

#160

NOV 17 2014

DR. P. SINTOS, ESQ.  
CLERK/MAGISTRATE  
BRISTOL, ss.

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CRIMINAL #2013-983

COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

**DEFENDANT'S MOTION TO REQUIRE THE  
COMMONWEALTH TO PARE DOWN ITS WITNESS LIST  
TO THOSE INDIVIDUALS IT ACTUALLY INTENDS TO  
CALL TO TESTIFY IN ITS CASE-IN-CHIEF AT TRIAL  
AND FOR OTHER NECESSARY RELIEF**

Aaron Hernandez, the defendant in the above-captioned criminal case, hereby moves this Court, pursuant to the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article XII of the Massachusetts Declaration of Rights, to order the Commonwealth to pare down its list of 305 potential witnesses dated October 31, 2014 to those individuals it actually intends to call to testify in its case-in-chief at trial. The defendant further moves that the Commonwealth be ordered to set forth briefly the anticipated subject(s) of the trial testimony of each prospective trial witness so identified.

As grounds therefore, defendant states that it is inconceivable that the Commonwealth will actually call each of the 305 individuals it identified as a prospective witness in its October 31<sup>st</sup> witness list or that the Court would allow it to do so. Thus, the effect of this inflated witness list is

*Commonwealth's  
opposition due by Thursday  
November 20, 2014.  
(Garsch, J.) mlz*

*11/24/14  
Decision.  
However, are urged to pare  
down list to be set  
practical  
unnecessary to avoid  
are protected trial.  
E. Kelly 11*

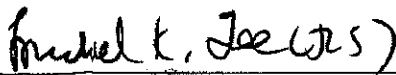
*11/17/14*

to conceal the identities of the witnesses the Commonwealth **actually** intends to call while forcing defense counsel to waste their limited time and resources investigating and preparing to cross-examine myriad individuals whom the Commonwealth does not intend to call at all. Such a tactic impinges upon the defendant's state and federal constitutional rights to due process, confrontation of witnesses, and effective assistance of counsel. The grounds for the instant motion are set forth more fully in the memorandum of law and affidavit of counsel (with exhibits) filed herewith.

Respectfully submitted,

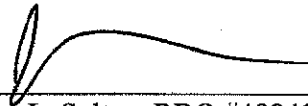
**AARON HERNANDEZ**

By his attorneys,



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Latham & Watkins, LLP  
John Hancock Tower  
200 Clarendon Street, 20<sup>th</sup> Floor  
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(617) 948-6000




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James L. Sultan, BBO #488400  
Charles W. Rankin, BBO #411780  
Rankin & Sultan  
151 Merrimac Street, Second Floor  
Boston, MA 02114  
(617) 720-0011

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing document upon the Commonwealth by e-mail and by mailing a copy thereof, US mail, postage prepaid, to: William McCauley, First Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on November 14, 2014.



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James L. Sultan

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CRIMINAL #2013-983

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COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

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**MEMORANDUM OF LAW IN SUPPORT OF  
DEFENDANT’S MOTION TO REQUIRE THE  
COMMONWEALTH TO PARE DOWN ITS WITNESS LIST  
TO THOSE INDIVIDUALS IT ACTUALLY INTENDS TO  
CALL TO TESTIFY IN ITS CASE-IN-CHIEF AT TRIAL  
AND FOR OTHER NECESSARY RELIEF**

**I. STATEMENT OF RELEVANT FACTS.**

On October 31, 2014, pursuant to the Court’s scheduling order, the Commonwealth disclosed its list of potential trial witnesses (appended to the accompanying *Affidavit of James L. Sultan* as *Exhibit 1*). That list included a total of 305 entries comprised of 159 civilians, 70 law enforcement officials, 44 experts, and 32 record-keepers. In response, undersigned counsel wrote to First Assistant District Attorney McCauley on November 6, 2014 asking the Commonwealth, *inter alia*, to “identify in good faith which of these more than 300 identified individuals you intend to call to

testify in the Commonwealth's case-in-chief at trial;" and "[w]ith respect to each of the individuals so identified, please specify briefly the anticipated subject(s) of their prospective trial testimony."

