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State of New Jersey,

Plaintiff,

vs.

George E. Norcross, III, Philip A. Norcross,  
William M. Tambussi, Dana L. Redd, Sidney R.  
Brown, and John J. O'Donnell

Defendants.

SUPERIOR COURT OF NEW JERSEY  
CRIMINAL DIVISION  
MERCER COUNTY  
INDICTMENT NO. 24-06-00111-S  
DOCKET NO. MER-24-001988

**NOTICE OF MOTION TO SUPPRESS  
THE EVIDENCE OBTAINED FROM  
THE TITLE III WIRETAPS, TO  
COMPEL THE IMMEDIATE  
PRODUCTION OF THE SEPTEMBER  
2022 JUDGE DIAMOND ORDER  
DEFINING THE PERMITTED "STATE  
TARGET OFFENSES," AND TO AMEND  
THE EXISTING PROTECTIVE ORDER**

To: AAG Andrew Wellbrock  
AAG Michael Breslin  
Division of Criminal Justice, 5<sup>th</sup> Floor West  
Office of the Attorney General  
25 Market Street  
Trenton, New Jersey 08625

PLEASE TAKE NOTICE that defendants George E. Norcross, III, Philip A. Norcross, Esq., William M. Tambussi, Esq., Dana L. Redd, Sidney R. Brown, and John J. O'Donnell ("Defendants") shall move before the Superior Court of New Jersey, Law Division, Criminal Part, Mercer County, at the Mercer County Criminal Courthouse, 400 South Warren Street, Trenton, New Jersey 08650, at a time and date to be set by the Court, for an Order suppressing the evidence obtained from the Title III wiretaps, compelling the immediate production of the September 2022

Judge Diamond Order defining the permitted “State Target Offenses,” amending the existing protective order, and for such other relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, in support of the within motion, Defendants shall rely upon the enclosed Brief and Certification of Lee Vartan, Esq., with exhibits.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument if timely opposition to this motion is filed.

Dated: December 27, 2024

Respectfully submitted,

CHIESA SHAHINIAN & GIANTOMASI PC  
*Attorneys for Defendant*  
*William M. Tambussi, Esq.*

By: /s/ Lee Vartan  
Lee Vartan

**CERTIFICATION OF SERVICE**

I hereby certify that defendants George E. Norcross, III, Philip A. Norcross, Esq., William M. Tambussi, Esq., Dana L. Redd, Sidney R. Brown, and John J. O'Donnell's Notice of Motion, Brief in Support, Certification of Lee Vartan, Esq. with exhibits, and proposed Order were served, via the Court's efilng system, upon the following counsel:

AAG Andrew Wellbrock  
AAG Michael Breslin  
Division of Criminal Justice, 5<sup>th</sup> Floor West  
Office of the Attorney General  
25 Market Street  
Trenton, New Jersey 08625

CHIESA SHAHINIAN & GIANTOMASI PC  
*Attorneys for Defendant*  
*William M. Tambussi, Esq.*

by: /s/ Lee Vartan  
Lee Vartan

Dated: December 27, 2024



State of New Jersey,

Plaintiff,

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George E. Norcross, III, Philip A. Norcross,  
William M. Tambussi, Dana L. Redd, Sidney R.  
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SUPERIOR COURT OF NEW JERSEY  
CRIMINAL DIVISION  
MERCER COUNTY  
INDICTMENT NO. 24-06-00111-S  
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**Brief in Support of Defendants' Motion to Suppress the Evidence Obtained from the Title III Wiretaps, to Compel the Immediate Production of the September 2022 Judge Diamond Order Defining the Permitted "State Target Offenses," and to Amend the Existing Protective Order**

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Defendants bring this motion to suppress the evidence obtained from the Title III wiretaps and to compel the immediate production of certain critical “Touhy discovery” that is months overdue and could lead to the dismissal of this prosecution. Relatedly, it appears the State will argue that a finalized protective order is necessary prior to further production. Defendants therefore request the Court amend the existing protective order.

