

STATE OF MARYLAND

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IN THE  
CIRCUIT COURT FOR  
BALTIMORE CITY  
CASE No. 115141035  
(Filed under seal)

v.

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CRIMINAL DIVISION  
\*

BRIAN RICE

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**STATE'S MOTION FOR APPROPRIATE RELIEF UNDER SEAL**

Now comes the State of Maryland, by and through Marilyn J. Mosby, the State's Attorney for Baltimore City; Michael Schatzow, Chief Deputy State's Attorney for Baltimore City; Janice L. Bledsoe, Deputy State's Attorney for Baltimore City; Matthew Pillion, Assistant State's Attorney for Baltimore City; and Sarah Akhtar, Assistant State's Attorney for Baltimore City; and respectfully moves this Court for appropriate relief under seal as set forth below.

**I. Background**

On October 14, 2015, this Court granted in part the Defendant's Motion to Compel Discovery and ordered the State to "provide counsel for the [Defendant], as officers of the court, for use in their preparation for trial, with copies of any and all documents pertaining to the investigation and prosecution of the [Defendant], with the exception of attorney work product items created after May 1, 2015." For a period commencing on October 27 and ending on November 4, the State made available to defense counsel all of the documents covered by the Court's Order. These documents included over 3,500 emails and attachments from the network computer accounts of 13 members of the Office of the State's Attorney, nearly 1,500 non-email documents, as well as 52 multi-media files (CCTV, interview recordings, etc.), many of which, of course, had already been provided in discovery.

**II. The Relief Requested**

Counsel have now finished their review of these documents and have specified many pages of diverse materials they requested that the State provide, all of which the State has mailed

to counsel except a small fraction of items that comprise the subject of this Motion. Having facilitated counsel's examination of these documents as officers of the court, the State now respectfully requests that this Court review these remaining documents *in camera* and order that copies of these documents need not be provided to the Defendant's counsel. These items fall into the following categories: (A) documents that constitute attorney work product and/or executive deliberations; (B) documents related to the interaction between the Office of the State's Attorney and the Press; (C) State's Attorney Marilyn Mosby's May 1, 2015, public schedule and draft statements; (D) drafts of the Statement of Probable Cause used in the Application for the Statement of Charges originally filed in District Court; (E) a miscellany of emails and documents; and (F) documents created after May 1, 2015, and thus outside the date specified by the Court's Order. As outlined below, these items are not even arguably relevant or admissible in the Defendant's trial, are not helpful to his defense, and/or are especially sensitive because of their potential impact if they ever somehow became public.

A. Documents that constitute attorney work product and/or executive deliberations

The first category of documents (page numbered A001-A050) that the State requests not be copied to the Defendant's counsel consists of eight items constituting classic attorney opinion work product and/or executive deliberations. Preliminarily, the State notes its full understanding and respect for the Court's ruling that a prosecutor's pre-charging investigative work product may be subjected to heightened disclosure requirements. The Supreme Court has long distinguished between "those aspects of the prosecutor's responsibility that cast [her] in the role of an administrator or investigative officer rather than that of advocate." *Imbler v. Pachtman*, 424 U.S. 409, 430-31 (1976). Nevertheless, "the work of an advocate" extends to work "integral to the initiation of the prosecution" and "involv[ing] the exercise of professional judgment,"

including the prosecutor's "drafting of the [charging document], her determination that the evidence [is] sufficiently strong to justify a probable-cause finding, her decision to file charges, and her presentation of the information" to the judicial body to initiate charges. *Kalina v. Fletcher*, 522 U.S. 118, 130 (1997). Put succinctly, even during the pre-charging stage, *some* of a prosecutor's actions are "the work of an advocate" and, therefore, may constitute classic attorney opinion work product that is privileged from adversarial discovery.