(Letter appended to the accompanying *Affidavit of James L. Sultan* as *Exhibit 2*).<sup>1</sup>

On November 10, 2014, First Assistant District Attorney McCauley responded by e-mail to defense counsel's letter of November 6, 2014. In that e-mail, appended to the accompanying *Affidavit of James L. Sultan* as *Exhibit 3*, Mr. McCauley wrote, *inter alia*, that the Commonwealth's October 31<sup>st</sup> witness list was "made in good faith." Mr. McCauley also noted the Commonwealth's willingness to "reduce the witness list by stipulations or agreement to uncontested facts." With respect to defense counsel's request for a brief description of the subject matter of each prospective witness' trial testimony, Mr. McCauley responded that "[t]his information is contained in the reports already provided."

## II. SUMMARY OF APPLICABLE LAW.

Over the past half-century, both the United States Supreme Court and the Massachusetts Supreme Judicial Court have endorsed changes in criminal procedure which enable both sides to prepare effectively for trial. As the Supreme Court stated in *Williams v. Florida*, 399 U.S. 78, 82 (1970): "The adversary system of trial is hardly an end in itself; it is not yet a poker game in which players enjoy an absolute right always to conceal their cards until played." A decade earlier, in a different context, Justice Douglas, writing for the Court, commended procedures which "make a trial less a game of blind man's buff and more a fair contest with the basic issues and facts disclosed to

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<sup>1</sup> The letter also asked the Commonwealth to provide current addresses and birth dates for each of its prospective civilian trial witnesses so that the defendant could file an appropriate motion for prior criminal record information respecting said witnesses. That information was provided by the Commonwealth on November 10, 2014.

the fullest practicable extent.” *United States v. Proctor*, 356 U.S. 677, 682 (1958). A similar theme was sounded by the Supreme Judicial Court in *Commonwealth v. Durham*, 446 Mass. 212, 229 (2006): “[C]riminal trials are matters of justice and not sporting events in which the side that has the strongest advocate (employing advantages to which he or she is not entitled) gains the upper hand.”

At the same time, both courts and commentators have come to recognize that the prosecution in criminal cases enjoys superior resources. *E.g. Durham*, 446 Mass. at 229 (“We acknowledge as well that some ‘imbalance’ exists between the resources of the State and those of the defendant.”). *See also Jackson v. Wainwright*, 390 F.2d 288, 294 (5<sup>th</sup> Cir. 1968) (Wisdom, J.) (“A weakness in the adversary system of administering justice is the possibility of unfairness arising (sometimes) from the prosecution’s superior resources and special access to information and witnesses.”); William Brennan, Jr., *The Criminal Prosecution: Sporting Event or Quest for Truth? A Progress Report*, 68 Wash. U.L.Q. 1, 3 (1990) (“[T]he truth-finding function of criminal trials is enhanced when the prosecution is not allowed to surprise the defendant with its evidence – ‘trial by ambush’ as it is sometimes accurately referred to – but is required to disclose its case in advance of trial so that defense counsel may carefully consider and investigate the evidence and prepare for trial tactics and questions.”).

Every criminal defendant is entitled to the effective assistance of counsel under the Sixth Amendment and Article XII. *E.g. Strickland v. Washington*, 466 U.S. 668 (1984); *Commonwealth v. Saferian*, 366 Mass. 89 (1974). An important element of effective assistance is that counsel adequately investigate and prepare the case for trial. *See, e.g., Rompilla v. Beard*, 545 U.S. 374, 380-381 (2005); *Commonwealth v. Haggerty*, 400 Mass. 437, 443 (1987). Counsel’s duty “includes the

obligation to investigate “all witnesses who may have information concerning his or her client’s guilt or innocence.” *Stewart v. Wolfenbarger*, 468 F.3d 338, 356 (6<sup>th</sup> Cir. 2006). Procedures which “impair the accused’s enjoyment of the Sixth Amendment guarantee [of effective assistance] by disabling his counsel from fully assisting and representing him” are impermissible. *United States v. Decoster*, 624 F.2d 196, 201 (D.C. Cir. 1976). With respect to pretrial disclosure “[p]rosecutorial resort to a strategy of ‘delay and conquer,’ ... is not acceptable.” *Miller v. United States*, 14 A.3d 1094, 1107-1108 (D.C. 2011).