### **PRELIMINARY STATEMENT**

More than six months after the State returned its indictment, it has failed to produce a number of critical documents to Defendants that were due to be produced the day the Attorney General publicly unsealed the indictment in a press conference. For example, the State has produced no communications between investigators, nor has it produced any information around the filter process used to distinguish privileged intercepts from non-privileged intercepts. Those deficiencies will be the subject of later motions to compel.<sup>1</sup> This motion focuses on other documents the State has failed to produce, which documents are even more critical to Defendants. They are more critical because there is good cause to believe that this failure to produce will mandate suppression of the wiretap evidence or even dismissal of the prosecution altogether.

First, the State has still not produced the complete wiretap applications. Those applications were the subject of Defendants’ first motion to compel. Defendants agreed to hold that motion in abeyance because the State represented that it requested the complete wiretap applications from the federal government on November 19. Despite providing the other Touhy letter requests in discovery, the State has refused to provide Defendants with its November 19 request. More than

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<sup>1</sup> Based on the State’s response to one of Defendants’ discovery deficiency letters, it appears the State is refusing to produce any investigator communications. (See Certification of Lee Vartan, Esq. (“Vartan Cert.”), Ex. A.) On the other hand, the State has promised “a letter detailing the filter process.” (Id., Ex. B.) No letter has yet been provided.

a month later, Defendants are still without the complete wiretap applications. The wiretap statutes require production of the complete applications. If they are not produced, the Court must suppress the intercepts.

Second, the State has not produced a September 2022 order from Judge Diamond. The State first requested that order in its Touhy letter dated July 3, 2024. (See id., Ex. C.) According to the letter, the order authorized the Attorney General to “disclose and use the contents of the electronic and wire communications intercepted pursuant to the EDPA Interception Orders and the DNJ Interception Orders, and evidence derived therefrom, while giving testimony under oath or affirmation in any proceeding held under the authority of the State of New Jersey for violation of the State Target Offenses.” (Id. (emphasis added).) The September 2022 order is what allowed the State to use the wiretap evidence in furtherance of the State’s investigation. But it was a limited grant. By the terms of the order itself, the evidence had to be used for the “State Target Offenses.” If those offenses are different from the offenses charged in the indictment, some or all of the indictment must be dismissed.

These are obviously critical documents that the State should have produced in June. Defendants are still without them in December.

And now it seems the State is refusing to produce this critical discovery until Defendants agree to a more restrictive protective order than the Third Interim Protective Order now in place by consent. Specifically, during a December meet-and-confer with defense counsel intended to narrow the scope of protected materials, the State took a new, hardline, and overly broad position that all Touhy material must be considered protected discovery material under the order, and any protected discovery material appended to any future filing must be filed confidentiality and outside the public view. That is more restrictive than the current Third Interim Protective Order, which

allows any otherwise protected discovery material to be made public if appended to a public filing, an approach consistent with due process, the First Amendment, and the right of press and public access to court proceedings. The State indicated it may not produce additional Touhy material to Defendants already in its possession and will not receive any further Touhy material from the federal government unless those changes are made to the protective order.

Defendants believe the State is creating excuses for not timely meeting its discovery obligations. The Court must not allow this. Defendants will agree to treat all Touhy material as presumptively confidential under any future protective order, but they will not agree to allow the Attorney General to continue to litigate this case in public while Defendants are gagged. In any event, such a blanket protective order is not permitted under New Jersey law absent a showing of good cause from the State, which there is none.

The Court should enter a new protective order treating all Touhy material as presumptively protected discovery material; allow any discovery material, including all federal materials, to continue to be made public if necessary for a public filing, unless the State can show good cause why a document, or some portion of it, should not to be publicly filed; and order the State to produce within 10 days Judge Diamond's September 2022 order. If the State fails to do so, the Court should dismiss the indictment with prejudice. Six months is too long for Defendants to be without this critical discovery.