Explaining this privilege, the Supreme Court has long held that "an attempt, without purported necessity or justification, to secure written statements, private memoranda and personal recollections prepared or formed by an adverse party's counsel in the course of his legal duties . . . falls outside the arena of discovery and contravenes the public policy underlying the orderly prosecution and defense of legal claims." *Hickman v. Taylor*, 329 U.S. 495, 510 (1946). Additionally, under Maryland's constitutional separation of powers, "the judiciary . . . is not authorized to probe the mental processes of an executive or administrative officer," and this "protection from disclosure clearly extends to confidential advisory and deliberative communications between officials and those who assist them in formulating and deciding upon future governmental action." *Hamilton v. Verdow*, 287 Md. 544, 558-61 (1980).

It is through this lens that the State respectfully asks the Court to consider exempting the following items from being copied to the Defendant's attorneys pursuant to the Court's discovery order:

1. (A001-A002) This item contains an email dated May 1<sup>1</sup> sent from the Chief Deputy State's Attorney to a Deputy State's Attorney forwarding for consideration a third party's request to provide the State's Attorney with graphics and logistical support for trial presentation.

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<sup>1</sup> Unless otherwise specified, all month/day references herein are dates in the year 2015.

2. (A003) This item contains an email dated April 30 sent from a Deputy State's Attorney to the State's Attorney detailing potential charges against one of the other defendants and the potential bases for each of those charges.
3. (A003-A022) This item contains a set of emails and attachments dated April 29 to April 30 and circulated between the State's Attorney, the State's Attorney's Executive Assistant, the Chief Deputy State's Attorney, the Chief of External Affairs, Deputy State's Attorneys, and Assistant State's Attorneys. The attachments outline the possible charges that could be brought against each of the defendants, the location of the alleged crimes, the code sections involved, and the maximum penalty for each crime.
4. (A023-A032) This item contains an email dated April 28 sent from a Deputy State's Attorney to the State's Attorney and the Chief Deputy State's Attorney, and cc'ed to two Deputy State's Attorneys and the State's Attorney's Executive Assistant, and outlines the possible charges that could be brought against the other five of the defendants, the elements of each charge, and the Deputy's thoughts about the relevant facts involved in the case that could satisfy those elements.
5. (A033-A037) This item contains an email dated April 28 sent from a Deputy State's Attorney to another Deputy State's Attorney with an attachment outlining the charges against one of the other defendants, the elements of each charge, and the Deputy's thoughts about the relevant facts involved in the case that could satisfy those elements.
6. (A038-A040) This item contains an email dated April 27 sent from a Deputy State's Attorney to the State's Attorney, the Chief Deputy State's Attorney, and two Deputy State's Attorneys outlining potential charges against the potential defendants and the elements of the crimes that could be charged.
7. (A041-A047) This item contains two emails labeled "Privileged and Confidential" and "Contains Attorney Work Product" dated April 25 and April 27. The April 25 email was sent from the Chief Deputy State's Attorney to a Deputy State's Attorney and cc'ed to the State's Attorney, an email that he prefaced as "an effort to get down on paper some of my thoughts about where we are and what needs to be considered/done" and that then outlines the Chief Deputy's thoughts about the strengths/weaknesses of the case, potential trial strategies, possible charges that could be brought based on ways the evidence could meet the elements, and whether the Office *should* bring such charges. The email also includes the Chief Deputy's instructions about prioritizing/verifying the gathering and examination of evidence. The April 27 email was a forward of the April 25 email and was sent from the Chief Deputy State's Attorney to two Deputy State's Attorneys.
8. (A048-A050) This item contains an email dated April 19 sent from the State's Attorney's Executive Assistant to the State's Attorney and includes an attachment outlining the agenda for a regular meeting of the State's Attorney and her executive team. One item on the agenda was an update about the status of the investigation into Mr. Gray's death, but the remaining items were about the various other responsibilities of the attorneys in the office.