### **III. APPLICATION OF LAW TO FACTS.**

After burying defense counsel in a mountain of discovery (a process which continues unabated), the Commonwealth has now tendered a witness list comprised of 305 individuals. In response to defense counsel’s reasonable request that the Commonwealth identify which of these witnesses the Commonwealth actually intends to call in its case-in-chief at trial and specify the general subject matter of their anticipated testimony, the Commonwealth simply refers defense counsel to the pile of discovery and invites the defendant to stipulate or agree to certain facts. This response is totally unacceptable, unfair, and impinges upon the defendant’s constitutional right to a fair trial and to effective assistance of counsel.

It is inconceivable that the Commonwealth actually intends to call more than 300 witnesses in its case-in-chief at trial. Accordingly, the filing of this overly-inclusive witness list serves to conceal from defense counsel exactly which witnesses will actually be called, and thus merit counsels’ particular attention in conducting pretrial investigation and preparation for cross-examination. By hiding its “cards” in this manner, the Commonwealth is substantially impairing defense counsel’s ability to prepare effectively for trial. The Commonwealth’s refusal to indicate

even the subject matter of each prospective witness's anticipated testimony clearly compounds this gross unfairness.

The absurdity of the Commonwealth's "witness list" is illustrated by a comparison to another recent, highly-publicized criminal case, *United States v. James Bulger*, U.S. District Court Criminal #99-10371-DJC. Bulger was charged with 30 counts in a complex, 111-page superceding indictment which accused him of participating in 21 murders and many other crimes over a 29-year span. Prior to his nine-week trial on all of those charges, the United States filed a proposed witness list consisting of 83 names (Document #953, filed 5/30/13). By contrast, in the comparatively simple and straightforward case at bar, the Commonwealth has filed a list comprised of 305 names! Surely the Commonwealth knows at this point which of those individuals it actually intends to call in its case-in-chief and which it doesn't. It has an obligation to share that information with the defendant, rather than resorting to a tactic of hide-the-witness.

"A prosecutor has a responsibility of a minister of justice and not simply that of an advocate." SJC Rule 3.8, Comment [1]. Based upon the Commonwealth's filing of an overly-inclusive witness list and its subsequent refusal to pare it down or disclose the subject(s) of each anticipated witness's trial testimony, counsel are left to wonder whether the Commonwealth's actions in this regard were "motivated by a desire to obtain a tactical advantage that would minimize the effectiveness of cross-examination and the ability to adduce rebuttal evidence." *See Taylor v. Illinois*, 484 U.S. 400, 415 (1988). Surely, timely notice of the Commonwealth's real witness list may not be conditioned upon the defendant's willingness to diminish the Commonwealth's burden to prove its case in full. The defendant need not, and will not, stipulate to any facts the Commonwealth seeks to prove against him in this first degree murder case.

The defendant understands and appreciates that unanticipated developments at trial may require one side or the other to call additional witnesses. The defendant also understands that the Commonwealth may seek to call witnesses in rebuttal, depending upon what ensues at trial. It is not the defendant's intention to seek to hamstring the Commonwealth; rather, the defense merely seeks disclosure of the names of the witnesses the Commonwealth actually expects to call at trial, along with a brief statement of the subject(s) of each witness's anticipated testimony, so he and his counsel can complete necessary trial preparation and present an effective trial defense.

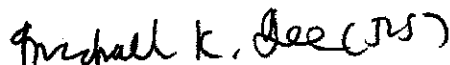
### CONCLUSION

For the reasons set forth herein, the *Defendant's Motion to Require the Commonwealth to Pare Down Its Witness List to Those Individuals It Actually Intends to Call to Testify in Its Case-in-Chief at Trial and For Other Necessary Relief* should be allowed. The Commonwealth should be ordered to file a list of the witnesses it actually intends to call in its case-in-chief and to state briefly the anticipated subject(s) of each witness's anticipated trial testimony within ten (10) days.

Respectfully submitted,

**AARON HERNANDEZ**

By his attorneys,



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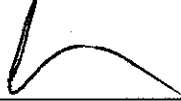
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Charles W. Rankin, BBO #411780  
Rankin & Sultan  
151 Merrimac Street, Second Floor  
Boston, MA 02114  
(617) 720-0011



**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing document upon the Commonwealth by e-mail and by mailing a copy thereof, US mail, postage prepaid, to: William McCauley, First Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on November 14, 2014.