Separately, the Court must suppress all wiretap evidence because the State failed to produce the complete wiretap applications to Defendants.

#### **STATEMENT OF RELEVANT FACTS**

Defendants were indicted on June 17, 2024. The Attorney General heralded the indictment with a 30-minute press conference. Defendants first learned they were included in the sweeping, 13-count indictment just hours before the press conference began. Much of the critical discovery,

at least according to the State, belongs to the federal government and must be requested through the Touhy process. Defendants disagree with the State’s transparent and cynical attempt to wield the federal materials as both sword and shield.<sup>2</sup> But whether the discovery is controlled by the State or the federal government, there is no disagreement that it was due to Defendants upon unsealing of the indictment. (See id., Ex. C (“R. 3:13-3(b)(1) mandates that, ‘except for good cause,’ the prosecutor’s discovery for each named defendant be provided to the defendant ‘upon the return or unsealing of the indictment.’”)) That was June. The State, however, did not even send its first Touhy request letter until July 3—weeks after the indictment was returned.

While the State has produced Touhy materials to Defendants, it has done so grudgingly and in response to close to a dozen discovery deficiency letters. Some of the most critical discovery remains outstanding. Specifically, the State has not yet produced any communications among investigators; the complete wiretap applications; or the September 2022 order from Judge Diamond.

The complete wiretap applications were a recent point of contention between the parties. The State had only provided four applications to Defendants, and each was heavily redacted. Just days after the indictment, Defendants first asked for the complete wiretap applications. (See id., Ex. E.) They did so again on November 1, noting that the applications that had been produced incorporated by reference applications that had not, making those applications discoverable. (See id., Ex. F.) The parties held a telephonic meet-and-confer on November 14 during which the State

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<sup>2</sup> At least nine federal prosecutors and agents were deputized by the Attorney General between October 2019 and May 2022 under which deputization they “serve[d] under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee.” (Id., Ex. D.) Defendants have seen no evidence that those deputizations ended. Accordingly, any discoverable information in the possession of those prosecutors and agents is in the possession of the State. No Touhy request is required.

represented that it had not requested the complete, unredacted wiretap applications from the federal government and was not sure that it would. Defendants represented that they would likely file a motion to compel. Defendants filed that motion on November 20. In response, the State said it had filed a request for the complete wiretap applications the day before, though the State has refused to provide Defendants with a copy of that request. Based on the State's representation, Defendants held their motion to compel in abeyance. One month later, the State has still not provided the complete wiretap applications to Defendants.

Nor has the State provided the September 2022 order from Judge Diamond, without which the State's investigation and prosecution could not have proceeded. The State first requested that order from the federal government in a Touhy letter dated July 3, 2024. Confusingly, the State says the order "remains sealed." (Id., Ex. B.) That does not make sense. The State could not have proceeded with its investigation without the order in hand.

Last week, the State added a new complication to its months-late discovery production. The State indicated that unless all Touhy documents are now considered protected discovery material under a new protective order, and that this new order also provide that any protected discovery material must be filed confidentially (effectively sealing them by consent without judicial oversight), the State may not produce additional Touhy material to Defendants, and the State will not receive any further Touhy material from the federal government. The State indicated that this came from the federal government, which according to the State was displeased that Defendants' motion to compel the complete wiretap applications included the applications on the public docket.