The State sincerely believes that even though these items were created prior to the charges being filed in this case, each of the items constitutes attorney work product and/or the deliberative and advisory products of executive branch officials. For example, many of the items are clearly the work of a Deputy State's Attorney acting as an advocate and outlining his professional judgment about what charges the Office of the State's Attorney could bring based on particular evidence. Other items reflect another Deputy State's Attorney acting as an advocate and executive advisor collaborating with the City's elected chief prosecutor on the eve of the decision to charge about what particular evidence might mean or depict. Likewise, item 7 contains both explicit and obvious attorney work product as well as intimate executive deliberations, with the Chief Deputy State's Attorney candidly sharing with his closest colleagues his personal thoughts about the merits of the case, how best to prosecute it, and whether certain charges should be filed at all as a matter of official prosecutorial discretion. Ordering such materials to be copied to a criminal defendant's attorneys would not only contravene the very fiber of *Hickman* and *Hamilton* but would set a chilling precedent with no commensurate benefit to this Defendant's fair ability to prepare for trial.

B. Documents related to the interaction between the Office of the State's Attorney and the Press

The second category of documents (page numbered B001-B470) that the State requests not to copy for the Defendant's counsel consists of the following emails and documents about the Office of the State's Attorney's interaction with the Press:

1. (B001-B003) This item contains an email dated May 1 between the State's Attorney's Executive Assistant and an executive producer from First Edition, with the producer asking for a copy of the State's Attorney's May 1 statement. The email includes as a reply chain three earlier emails between the same persons from April 6 and April 1

regarding the State's Attorney's earlier appearance on the program, where she spoke about her first one hundred days in office.

2. (B004-B012) This item contains an email chain dated May 1 between the State's Attorney's Chief of Affairs and a producer at NBC News/TODAY discussing the details of facilitating a possible interview with the State's Attorney scheduled to occur on May 2.
3. (B013-B016) This item contains four emails dated May 1 sent from various media outlets to the State's Attorney's Director of Communications requesting interviews with the State's Attorney.
4. (B017-B021) This item contains an email chain dated April 26 to May 1 between the State's Attorney's Director of Communications and an editor from the Wall Street Journal and includes the reporter's request for an interview regarding a then-planned story, as well as the State's Attorney's statement to the press on receiving the Baltimore Police Department investigation.
5. (B022) This item contains an email dated May 1 sent from an Assignment Editor at the local ABC news affiliate to the State's Attorney's Director of Communications requesting an interview with the State's Attorney.
6. (B023-B024) This item contains calendar invites dated May 1 for a possible interview between the State's Attorney and an MSNBC reporter.
7. (B025-B032) This item contains emails dated May 1 sent from various media outlet producers to the State's Attorney's Director of Communications requesting interviews with the State's Attorney.
8. (B033-B034) This item contains calendar invites dated May 1 for a possible interview between the State's Attorney and the TODAY Show.
9. (B035-B036) This item contains an email chain dated May 1 between the State's Attorney's Chief of External Affairs and an NBC producer, discussing a possible interview with the State's Attorney on May 2.
10. (B037) This item contains an email chain dated May 1 between a booking producer and the State's Attorney's Chief of External Affairs and cc'ed to the State's Attorney's Director of Communications requesting an interview with the State's Attorney for May 4.
11. (B038) This item contains an email chain dated May 1 between a reporter from NPR and the State's Attorney's Director of Communications and the State's Attorney's Multimedia Specialist, and cc'ed to the State's Attorney's Public Relations officer, requesting an interview with the State's Attorney on May 1.
12. (B039-B040) This item contains an email chain dated May 1 between the State's Attorney's Director of Communications and a CBS news reporter regarding a possible interview with the State's Attorney.
13. (B041) This item contains the same email contained in B038 above.