---

James L. Sultan

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CRIMINAL #2013-983

---

COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

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**AFFIDAVIT OF JAMES L. SULTAN IN SUPPORT OF  
DEFENDANT'S MOTION TO REQUIRE THE  
COMMONWEALTH TO PARE DOWN ITS WITNESS LIST  
TO THOSE INDIVIDUALS IT ACTUALLY INTENDS TO  
CALL TO TESTIFY IN ITS CASE-IN-CHIEF AT TRIAL  
AND FOR OTHER NECESSARY RELIEF**

James L. Sultan, being duly sworn according to law, hereby says and deposes as follows:

1. I am a member in good standing of the Massachusetts Bar and co-counsel to defendant Aaron Hernandez in the above-captioned criminal case. I make this affidavit based upon personal knowledge.
2. On October 31, 2014, I received by e-mail a copy of the *Commonwealth's List of Potential Witnesses* from First Assistant District Attorney William McCauley. A copy of that witness list is appended hereto as *Exhibit 1*.
3. On November 6, 2014, I sent a letter by e-mail and first class mail to First Assistant District Attorney McCauley in response to the Commonwealth's witness list. A copy of that letter is appended hereto as *Exhibit 2*.

4. On November 10, 2014, First Assistant District Attorney McCauley replied to our November 6<sup>th</sup> letter by e-mail. A copy of that e-mail is appended hereto as *Exhibit 3*. A list of the birthdates and addresses of the civilian witnesses listed on the Commonwealth's witness list, requested by defense counsel in our November 6<sup>th</sup> letter, was attached to First Assistant District Attorney McCauley's e-mail and is appended as Exhibit 1 to *Defendant's Motion for Criminal Records*, being filed **under seal** on this date.

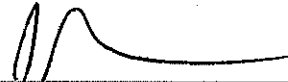
Signed and sworn to under the pains and penalties of perjury this 14<sup>th</sup> day of November 2014.



James L. Sultan, BBO #488400

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing document upon the Commonwealth by e-mail and by mailing a copy thereof, US mail, postage prepaid, to: William McCauley, First Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on November 14, 2014.



James L. Sultan

**COMMONWEALTH OF MASSACHUSETTS**

**BRISTOL, ss.**

**SUPERIOR COURT DEPT.  
FALL RIVER SUPERIOR CT.  
INDICT. #BRCR2013-00983**

**COMMONWEALTH**

**vs.**

**AARON HERNANDEZ**

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**COMMONWEALTH'S LIST OF POTENTIAL WITNESSES**

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Now comes the Commonwealth and respectfully submits the following list of potential witnesses in the trial of the above referenced case:

Civilian Witnesses:

Nereida Alicea  
Jose Almeida  
Marcelino Amaro  
Kevin Anderson  
Mark Archambault  
Kasey Arma  
Carol Bailey  
Carla Barbosa  
Christopher Barnes  
Joseph Barney  
Scott Bazinet  
Brandon Beam  
Kelly Rose Belanger  
Paul Belham  
William Belichick  
Brittany Blyther  
Tracey Blyther  
Anthony Bochichio  
Daryl Boswell-Sweet  
Alexander Bradley  
Edward Brennan, Jr.

**EXHIBIT 1**

Mark Briggs  
Geury Britto  
Ja-Nay Brooks  
Larry Brown  
Max Brown  
Philip Buxton  
Maurice Bynes, Jr.  
Moses Cabrera  
William Cambio  
Barbara Chan  
Michael Charette  
Steven Chaves  
Michael Conners  
Miles Connolly  
Nelson Costa  
Jenny Crandall  
Andrew Crenshaw  
Steven Cuartas-Cano  
Druscilla Davison  
Alan DesRochers  
Marlene DeSouza  
Michael Devlin  
Julie Dionne  
Amanda DiVito  
Tyler Dorsey  
Glaucia Dos Santos  
Penny Dudley  
Cleon Earle  
Jwan Farhan  
Gary Ferrara  
Carlos Ferreira  
Jonathan Fonseca  
Hannah Fortier  
Jennifer Fortier  
Kera Francis  
Thomas French  
Jose Furtado, Jr.  
Melissa Gaboury  
Micheline Gaboury  
Robert Gaudreau  
Ace Gershfield  
Lorne Giroux  
Gary Gosselin  
David Gorneault  
Elizabeth Gorneault  
Sherif Hashem

