

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT

SUCR2014-10417

SUCR2015-10384

COMMONWEALTH

v.

AARON HERNANDEZ

**JOINT AGREEMENT REGARDING THE DEFENDANT'S
MOTION FOR DISCOVERY OF PROSPECTIVE EXPERT
TESTIMONY, PHYSICAL EVIDENCE, MEDICAL EVIDENCE, AND
SCIENTIFIC AND FORENSIC TESTS**

Now comes the parties in the above-captioned matters and submit the following joint agreement regarding the defendant's motion for discovery of prospective expert testimony. In sum, as of January 19, 2017, the Commonwealth has provided the requested additional documents to counsel. On or before January 23, 2017, the Commonwealth will file an Expert Disclosure Statement with current curriculum vitae for each expert the Commonwealth anticipates will testify at trial and a summary of their proposed expert testimony.

1. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided.

2. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided.

3. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided.

4. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided.

5. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided, including the names, titles, qualifications, and addresses of any witnesses the Commonwealth seeks to have testify as experts in this case as well as the substance of any proposed expert opinion. On or before January 23, 2017, the Commonwealth will provide a detailed Expert Disclosure Statement.

Pursuant to the defendant's request, the Commonwealth has further inquired of these expert witnesses and there are no specific specialized sources or other documents that an expert used to reach their conclusion(s) in this case.

6-7. The current certifications for the labs are available at <http://www.asclد-lab.org/accredited-laboratory-index/>. The Boston Police Department Crime Lab, Latent Print Unit, and Firearms Analysis Unit will make their ASCLD application and correspondence for the last five years available for defense counsel's review at Boston Police Headquarters, 1 Schroeder Plaza, Boston, MA. Likewise, the Massachusetts State Police Crime Lab, will make their 2012 application for ASCLD accreditation available for defense counsel's review at the Massachusetts State Police Crime Lab, 124 Acton Street, Maynard, MA.

Defense counsel has requested that the ASCLD application/documentation/correspondence be provided electronically by the labs.

8. The Commonwealth agreed to this request and has provided any responsive documents.

9. On January 19, 2017, the Commonwealth provided the following documents:

- BPD Crime Lab: Coversheets for the Internal Serology tests for Amy Reynolds, Hair tests for Amy Reynolds, and DNA tests for Julie James for the past 5 years. The lab will also provide a copy of the proficiency test logs with the last 5 years, since these logs came into existence.

- BPD Latent Print Unit: Coversheets for latent print tests for Rachel Camper, Deborah Dobrydney (Kosiorek), and Kristen Tolan for the past 5 years. The lab will also provide a copy of the proficiency test logs for the last 5 years, 2011 to 2016.
- BPD Firearms Analysis Unit: Coversheets for firearms tests for Detectives Martin Lydon and Tyrone Camper for the past 5 years. The lab will also provide a copy of the proficiency test logs for the last 5 years, 2011-2016.
- Massachusetts State Police Crime Lab: For each analyst (gunshot residue, firearms, and latent prints), the lab will provide the two proficiency tests closest to the time of testing in this case.

10a. The Commonwealth agrees to this request and has provided CVs throughout discovery. The Commonwealth will provide the most current curriculum vitae for each expert witness who is expected to testify at trial with the Expert Disclosure Statement, on or before January 23, 2017.

10b. The quality control manager or quality manager for each lab are as follows:

- BPD Crime Lab: Erin Forry
- BPD Latent Prints: Kevin Larade
- BPD Firearms Analysis Unit: Kevin Larade
- Mass State Police Crime Lab: Kimberly Anderson

10c, 10d, 10e, 10f. The parties agree these are duplicative requests and any responsive documents will be contained within requests 6 and 7.

10g. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided.

10h. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided.

11. The parties agree these are duplicative requests and any responsive documents will be contained within requests 6 and 7.

12. There are no documents responsive to this request.

13. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided. Correspondence between investigators and the labs has been provided within each units' discovery packet.

14. On January 19, 2017, the Commonwealth provided all correspondence with Michael Haag.

15. There are no documents responsive to this request.

16. There were no photographs taken of the black briefcase related to the recovery of the firearm and arrest of Jailene Diaz-Ramos. On January 17, 2017, this Court allowed a motion for the Massachusetts State Police to release this evidence to the Boston Police Department, and the item will be made available for defense counsel's inspection.

17. On January 19, 2017, the Commonwealth provided the complete latent print file from the Massachusetts State Police.

18. There are no documents responsive to this request.

19. The complete case file from the Boston Police Crime Lab for DNA testing has been provided, including the raw data in .fsa format, and the videotaped destructive testing.

20. There are no documents responsive to this request.

21. The correspondence between the prosecutors and the labs regarding the casework has been provided within each labs' case files.

22. The Commonwealth is aware of its ongoing obligation to provide exculpatory evidence and is not aware of any "reports, whether internal or external, involving any lab, expert, analyst, or criminalist discussing alleged wrongdoing."

23. The parties have agreed to narrow this request to validation studies in which the two examiners from the firearms analysis unit, Detectives Tyrone Camper and Martin Lydon, participated in, including but not limited to the "Brundage Barrel" study.

24. The Commonwealth provided the quality manuals for 2012 to 2016, for the Boston Police Department Crime Lab, Latent Prints Unit, and Firearms Analysis Unit. On January 19, 2017, the Commonwealth provided the quality manual for the Massachusetts State Police Crime Lab that was in place at the time of the testing.

25. The Commonwealth agreed to this request; discovery, pursuant to Mass. R. Crim. P. 14, has been provided. On January 19, 2017, the Commonwealth provided the most current CV for Dr. Katherine Lindstrom, any opinions outside of her report will be contained in the detailed Expert Disclosure Statement, and the Commonwealth will ensure that defense counsel has a copy of any x-rays that were taken at autopsy.

Respectfully Submitted
For the Commonwealth,

DANIEL F. CONLEY
DISTRICT ATTORNEY

By:


PATRICK M. HAGGAN
Assistant District Attorney

MARK T. LEE
Assistant District Attorney

TERESA K. ANDERSON
Assistant District Attorney

One Bulfinch Place
Boston, MA 02114
(617) 619-4000

Dated: January 19, 2017