14. (B042-B043) This item contains the same emails contained in B039-B040 above.
15. (B044-B045) This item contains an email date May 1 from a CBS new producer to the State's Attorney's Director of Communications requesting an interview with the State's Attorney.
16. (B046) This item contains an email contained in B039-B040 above.
17. (B047) This item contains the email chain discussed in B004-B012 above.
18. (B048-B049) This item contains the email chain discussed in B039-B040 above.
19. (B050-B051) This item contains an email chain dated May 1 between the State's Attorney's Chief of External Affairs and her Director of Communications discussing the State's Attorney's media schedule that day.
20. (B052-B053) This item contains the email chain discussed in B039-B040 above.
21. (B054-B055) This item contains a calendar invite sent to the State's Attorney by her Executive Assistant scheduling a possible interview with ABC news.
22. (B056-B090) This item contains a series of emails dated from April 30 to May 1 with dialogue between various media outlets, the State's Attorney's Director of Communications, the State's Attorney's Chief of External Affairs, and the State's Attorney's Executive Assistant discussing possible media interviews with the State's Attorney, as well as providing written statements to the press on her behalf.
23. (B091-B092) This item contains two emails dated April 28 wherein the State's Attorney's Chief of External Affairs declined or forwarded an email declining interview requests from the LA Times and the PBS Newshour, providing instead written statements.
24. (B093) This item contains an email dated April 28 sent from a PBS producer to the State's Attorney's Director of Communication and the State's Attorney's Chief of External Affairs requesting an interview with the State's Attorney.
25. (B094-B100) This item contains emails dated April 27 sent from various media outlets to the State's Attorney's Director of Communications requesting interviews with the State's Attorney. The item also contains reply emails from the State's Attorney's external affairs staff declining those requests.
26. (B101-B138) This item contains an email chain dated April 27 between a senior manager from Comcast and the State's Attorney's Director of Communications and the State's Attorney's Executive Assistant, scheduling an interview with the State's Attorney on December 11. This item contains several copies of the same email chain.
27. (B139-B140) This item contains an email chain dated April 27 between a reporter from the Wall Street Journal and the State's Attorney's Director of Communications, with the Director declining a request for an interview and providing instead a written statement on behalf of the State's Attorney.

28. (B141-B143) This item contains an email dated April 27 sent from the Chief of District Court to the State's Attorney's Director of Communications, the State's Attorney's Chief of External Affairs, and a Deputy State's Attorney discussing and forwarding an email from an Assistant State's Attorney, who received a media request for comment about Mr. Gray's death.
29. (B144-151) This item contains an email chain dated April 27 discussing a request from a Baltimore Sun editor to the State's Attorney's Executive Assistant requesting that the State's Attorney author an op-ed in the Baltimore Sun. The item contains several copies of the same email chain.
30. (B152-B154) This item contains the email chain discussed in B101-B138 above.
31. (B155-B163) This item contains several copies of the email chain discussed in B139-B140 above.
32. (B164-B166) This item contains several copies of the email chain discussed in B141-B143 above.
33. (B167-B183) This item contains several copies of the email chain discussed in B139-B140 above.
34. (B184) This item contains an email dated April 23 sent from an editor at WBAL to the State's Attorney's Director of Communications requesting an interview with the State's Attorney.
35. (B185-B186) This item contains an email chain dated April 22 sent from a director at WBAL to the State's Attorney's Director of Communications requesting an interview with the State's Attorney. The Director declined the interview.
36. (B187-B192) This item contains an email chain dated April 21 between the State's Attorney and her external affairs staff regarding and responding to WYPR request to interview the State's Attorney.
37. (B193-B194) This item contains an email chain dated April 15 to April 20 between the State's Attorney's Director of Communications and a staff member at the Afro-American Newspaper regarding a possible interview with the State's Attorney and a statement about Mr. Gray's death investigation.
38. (B195-B207) This item contains an email chain dated April 1 to April 22 between a news director at WBAL and the State's Attorney's Executive Assistant regarding various interview and possible interviews with the State's Attorney.
39. (B208-B211) This item contains the email chain described in B101-B138 above.
40. (B212) This item contains an intra-office email sent from the State's Attorney's Director of Communications to the State's Attorney's Executive Assistant informing the Executive Assistant of an interview with CNN.