Glenroy Herbert  
Oscar Hernandez  
Terri Hernandez  
Darryl Hodge  
Gion Jackson  
Sonja Jamieson  
Christopher Jarvis  
Azia Jenkins  
Jodi Jenkins  
Shaneah Jenkins  
Shayanna Jenkins  
Anthony Jerome  
Akil Joseph  
Andrew Joseph  
James Joseph  
Joseph Judge  
Jeffrey Keane  
Matthew Kelly  
Matthew Kent  
Emerson Kilgore  
Justin Kordas  
Robert Kraft  
Jeffrey London  
Jose Lopez  
Jean Lorzio  
Kerry Manter  
Joanne Marciano  
Gina Marciano  
Jua-Lita Martin  
Frank Martin  
Ryan McDonnell  
Thomas McDonnell  
Brian McDonough  
Matthew McFadden  
Kathleen McKeown  
Jessica McKinley  
Chelsea Medeiros  
John Medeiros  
Joseph Mendes  
Jennifer Mercado  
Samson Michael  
Christopher Mitchell  
Milian Mitrovich  
Michael Monteiro  
Matthew Munro  
Brian Murphy

Zeid Nabulsi  
Harold Nash, Jr.  
Sandra Negron  
Jules Nesbitt  
Kwami Nicholas  
Roberto Olivares  
Stacy Oliveira  
Mark Pagliarini  
Robert Paradis  
Nichole Patton  
Eric Pina  
James Michael Pouncey  
Marilia Prinholato  
Matthew Quirk  
Michael Ribeiro  
Euna Ritchon  
Anamaria Rodriguez  
Kim Rodriguez  
Timothy Ryan, Jr.  
Danielle Salisbury  
Patrick Salsbury, Jr.  
Christian Salinas  
Omar Sampson  
Vanessa Sanchez  
Joshua Sanders  
Eduardo Sandoval  
Barbara Scardino  
Grazielli Silva  
Kumar Singh  
Irene Singleton  
Tanya Singleton  
Gladwyn Skeete-Hernandez  
Donnie Smith  
Keelia Smyth  
Islando Sou  
Brandon Spikes  
David Swithers  
Shaquilla Thibou  
Andres Valderrama  
Jose Vega  
Brian Verria  
Whaneller Viscaino  
Steve Vujevich  
Ursula Ward  
James Wernicki  
Ian Wessels

Law Enforcement Witnesses:

Lieutenant Michael King	Bristol County State Police Detective Unit
Sergeant Paul Baker	Bristol County State Police Detective Unit
Sergeant John Moran	Bristol County State Police Detective Unit
Sergeant Christopher Dolan	Bristol County State Police Detective Unit
Sergeant Daniel Thom	Bristol County State Police Detective Unit
Trooper Michael Bates	Bristol County State Police Detective Unit
Trooper Melvin Rodriguez	Bristol County State Police Detective Unit
Trooper Joseph Collins	Bristol County State Police Detective Unit
Trooper Zachary Johnson	Bristol County State Police Detective Unit
Trooper Ann Marie Robertson	Bristol County State Police Detective Unit
Trooper Catherine Dias	Bristol County State Police Detective Unit
Trooper Jeremiah Donovan	Bristol County State Police Detective Unit
Trooper Eric Benson	Bristol County State Police Detective Unit
Trooper Hollis Crowley	Bristol County State Police Detective Unit
Trooper Daniel Giossi	Bristol County State Police Detective Unit
Trooper Eric Perez	Bristol County State Police Detective Unit
Trooper Jeffrey Whitehead	Bristol County State Police Detective Unit
Trooper Mark Burke	Bristol County State Police Detective Unit
Trooper Christopher Dumont	Bristol County State Police Detective Unit
Trooper Chad Laliberte	Bristol County State Police Detective Unit
Trooper Michael Cherven	Bristol County State Police Detective Unit
Trooper Steven Gallagher	Massachusetts State Police SERT Team
Trooper John Ragosa	Massachusetts State Police SERT Team
Trooper James Jaworek	Massachusetts State Police SERT Team
Patricia Furdon	Massachusetts State Police Communications Section
Chief John Reilly	North Attleborough Police Department
Captain Joseph DiRenzo	North Attleborough Police Department
Lieutenant Frederick DeMarco	North Attleborough Police Department
Detective Sgt. Christopher Cicci	North Attleborough Police Department
Sergeant Jason Roy	North Attleborough Police Department
Detective Daniel Arrighi	North Attleborough Police Department
Detective Michael Elliott	North Attleborough Police Department
Officer Richard McQuade	North Attleborough Police Department
Officer Ryan Mooney	North Attleborough Police Department
Officer John Grim	North Attleborough Police Department
Officer Edward Zimmer	North Attleborough Police Department
Officer Kevin McKeon	North Attleborough Police Department
Officer Kevin Mobley	North Attleborough Police Department
Officer Christiaan Grunewald	North Attleborough Police Department
Officer Christopher Roy	North Attleborough Police Department
Officer Gary Maitland	North Attleborough Police Department
Officer Craig Chapman	North Attleborough Police Department
Special Agent Michael Grasso	Bureau of Alcohol, Tobacco, Firearms, and Explosives
Special Agent Vincent Holmes	Bureau of Alcohol, Tobacco, Firearms, and Explosives