The filing of the wiretap applications on the public docket was expressly authorized under the Third Interim Protective Order. (See id., Ex. G.) Even so, the State and federal government

now claim it was a violation of a separate order signed by Judge Diamond in August 2024. (See id., Exs. H, I.) None of the Defendants was a party to that order. Nor was it ever served by the State on Defendants as required by the order; rather, it was buried in the State’s discovery production and seemingly forgotten about by the State since it is inconsistent with the Third Interim Protective Order agreed to by the State. The order prohibits the applications and intercepts from being shared with prospective witnesses; the Third Interim Protective Order allows for that. The order prohibits the applications and intercepts from being shared on the public docket; the Third Interim Protective Order allows for that. Moreover, the order itself is confusing, *nunc pro tunc*, and treated by the State as if it only benefits them. It purports to govern the use of certain wiretap applications and the associated intercepts in the State’s prosecution of Defendants, but it was signed in August 2024—two months after the indictment was returned; two months after the State’s discovery obligations under state law were triggered; and two months after this Court assumed jurisdiction over this prosecution. And whatever restrictive effect the order might have, the State does not appear to consider itself bound by it. The State quoted the intercepts throughout its indictment, and the Attorney General himself made it a point to quote from the intercepts at his press conference.

The “violation” of the August 2024 order is pretext. The State, the federal government, or both are using it to justify their delay in providing Defendants with required (and very overdue) discovery. The Court must not allow further delay. Defendants will agree to treat all Touhy material as presumptively protected discovery material subject to due process concerns and this Court’s oversight. Defendants will not, however, re-trade on the Third Interim Protective Order agreed to by the parties. Discovery material, whether confidential or not, should be publicly filed

when part of motion practice in this case. The State chose to litigate this case in the press. Defendants should not be muzzled in their response.

Defendants request the Court enter a new protective order treating all Touhy material as presumptively confidential; allowing all discovery material, including all federal materials, to be filed publicly as part of motion practice in this case unless the State demonstrates good cause why a particular document, or some portion of it, should be filed confidentially; and requiring that the September 2022 order be provided to Defendants within 10 days. If it is not, the Court should dismiss the indictment with prejudice. Separately, Defendants move for suppression of all wiretap evidence because of the State's continuing failure to produce the complete wiretap applications.

### **ARGUMENT**

#### **A. The wiretap evidence must be suppressed because the State failed to produce the complete wiretap applications to Defendants, as required by Congress.**

Central to the State's prosecution of Defendants is evidence obtained by the federal government years ago pursuant to Title III wiretaps.<sup>3</sup> With respect to the federal wiretap evidence, the State is governed by two sets of rules: a federal statute, 18 U.S.C. § 2518, and New Jersey discovery rules, Rule 3:13-3. The State is in violation of both.

Under the New Jersey discovery rules, the State had an obligation to produce all discovery to Defendants upon the unsealing of the indictment. It has now been six months since the indictment was unsealed, and the State has failed to produce all material documents to Defendants. The State's failure to timely produce mandatory discovery warrants suppression of evidence. The

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<sup>3</sup> A more detailed description of the wiretap evidence and Defendants' attempts to obtain the complete wiretap applications was discussed in Defendants' November 20, 2024 motion to compel. One month later, Defendants remain without the complete applications.

State cannot be given months (or years) to produce overdue discovery. Rule 3:13-3 imposes a deadline for a reason. And the Court must enforce that deadline.

More specifically to the federal wiretap evidence, the State must abide by the language of Title III governing federal wiretaps. Under federal law, a defendant must be provided with the applications submitted to support a wiretap order or otherwise the evidence derived from the wiretap is inadmissible. The State chose to use materials obtained from federal Title III wiretaps, and as such, the State is bound by that federal law.

Title 18, U.S.C. § 2518(9) provides:

The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved.

Id. (emphasis added).

The congressional rule is absolute. The failure to produce the wiretap applications means the intercepts “shall not” be received in evidence. This is a mandatory directive Congress imposed upon law enforcement, and the consequences of not abiding it are clear. Because the State has failed to produce the complete wiretap applications to Defendants, the wiretap evidence is inadmissible in any “State court,” including in this prosecution.