41. (B213-B215) This item contains a calendar 'accept' on April 30 by the State's Attorney of various media interviews.
42. (B216-B220) This item contains several copies of an email chain dated May 1 from the State's Attorney's Executive Assistant to the State's Attorney's security detail outlining her schedule for May 1.
43. (B221) This item contains a calendar entry for a scheduled interview on December 11 with the State's Attorney and Comcast Newsmakers.
44. (B222) This item contains an email sent from the State's Attorney's Director of Community Affairs to a Deputy State's Attorney, the State's Attorney's Chief of External Affairs, the State's Attorney's Director of Communications, and the State's Attorney's Executive Assistant informing them to keep the Sherriff's office apprised of any press conferences the State's Attorney seeks to hold in the Freddie Gray case.
45. (B223-251) This item contains an email dated April 22 sent from the State's Attorney's Executive Assistant to the State's Attorney's Director of Communications and includes a briefing memorandum for a meeting with the Baltimore Sun Editorial Board on April 23.
46. (B252-B256) This item contains an email dated April 20 sent from the State's Attorney's Executive Assistant to the State's Attorney and an Assistant State's Attorney, and cc'ed to another Assistant State's Attorney communicating that the State's Attorney will no longer be able to attend an event on community policing. The email includes prior emails providing details about the event and about appropriate statements to make on behalf of the Office.
47. (B257-B258) This item contains an email dated May 1 sent from an editor at SBGTV to the State's Attorney's Director of Communications requesting confirmation on the races of the officers charged in the case.
48. (B259) This item contains an answer to an email query dated May 1 sent from a reporter at Reuters to the Office of the State's Attorney regarding Mr. Gray's autopsy report.
49. (B260-B262) This item contains an email exchange dated April 30 between the president of Downtown Partnership of Baltimore and the State's Attorney's Executive Assistant regarding dissemination of messages from the State's Attorney's Office.
50. (B263) This item contains an email dated May 1 sent from a reporter at the LA Times to the State's Attorney's Director of Communications requesting factual information about the charges against one of the officers charged in the case.
51. (B264) This item contains an email dated May 1 sent from a writer at the Associated Press to the State's Attorney's Director of Communications requesting copies of the statement of charges and the autopsy report.

52. (B265) This item contains an email dated May 1 sent from a reporter at BuzzFeed to the State's Attorney's Director of Communications requesting a copy of the criminal complaint.
53. (B266-B268) This item contains an email exchange dated May 1 between a reporter at the Afro-American Newspaper and the State's Attorney's Director of Communications regarding a request for clarity on the classification of charges filed against the officers.
54. (B269) This item contains an email exchange dated May 1 between a reporter at NBC and the State's Attorney's Director of Communications regarding clarification about the State's Attorney's Public Trust & Police Integrity Unit.
55. (B270-B271) This item contains an AP reporter's second attempt at the request detailed in B264.
56. (B272-B274) This item contains an email exchange dated May 1 between a reporter at the Afro-American Newspaper and the State's Attorney's Director of Communications regarding clarification of the distinction between a charge and an indictment.
57. (B275-309) This item contains an email chain dated April 28 between a reporter at BuzzFeed and the State's Attorney's Director of Communication regarding requests for information about the investigation of and protests surrounding Mr. Gray's death.
58. (B310-B315) This item contains an email chain dated April 28 between a reporter from the Baltimore Sun and the State's Attorney's Director of Communications requesting follow-up about a prior interview with the State's Attorney.
59. (B316-B329) This item contains the emails detailed in B275-B309.
60. (B330) This item contains an email chain dated April 28 between a reporter from the Daily Record and the State's Attorney's Director of Communications regarding a request for information about the investigation into Mr. Gray's death.
61. (B331-B332) This item contains an intra-office email chain dated April 28 between the State's Attorney's Director of Communications, the State's Attorney, and the State's Attorney's Chief of External Affairs, and includes a draft version of a press release.
62. (B333-B339) This item contains the request detailed in in B310-B315.
63. (B340) This item contains an intra-office email chain dated April 27 between the State's Attorney's Director of Communications, a Deputy State's Attorney, two senior Assistant State's Attorneys, and a community liaison regarding a request for a statement to the Downtown Partnership about the investigation into Mr. Gray's death.
64. (B341) This item contains an email dated April 23 sent from a reporter at the Daily Record to the State's Attorney's Director of Communications requesting information about a pending matter against Freddie Gray.
65. (B342-B348) This item contains an email chain dated April 22 between the State's Attorney's Director of Communications and a reporter from the Baltimore Sun regarding

a request for information about the release of the results of the investigation into Mr. Gray's death.

66. (B349) This item contains an email dated April 30 sent from the State's Attorney's Director of Communications to a reporter at Fox News, and includes a press release from the State's Attorney's Office regarding the investigation into Mr. Gray's death.