Detective Lt. Kevin Morrell	Bristol Police Department
Detective Garrie Dorman	Bristol Police Department
Detective Peter Dauphinais	Bristol Police Department
Detective Scott Werner	Bristol Police Department
Officer Daniel Dwyer	Bristol Police Department
Officer Joanne Lattanzio	Bristol Police Department
Officer Michael Campisano	Bristol Police Department
Detective David Plasczynski	Bristol Police Department
Detective Brian Suchinski	Bristol Police Department
Detective Steven Pileski	Bristol Police Department
Sgt. Detective Michael Stratton	Boston Police Department
Detective Timothy Laham	Boston Police Department
Detective Timothy Stanton	Boston Police Department
Detective Carlton Williamson	Boston Police Department
Detective Sgt. John Carvalho	Brown University Police Department
Detective Jeanne Peck	Brown University Police Department
Officer Antonio Bento	Brown University Police Department
Detective Paul Romano	Providence Police Department
Detective Ralph Costantino	Providence Police Department
Officer Jose Pineda	Providence Police Department
Officer Shawn Kennedy	Providence Police Department
Captain John White	North Attleborough Fire Department
Firefighter Joshua Langille	North Attleborough Fire Department
Sergeant Nicholas Drinkwine	Bristol County Sheriff's Department
Officer Matthew Bowen	Bristol County Sheriff's Department
Detective Kenny Smith	Palm Beach County Sheriff's Department

Expert Witnesses (previously provided)

Kyle Aspinwall	
Trooper Michael Bates	Bristol County State Police Detective Unit
Trooper Paul Bartlett	Massachusetts State Police
Trooper Peter Bengtson	Massachusetts State Police
Sergeant Steven Bennett	Massachusetts State Police
John Biello	Massachusetts State Police Crime Laboratory
Lindsay Bird	Massachusetts State Police Crime Laboratory
Jodi Blakely-Webb	Federal Bureau of Investigations
Kim Bonner	Massachusetts State Police Crime Laboratory
Trooper Mark Burke	Bristol County State Police Detective Unit
Trooper John Conron	Massachusetts State Police
Trooper John Conroy	Massachusetts State Police
Sharon Convery Walsh	Massachusetts State Police Crime Laboratory
Justin Darrow	Sprint
Trooper Jeremiah Donovan	Bristol County State Police Detective Unit
Lieutenant Robin Fabry	Massachusetts State Police
Diane Fife-Biagiotti	Massachusetts State Police Crime Laboratory

Allana Fredrick	Massachusetts State Police Crime Laboratory
Trooper Michael George	Massachusetts State Police
Trooper Dan Giossi	Bristol County State Police Detective Unit
Trooper Todd Girouard	Massachusetts State Police
Officer Christiaan Grunewald	North Attleborough Police Department
Sergeant Kevin Halle	Massachusetts State Police
Christina Hanley	Massachusetts State Police Crime Laboratory
Sergeant Kenneth Hefferan	Massachusetts State Police
Detective Lt. Michael Holleran	Massachusetts State Police
Trooper Michael Lombard	Massachusetts State Police
Trooper David Mackin	Massachusetts State Police
Maureen McCabe	Massachusetts State Police Crime Laboratory
Trooper Lance Mello	Massachusetts State Police
Sherri Menendez	Massachusetts State Police Crime Laboratory
Special Agent Eric Perry	Federal Bureau of Investigation
Daniel Pratt	Massachusetts State Police Crime Laboratory
Betsy Rabel	Massachusetts State Police Crime Laboratory
Robert Racette	Bristol County District Attorney's Office
Jessica Robidoux	Massachusetts State Police Crime Laboratory
Trooper Joseph Silvia, Jr.	Massachusetts State Police
Dorothy Stout	
Trooper William Tarobokas	Massachusetts State Police
Sergeant Steven Walsh	Massachusetts State Police
Trooper William Watson	Massachusetts State Police
David Witzke	
Timothy Woods	Massachusetts State Police Crime Laboratory
Dr. William Zane	Medical Examiner's Office