The purpose of the full disclosure provision in subsection 9 is to enable a defendant to have sufficient knowledge to bring an informed motion to suppress; that is, a motion challenging that “(i) the communication was unlawfully intercepted; (ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or (iii) the interception was not made in conformity with the order of authorization or approval.” 18 U.S.C. § 2518(10)(a). The legislative history confirms this congressional intent. Subsection 9’s requirement that the application be



produced was specifically “designed to give the party an opportunity to make a pretrial motion to suppress” under Subsection 10. S. Rep. No. 1097 (1968), as reprinted in U.S.C.C.A.N. 2112, 2196.

Courts have echoed that the purpose of disclosure of the wiretap application under Subsection 9 is to allow a defendant to file an effective motion to suppress. See, e.g., United States v. Manuszak, 438 F. Supp. 613, 624 (E.D. Pa. 1977) (“[A] party must have access to these documents [the wire application and order] in order to make any kind of effective assessment of the surveillance’s validity no matter what grounds may ultimately be relied upon to support a suppression motion.”); Reyeros v. United States, No. 10-2907, 2011 WL 5080308, at \*4 (D.N.J. Oct. 24, 2011); In re Globe Newspaper Co., 729 F.2d 47, 55 (1st Cir. 1984) (“The suppression provisions of § 2518(9) and § 2518(10)(a) reflect Congress’s belief that parties against whom Title III evidence is offered should have an opportunity to examine the documentation and test the legality of the surveillance.”).

And Congress was specific in the scope of the “application” to be produced to a defendant. In the same statute, Congress explained that the “application shall include,” among other items, the “full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued.” 18 U.S.C. § 2518(1)(b).

“[C]ongressional intent to require complete disclosure of the affidavit is clear.” United States v. Perez, 353 F. Supp. 3d 131, 139 (D. Mass. 2018) (emphasis added). Subsection 9 of § 2518 and Subsection 1(b) of § 2518 must be read in tandem. See Manuszak, 438 F. Supp. at 621 (reviewing legislative history and holding that subsections of 2518 must be read together). Thus, the “accompanying application, under which the interception was authorized or approved” that

must be produced under 18 U.S.C. § 2518(9), includes the “full and complete statement of the facts and circumstances relied upon by the applicant,” 18 U.S.C. § 2518(1)(b).

When an applicant for a wiretap incorporates facts and circumstances in his affidavit, then those facts and circumstances become part of the “accompanying application under which the interception was authorized.” See 18 U.S.C. § 2518(9). Thus, in United States v. Manuszak, the court explained that “once [a statement] is incorporated into another application it becomes part of the foundation upon which the legality of the other interception depends and for the reasons stated in the text its disclosure then becomes of paramount importance to a party facing a ‘proceeding’ based on that interception.” 438 F. Supp. at 624 n.16 (citing 18 U.S.C. §§ 2518(9) and (10)(a)); see also United States v. Cervantes, No. 21–328, 2024 WL 4795707, at \*5 (N.D. Cal. Aug. 12, 2024) (“[B]ecause [the prior affidavits] are ‘expressly incorporated’ into the [latest] Application, they are necessarily components of the application and must have been produced to the defense.”).

The balance struck by Congress in Title III is as clear as it is extraordinary. Ordinarily, rules of evidence are determined by judicial rulemaking and judicial interpretation of the relevant constitutional provisions. Rarely, if ever, does the legislature encroach upon that power by mandating an exclusionary rule by statute. And here, Congress did so not only for the federal courts but, exercising its supremacy powers, for the state courts as well. Congress recognized that the enormous power of the government to eavesdrop on the private conversations of its citizens must be kept in check by the right of those same citizens to scrutinize, and where justified, challenge the government’s abuse of that power. The State is in continuing violation of these important federal statutes. Suppression is not controversial here; it is required.