67. (B350-B352) This item contains an email chain dated April 30 between a reporter at MarylandReporter.com and the State's Attorney's Director of Communications regarding a request for more information about the investigation into Mr. Gray's death.

68. (B353-B362) This item contains an email chain between the State's Attorney Chief of External Affairs, her Director of Policy and Legislative Affairs, her community liaison, and other members of the State's Attorney's Office discussing the wording of a possible press release updating the public about the investigation into Mr. Gray's death.

69. (B363) This item contains an email dated April 28 from the State's Attorney's Director of Communications to several members of the press and includes a statement regarding the investigation into Mr. Gray's death and the protests that followed.

70. (B364-B366) This item contains an email chain dated April 28 between the State's Attorney, her Director of Communications, the Chief Deputy State's Attorney, Deputy State's Attorney's, and the Chief of External Affairs discussing a draft version of the press release regarding the investigation into Mr. Gray's death.

71. (B367-B373) This item contains an email chain dated April 28 between the State's Attorney, her Chief Deputy, her Director of Communications, her Chief of External Affairs, and her Deputy State's Attorneys discussing a draft statement regarding the investigation into Mr. Gray's death and the protests that followed.

72. (B374) This item contains an email dated April 27 from the State's Attorney's Director of Communications to a reporter at i24news and includes a press release regarding the investigation into Mr. Gray's death.

73. (B375-B377) This item contains an email chain dated April 20-23 sent between the State's Attorney's Chief of External Affairs and various members of the State's Attorney's Office. The emails concern the wording of a press release updating the public about the investigation into Mr. Gray's death.

74. (B378) This item contains an email dated April 22 sent from the State's Attorney's Chief of External Affairs to a reporter at CNN providing a written press release about the investigation into Mr. Gray's death.

75. (B379-B382) This item contains an email dated April 30 sent from the State's Attorney to her Chief Deputy and Chief of External Affairs and includes an attached letter from the press requesting that the Baltimore Police Department release information under the Maryland Public Information Act regarding Mr. Gray's arrest and death.

76. (B383-B391) This item contains email chains dated April 30 sent from the Associated Press and BuzzFeed to the State's Attorney's Office requesting certain information

regarding Freddie Gray, including a records release pursuant to the Maryland Public Information Act.

77. (B392-B409) This item contains an email chain dated April 22 between the State's Attorney and various members of her staff regarding an inquiry from a reporter from the Baltimore Sun requesting information about any open case against Freddie Gray.

78. (B410-B419) This item contains an email dated April 17 sent from the State's Attorney's Executive Assistant to the State's Attorney's Director of Communications and includes a briefing memorandum for an April 20 meeting between the State's Attorney and members of the Afro-American Newspaper Editorial Board.

79. (B420) This item contains an email dated April 22 sent from the State's Attorney's Director of Communications to the State's Attorney's public relations officer and includes a press release from Governor Hogan's office regarding Mr. Gray's death.

80. (B421-B455) This item contains various emails dated from April 22 to May 1 between various members of the State's Attorney's Office exchanging and discussing news coverage regarding Mr. Gray's death and the investigation into his death.

81. (B456-B457) This item contains an email dated May 1 sent from the State's Attorney's Director of Policy and Legislative Affairs to the State's Attorney, her Chief Deputy, her Deputy's State's Attorneys, and cc'ed to her Director of Communications, and other members of the Office, and includes the Mayor's statement on the indictment of officers following the death of Freddie Gray.

82. (B458-B465) This item contains an email dated April 23 sent from the State's Attorney's Director of Communications to the State's Attorney's Director of Policy and Legislative Affairs, and cc'ed to the State's Attorney's Chief of External Affairs and the State's Attorney forwarding a series of emails from other agencies and media outlets regarding the investigation into Mr. Gray's death and the most recent updates into that investigation.

83. (B466) This item contains an email dated April 23 sent from an Assistant State's Attorney to the State's Attorney's Chief of External Affairs and her Director of Communications discussing the idea of inviting the Governor to attend a press conference about a new program in the Office.