Surveillance - Keeper of Records

Ariel Abreau	Blue Hill Liquors, Roxbury MA
Ijaz Ahmed	Citgo Gas Station, Dorchester MA
Scott Bazinet	Metalor USA Refining Corporation, North Attleboro, MA
Paul Belham	Bell's Powder Coating, North Attleboro MA
Detective Sergeant John Carvalho	Brown University, Providence RI
Michael Charette	Metalor USA Refining Corporation, North Attleboro MA
Anthony DeOliveira	Casa Esperanza, Boston MA
Alan DesRochers	Seekonk Supply, North Attleboro MA
Antonio Eliopoulos	City of Boston, MA
Detective Michael Elliott	North Attleboro Police Department, North Attleboro MA
Jose Fernandez	Blue Hill Liquors, Roxbury MA
Garry Ferrera	Triboro Gulf, North Attleboro MA
David Hetu	Seekonk Supply, North Attleboro MA
Jeff Keane	W Hotel, Boston MA
Banaras Khan	Citgo Gas Station, Dorchester MA
Jose Lopez	Fayston Street, Boston MA

Christopher Mitchell  
Zeid Nabulsi  
Hector Pina  
Eric Podolsky  
Matthew Quirk  
Lori Ricci  
Frank Saite  
Charles Sargent  
Assad Sayyah  
William Towlson

North Attleboro Electric Department, North Attleboro MA  
Rumor Nightclub, Boston MA  
Merengue Restaurant, Roxbury MA  
Massachusetts Department of Transportation, Boston MA  
Seekonk Supply, North Attleboro MA  
Huntington Woods, Bristol CT  
CVS, North Attleboro MA  
Massachusetts State Transportation Building, Boston MA  
Blue Hills Express, Canton MA  
Massachusetts Department of Transportation, Boston MA

Miscellaneous – Keeper of Records

Transcore  
Verizon Wireless  
AT&T  
Sprint  
Metro PCS  
T-Mobile

The Commonwealth reserves the right to supplement/amend its responses with reasonable notice.

Respectfully submitted,

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William M. McCauley  
Assistant District Attorney  
Bristol District  
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(508) 997-0711

Dated: October 31, 2014

**RANKIN & SULTAN**  
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JAMES L. SULTAN  
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MICHELLE MENKEN

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November 6, 2014

William McCauley  
First Assistant District Attorney  
Bristol County District Attorney's Office  
888 Purchase Street  
New Bedford, MA 02740

Re: *Commonwealth v. Aaron Hernandez,*  
Bristol Superior Court Criminal #2013-000983

Dear Mr. McCauley:

We have received your list of potential trial witnesses. That list, which contains more than 300 names, is of little help to us since you failed to identify which of these hundreds and hundreds of witnesses you actually intend to call to testify at trial. Moreover, you failed to provide us with the current home addresses and dates of birth of the civilian witnesses so we can investigate them and obtain their prior criminal records (if any) by appropriate motion. Finally, with respect to several dozen of these individuals (identified below), we do not seem to have any discovery at all respecting them, their prior statements (if any), and the subject matter of their anticipated testimony at trial.

In order to enable the case to proceed to trial as scheduled in January, we respectfully request that you provide us with the following information within the next seven (7) days:

1. Please identify in good faith which of these more than 300 identified individuals you intend to call to testify in the Commonwealth's case-in-chief at trial;
2. With respect to each of the individuals so identified, please specify briefly the anticipated subject(s) of their prospective trial testimony;
3. With respect to each of the civilians so identified, please provide their last known residential address and date of birth; and

**EXHIBIT 2**

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4. With respect to the individuals listed below, to the extent that you expect, in good faith, to call them as witnesses in the Commonwealth's case-in-chief at trial, please provide all relevant discovery with respect to such witnesses, including any and all prior statements, reports, documents, and any other relevant discovery:

Civilians:

Nereida Alicea  
Mark Archambault  
Edward Brennan  
Geury Britto (interviewed on 1/28/14, but we don't have the disk)  
Larry Brown  
Max Brown  
Carlos Ferreira (interviewed on 3/26/14, but we don't have the disk)  
Thomas French  
Jose Furtado (interviewed on 4/9/14, but we don't have the disk)  
Jodi Jenkins  
Jean Lorizio  
Milian Mitrovich  
Brian Murphy  
Zeid Nabulsi  
Omar Sampson (interviewed on 11/17/13, but we don't have a report or disk)  
Steve Vujevich

Law Enforcement Personnel:

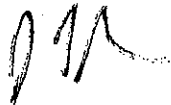
Officer Matthew Bowen (Bristol County Sheriff)  
Officer Craig Chapman (North Attleboro PD)  
Detective Ralph Costantino (Providence PD)  
Detective Peter Dauphinais (Bristol)  
Lt. Frederick DeMarco (North Attleboro PD)  
Trooper Catherine Dias  
Trooper Christopher Dumont  
Patricia Furdon (SP)  
Officer Christiaan Grunewald (North Attleboro PD)  
Officer Gary Maitland (North Attleboro PD)  
Officer Kevin McKeon (North Attleboro PD)

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Bristol County District Attorney's Office  
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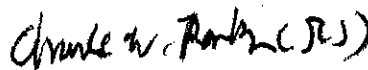
Officer Richard McQuade (North Attleboro PD)  
Officer Kevin Mobley (North Attleboro PD)  
Detective Lt. Kevin Morrell (Bristol)  
Detective Jeanne Peck (Brown Univ. PD)  
Detective Steven Pileski (Bristol)  
Detective Jose Pineda (Brown Univ. PD)  
Detective David Plasczynski (Bristol)  
Chief John Reilly (North Attleboro PD)  
Sgt. Jason Roy (North Attleboro PD)  
Detective Timothy Stanton (Boston PD)  
Detective Scott Werner (North Attleboro PD)  
Captain John White (North Attleboro Fire)  
Trooper Jeffrey Whitehead  
Detective Carlson Williamson (Boston PD)  
Officer Edward Zimmer (North Attleboro PD)

I am sure you can understand and appreciate that we cannot possibly prepare effectively for trial in the absence of the information requested herein. Thank you for your anticipated attention to this matter.

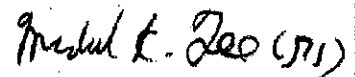
Sincerely yours,



James L. Sultan



Charles W. Rankin



Michael K. Fee

JLS:pcb

**BY E-MAIL TO [william.mccauley@state.ma.us](mailto:william.mccauley@state.ma.us) and U.S. MAIL, POSTAGE PREPAID**

cc: ADA Patrick Bomberg (By e-mail to [patrick.bomberg@state.ma.us](mailto:patrick.bomberg@state.ma.us))  
ADA Roger Michel (By e-mail to [roger.michel@state.ma.us](mailto:roger.michel@state.ma.us))

**James Sultan**

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**From:** McCauley, William (DAA) [william.mccauley@state.ma.us]  
**Sent:** Monday, November 10, 2014 8:49 AM  
**To:** James Sultan  
**Cc:** Bomberg, Patrick O (DAA); Michel, Roger (DAA); Charles Rankin; Michael.Fee@lw.com  
**Subject:** RE: Comm. v. Hernandez  
**Attachments:** Civilian Witness List with Addresses.docx

Jamie- see attached. This information is contained in the reports already provided. The list we have given you was made in good faith. You should understand that this list was prepared without knowing the rulings the judge will make with regard to our motions in limine and other issues. We could also reduce the witness list by stipulations or agreement to uncontested facts. I am open to such a discussion to narrow the witness list and shorten the time to try this case. Let me know if that is agreeable.

Thanks - Bill

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**From:** James Sultan [jsultan@rankin-sultan.com]  
**Sent:** Thursday, November 06, 2014 5:18 PM  
**To:** McCauley, William (BRI)  
**Cc:** Bomberg, Patrick (BRI); Michel, Roger (BRI); Charles Rankin; [Michael.Fee@lw.com](mailto:Michael.Fee@lw.com)  
**Subject:** Comm. v. Hernandez

Bill, Letter re witness list attached. Jamie

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**EXHIBIT 3**