information from the hard drive(s)
 - ii. A copy of the hardware from the Curley cell phone(s), including all data/information extracted and any report related to forensics efforts to retrieve information
 - iii. Materials received or retrieved by the OAG indicating Curley's scheduling from 1998 to November 2011, including calendars, appointments, memos, schedule books and reminders from the Curley cell phone, computer and office as well as calendars, appointments, memos, schedule books and reminders from administrative or graduate assistants, secretaries, interns and other persons working for PSU with Curley
- x. Documents and information including but not limited to text messages,

pictures, videos, calendars, emails, retrieved from Paterno's computer(s) and cell phone(s). Reference to Paterno's computer(s) includes the computer(s) of his administrative or graduate assistants, secretaries, interns and other persons working closely with Paterno

- i. A copy of the Paterno hard drive(s), documents retrieved from the hard drive(s), and any reports related to computer forensics efforts to retrieve information from the hard drive(s)
 - ii. A copy of the hardware from the Paterno cell phone(s), including all data/information extracted and any report related to forensics efforts to retrieve information
 - iii. Materials received or retrieved by the OAG indicating Paterno's scheduling and the football team's scheduling from 1998 to November 2011, including calendars, appointments, memos, schedule books and reminders from the Paterno cell phone, computer and office as well as calendars, appointments, memos, schedule books and reminders from administrative or graduate assistants, secretaries, interns and other persons working for PSU with Paterno
- y. Documents and information including but not limited to text messages, pictures, videos, calendars, emails, retrieved from Schultz's computer and cell phone(s)
- i. A copy of the Schultz hard drive(s), documents retrieved from the

- hard drive(s), and any reports related to computer forensics efforts to retrieve information from the hard drive(s)
- ii. A copy of the hardware from the Schultz cell phone(s), including all data/information extracted and any report related to forensics efforts to retrieve information
- z. Documents and information including but not limited to text messages, pictures, videos, calendars, emails, retrieved from Dr. Spanier's computer and cell phone(s)
 - i. A copy of the Dr. Spanier hard drive(s), documents retrieved from the hard drive(s), and any reports related to computer forensics efforts to retrieve information from the hard drive(s)
 - ii. A copy of the hardware from the Dr. Spanier cell phone(s), including all data/information extracted and any report related to forensics efforts to retrieve information
- aa. Landline office telephone numbers and phone records of PSU or The Second Mile in the possession of OAG
- bb. Materials received or retrieved by OAG indicating Dr. Dranov's scheduling and travel from January to March 2001 including calendars, appointments, memos, schedule books and reminders from his cell phone, computer and office as well as calendars, appointments, memos, schedule books and reminders from administrative assistants, secretaries, interns and other persons working with Dr. Dranov

- cc. Materials received or retrieved by OAG indicating John McQueary's scheduling and travel from January to March 2001 including calendars, appointments, memos, schedule books and reminders from his cell phone, computer and office as well as calendars, appointments, memos, schedule books and reminders from administrative assistants, secretaries, interns and other persons working with John McQueary
- dd. Besides the hard drives of Curley, McQueary, Schultz, Dr. Spanier, any other electronic materials pertaining to them whether on hard drives, floppy disk drives, flash drives, CDs, DVDs, servers or server back-up tapes or smart phones
- ee. Any PSU policies for the storage and retention of data and information on PSU electronic networks, computers, cell phones, internet and other facilities and technologies including use and privacy policies, relating to PSU
- ff. Any schedules, sign-in sheets and activity list kept by any employee, coach or other staff, for the use of the Lasch Building from January through September of 2001
- gg. Materials and memoranda from the Athletic Department relating to prohibiting children from being on the sidelines at football games.
- hh. An unredacted copy of the Pennsylvania State Police incident report G07-1146135, in particular, pages 208-219.
- ii. Emails or other correspondence giving an anonymous tip to Centre

County District Attorney Stacy Parks Miller to contact Michael McQueary and any subsequent contact, correspondence and memoranda or reports regarding the anonymous source and the Centre County District Attorneys, including any emails from the Office of the Centre County District Attorney to agents of OAG.

- jj. Materials, photographs, diagrams, or videos of the Lasch building, Lasch building locker room, and locations of above-listed individuals' (para. 8(a)(i)(1)-(24)) offices and lockers from 1998 and 2010
- kk. Materials concerning PSU programs for Continuing and Distance Education, The Second Mile or other Sandusky Associates camps from 1996 to 2011
- ll. Materials related to The Second Mile and Sandusky Associates use of PSU facilities, such as formal or informal agreements from 1996 to 2011
- mm. OAG official or unofficial protocol, policy and other instructions with regard to the preservation, summary, and destruction of notes, documents and other materials
- nn. Any materials and information coming from or otherwise being used as a tool for the internal investigations of OAG/investigation "leaks" to the press
- oo. The names and addresses of any and all eyewitnesses to the 1998 and 2001 incidents
- pp. Full copy of the materials and file from the 1998 investigation. This includes, but is not to:

- i. police reports, district attorney recommendations and psychological reports
 - ii. reports of Dr. Alysia Chambers and Dr. John Seasock
 - iii. handwritten statement provided to Officer Schreffler after the May 13, 1998, eavesdropping by Schreffler and Weaver
- qq. Applications, transcripts and records of attempted and actual electronic surveillance of defendant, co-defendants, co-conspirators, and accomplices, whether such individuals have been charged or not as well as authorizes by which such surveillance and recordings were obtained (Rule 573 (B)(1)(g))
- rr. Copies of any agreements or promises or assurances made, between OAG or its agents and any prospective witness offering assistance to the witness in obtaining leniency in any court, or lack of prosecution or arrest, or any other favorable treatment or consideration for the efforts made in connection with any aspect of this case by the witness (Rule 573(B)(1)(a) and Rule 573(B)(2)(a)(iv))
- ss. A list of witnesses the Commonwealth intends to call at trial
- tt. Reasonable notice regarding the general nature of any Pa.R.E. 404(b) evidence of other crimes, wrongs, or acts, it intends to introduce at trial
- uu. Any reports, correspondence or notes from Dr. Seasock regarding the allegations of Accuser #6 in the *Commonwealth v. Gerald Sandusky* Information, including but not limited to Dr. Seasock's May 8, 1998,

evaluation and report.

Inspection:

9. Defendant requests to view and inspect, in person, any photographs, video recordings, sound recordings, newspaper articles, handwritten statements or other handwritten documents, hard drives, hardware and other tangible evidence. This includes, but is not limited to documents retrieved by the OAG from PSU offices and any documents received by the OAG from The Second Mile and exhibits from the trial of *Commonwealth v. Gerald Sandusky* (Centre Co.)
10. In light of the volume of materials involved in this case and the ongoing investigation, Defendant extends a general request for all items to which he is entitled and all discovery which is material to his defense under Rule 573(B)(1) and (2).
11. Defendant also respectfully requests that he be granted leave to supplement this request if and when it becomes necessary over the course of preparation for trial.
12. Defendant is entitled to the foregoing materials and any failure to turn them over would be in violation of Defendant's constitutional rights.
13. Moreover, as the Pennsylvania Supreme Court has explained: "[i]t is well established in this Commonwealth that the purpose of the discovery rules is to permit the parties in a Criminal matter to be prepared for trial." *Commonwealth v. Shelton*, 640 A.2d 892, 895 (Pa. 1994). The foregoing materials are

necessary for the preparation of trial and the preparation of an effective and adequate defense as guaranteed under the Fifth Amendment of the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution.

14. The Commonwealth has conducted a four-year investigation into allegations against Sandusky and PSU. The information must be timely provided to the defendant in order that he is able to review the voluminous materials to prepare his defense to the charges in the instant matter.
15. The prosecution has maintained that its investigation is ongoing, and in so doing, has refrained from setting the parameters of the charges.¹ However, at the same time, "law enforcement sources" are providing highly inflammatory information to the media.² Therefore, the request is of particular urgency in the unique circumstances of this case, where the present allegations and evidence have been lodged and publicized in the "court of public opinion", threatening the fundamental principle of presumption of innocence and jeopardizing Defendants' careers and well-being.

¹ Defendants reiterate their concerns that this shifting sand approach is undercutting their constitutional right to a fair trial and fair notice. See *Defendant Curley's Reply to Commonwealth's Combined Answer and Memorandum of Law in Opposition to Defendant's Pre-Trial Motion, Section II, Memorandum of Law*, at 4; *Defendant Gary C. Schultz' Motion to Quash Count One*.

² See June 11, 2012, MSNBC Report from Michael Isikoff, available at

WHEREFORE, the Defendant respectfully requests that this Honorable Court direct the Commonwealth to provide Defendant the above-listed materials.

Respectfully submitted,

By: _____

Caroline M. Roberto for CMR / *Curley*
for CMR
Caroline M. Roberto, Esquire
Attorney for Defendant,
Timothy Mark Curley
Pa. I.D. No. 41524
429 4th Avenue, Suite 500
Pittsburgh, PA 15219
(412) 391-4071

By: _____

Thomas J. Farrell for TJF / *Curley*
for TJF
Thomas J. Farrell, Esquire
Attorney for Defendant, Gary C. Schultz
Pa. I.D. No. 48976
436 7th Avenue, Suite 200
Pittsburgh, PA 15219
(412) 894-1380

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

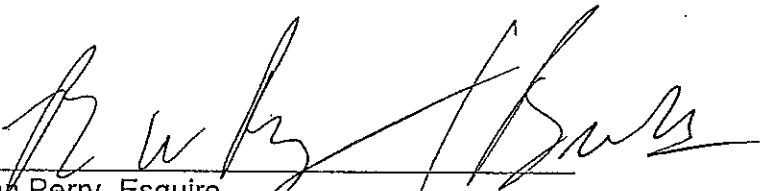
COMMONWEALTH OF PENNSYLVANIA, :
 :
 v. :
 : CP-22-CR-5165-2011 (Curley)
TIMOTHY MARK CURLEY : CP-22-CR-5164-2011 (Schultz)
 :
GARY CHARLES SCHULTZ, :
 :
 Defendants. :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Motion for
Discovery, was mailed and emailed, this 15th day of June, 2012, to the following:

Bruce Beemer
Deputy Attorney General
Office of the Attorney General
Strawberry Square
Harrisburg, PA 17120
bbeemer@attorneygeneral.gov

Thomas J. Farrell, Esquire
Farrell & Reisinger
436.7th Avenue, Suite 200
Pittsburgh, PA 15219
tfarrell@farrellreisinger.com



Brian Perry, Esquire
Attorney for Defendant, Timothy Mark Curley