84. (B467-B470) This item contains an email chain dated April 19 sent from a Deputy State's Attorney to the State's Attorney's Director of Communications and includes discussions about the media's reaction to the death of Mr. Gray.

In short, not a single one of the above items constitutes a statement of any trial witness, and none of them are relevant, admissible, or helpful to the defense. Instead, these items reflect the public relations actions and deliberations of an elected public official and her advisers. The



State willingly made them available for defense counsel's review pursuant to this Court's Order, but providing copies of these documents to persons outside the Office of the State's Attorney would serve no purpose related to counsel's defense of their client and would merely heighten the potential that those copies would somehow become public. Accordingly, the State respectfully asks that these documents not be ordered copied to the Defendant's attorneys

C. State's Attorney Marilyn Mosby's May 1, 2015, public schedule and draft statements

The third category of documents (page numbered C001-C016) that the State requests not to copy for the Defendant's counsel consists of the following three items comprising drafts of State's Attorney Marilyn Mosby's May 1, 2015, statement to the public:

1. (C001-C006) This item contains an email dated April 30 sent from the State's Attorney's public relations officers to the State's Attorney, her Chief of External Affairs, and her Director of Communications and includes an attachment with edits to a draft of possible remarks the State's Attorney could deliver at the upcoming press conference, including the charges against each of the defendants.
2. (C007-C011) This item contains an email dated April 30 sent from the State's Attorney's public relations officer to the State's Attorney and includes an alternate draft of possible remarks the State's Attorney could deliver at the May 1 press conference.
3. (C012-C016) This item contains an email dated April 29 sent from the State's Attorney's public relations officer to the State's Attorney's, her Chief of External Affairs, and her Director of Communications and includes attached yet another version of possible remarks the State's Attorney could deliver at the upcoming press conference.

None of these drafts or documents are remotely relevant, admissible, or helpful to the defense. The Defendant's attorneys have viewed and even transcribed the State's Attorney's actual May 1 comments. These items merely show an elected public official's internal drafts and notes considering variations on a speech to constituents, items which further no legitimate defense purpose and which should not be copied to the Defendant's counsel.

D. Drafts of the Statement of Probable Cause used in the Application for the Statement of Charges originally filed in District Court

The fourth category of specific documents (page numbered D001-D171) that the State requests not to copy for the Defendant's counsel consist of multiple separate drafts of and corresponding emails about the Statement of Probable Cause used in the Application for the Statement of Charges originally filed in District Court written and edited largely by attorneys within the Office of the State's Attorney. These various drafts are attorney work product or executive deliberative materials and/or are not even arguably relevant or admissible in the Defendant's trial, are not helpful to his defense, and are not investigative material. Moreover, these documents do not constitute statements of any trial witness or party opponent and have since been superseded by the Grand Jury's Indictment. Instead, these documents (a) show the writing, grammatical, and typographical skills and mistakes of their attorney authors; (b) reflect the deliberations and thought processes of members of the State's Attorney's Office; and (c) contain attorney opinions about the significance of certain facts in the case. Accordingly, the State respectfully asks that these documents not be ordered copied to the Defendant's attorneys.

E. A Miscellany of Emails and Documents

The final category of materials (page numbered E001-E133) that that the State requests not to disclose to the Defendant consists of the following miscellaneous items:

1. (E001) This item contains an email dated April 29 sent from a Sheriff to a Deputy State's Attorney stating that his email account is active.
2. (E002-E003) This item contains an email chain dated May 1 between the State's Attorney's Chief Deputy and a Sheriff, requesting information about addresses entered on a public system.

3. (E004-E013) This item contains an email chain dated May 1 between the State's Attorney's Director of Policy and the State's Attorney's Chief Deputy, cc'ed to the State's Attorney and the State's Attorney's Chief of External Affairs, and includes an article about Central Booking and a series of emails from various outside persons and entities about that article.
4. (E014-E053) This item contains an email dated May 1 sent from the State's Attorney's Director of Policy to the State's Attorney's Chief Deputy and includes an email from the Mayor's Office of Emergency Management providing official updates about the unrest in late April.
5. (E054) This item contains an email dated May 1 sent from a victim/witness advocate in the Office to the State's Attorney and includes the advocate's personal thoughts about the charging of the officers.
6. (E055) This item contains an email dated May 1 sent from a forensic interviewer to the State's Attorney, includes the interviewer's personal thoughts about the May 1 press conference.
7. (E056-E099) This item contains several emails dated April 30 sent from the State's Attorney's Director of Policy and includes official situation reports from the Mayor's Office of Emergency Management.
8. (E100-E102) This item contains an email dated April 30 sent from the State's Attorney's Director of Policy to the State's Attorney and her Chief of External Affairs and includes an attached updated from the Baltimore City Health Department.
9. (E103) This item contains an email dated April 28 sent from a private attorney to an Assistant State's Attorney and includes a link to a published online article about Freddie Gray and spinal surgery.
10. (E104) This item contains an email dated April 28 sent from a reporter to the State's Attorney's Director of Communications, responding to an update on the Carter Scott trial with a request for information about Freddie Gray.
11. (E105-E106) This item contains an email dated April 27 sent from the State's Attorney's public relations officer to the State's Attorney's Director of Communications, and cc'ed to the Chief of External Affairs, and includes information about the Office's July Newsletter.
12. (E107) This item contains an email dated April 27 from the State's Attorney's Director of Communications to various members of the office about the AIM to B'More program.
13. (E108-E113) This item contains emails dated April 26 from the State's Attorney's Chief Deputy to the State's Attorney with information about protest arrests.
14. (E114) This item contains an email dated April 23 sent from a Deputy State's Attorney to the State's Attorney, and cc'ed to executive leadership, and contains information about protest arrests.

15. (E115-E116) This item contains an email dated April 24 from the State's Attorney's reception staff asking for guidance directing calls about Freddie Gray.

16. (E117-E125) This item contains an email chain dated April 24 between various members of the State's Attorney's staff regarding access for State's Attorney's investigators to ArrestView and LIMS software.

17. (E126-131) This item contains an email chain dated April 23 between members of the State's Attorney's Communications Division with a draft letter to Governor Hogan regarding the investigation into the death of Mr. Gray.

18. (E132) This item contains an email dated April 22 sent from the State's Attorney's Director of Policy to the State's Attorney and her Chief of External Affairs requesting clarification on her role.

19. (E133) This item contains an email dated April 20 sent from the State's Attorney's Director of Community Affairs to community liaisons and members of the Communications Division advising them of what they need to know for the week of April 20.

None of these items are remotely relevant, admissible, or helpful to the defense. Because they further no legitimate defense purpose, they should not be copied to the Defendant's counsel.

F. Documents created after May 1, 2015, and thus outside the date specified by the Court's order

The sixth category of materials contains documents (page numbered F0001-F6083) created after May 1. Pages F0001-F0013 include a map of city cameras, a document entitled "Freddie Gray Talking Points Indictment" bearing no author but discussing possible remarks in light of the return of indictments, and an index of Bates Stamped Documents current through September 28, 2015. Pages F0014-F3048 and F3049-F6083 are respectively .pdfs of the computer file directories of the contents of the portable flash drives provided to Defendants Goodson and Rice containing the discovery materials disclosed on June 26, 2015. The file directories are simply an index of the computer files that were given to each defendant generated as a record for the Office of the State's Attorney of precisely what computer files each flash drive contained. The State has not printed these enormously long documents but has instead burned copies of them to a disc, which is being provided to the Court in lieu of 30 lbs. of paper.

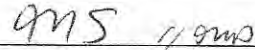


These documents fall outside the date range specified by the Court's order issued on October 14, 2015, in addition to being irrelevant or redundant of existing disclosures, and thus should not be copied to the Defendant's counsel.

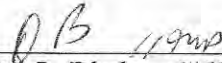
Wherefore, the State respectfully requests that this Motion for Appropriate Relief Under Seal be granted in its entirety.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of June, 2016, a copy of the State's Motion for Appropriate Relief Under Seal was mailed and e-mailed to:

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