The State has produced just four wiretap applications, and each is heavily redacted. The wiretap applications it has produced explicitly “incorporate[d] by reference” all prior affidavits,

(Vartan Cert. dated November 20, 2024, Exs. K3, L3, M3 at ¶16), and relied on facts that “[a]re more fully described in the prior affidavits listed above.” (*Id.* at ¶17.) Once those prior affidavits were “incorporated into” the current wiretap application, those prior affidavits became “necessarily components of the application,” and “bec[a]me[] part of the foundation” upon which the current wiretaps were issued. *See Cervantes*, 2024 WL 4795707, at \*5; *Manuszak*, 438 F. Supp. at 624 n.16. The State has produced none of the applications incorporated by reference.

The State recognizes that the complete wiretap applications are discoverable under both the New Jersey discovery rules and the federal wiretap statutes. The State requested them from the federal government on November 19 because they are discoverable. In doing so, the State never explained why it did not request them before the indictment was returned.

This alone is sufficient reason to suppress. The State should have requested the complete wiretap applications well in advance of unsealing the indictment. Federal law is clear. So are the New Jersey discovery rules. The wiretap applications are absolutely discoverable. And Rule 3:13-3 requires all discoverable materials to be provided upon the unsealing of the indictment. The State knew of its federal and state obligations before the Attorney General’s press conference. But the State waited five months to make a request for this information and only under threat of a motion to compel.

The State’s request has gone nowhere. The State’s failure to produce the complete wiretap applications requires suppression under 18 U.S.C. § 2518(9). Because of the State’s continuing failure to produce mandatory discovery, Defendants have been precluded from preparing other motion practice, which motion practice could be dispositive. The obligation to produce the complete wiretap applications was not a surprise. The State had ample opportunity to procure and produce them—remember, the State’s first, failed grand jury presentation occurred in early 2023.

Federal law and state discovery rules mandate that the evidence obtained from the Title III wiretaps be suppressed.

**B. The State must produce the September 2022 order outlining the supposed “State Target Offenses” to Defendants so that Defendants can challenge whether the current prosecution fits within the delineated scope of the federal order.**

All parties agree that the September 2022 order is discoverable; the State requested the order from the federal government in July. But, according to the State, it “remains sealed.” (Vartan Cert., Ex. B.) The State’s position is confusing. The September 2022 order is what allowed the State to use the wiretap applications and intercepts in furtherance of its investigation. But it was not an unlimited allowance. The applications and intercepts could be used to investigate and prosecute the “State Target Offenses” only. (*Id.*, Ex. C.) The State must have the September 2022 order and had an obvious obligation to abide by it. Otherwise, it could not have known whether its investigation and prosecution were lawful, *i.e.*, complied with the September 2022 order.

The State offered no explanation in its most recent correspondence as to when the September 2022 order will be produced or how it could be both “sealed” and in the State’s possession at the same time. Like the complete wiretap applications, the September 2022 order is a “go/no go” document. If the order authorized none of the offenses charged in the indictment, then the indictment must be dismissed. If the order authorized the State to pursue only some of the offenses charged in the indictment, then some of the indictment must be dismissed.

Title 18, United States Code § 2517(5) bars the use of federal wiretap evidence to substantiate offenses “other than those specified in the order of authorization.” See People v. Schipani, 56 A.D.2d 126, 129 (1977) (finding District Attorney’s failure to obtain an amendment of the wiretap warrant to include the crimes ultimately charged warranted dismissal of the

indictment). And if the State will not (or cannot) produce the order, then the indictment must be dismissed. See State v. Lewis, 137 N.J. Super. 167, 168 (Law. Div. 1975) (partially dismissing indictment where a state agency lost certain documentary evidence claimed to be essential by the defense).

Defendants' discovery rights under State law must be respected. And so too must the resources of this Court. Between September and December, the parties filed hundreds of collective pages seeking dismissal of the indictment in this case and contesting dismissal. Defendants' arguments clearly require dismissal. But there is no reason for the Court to wade through those hundreds of pages if the State will not (or cannot) meet its basic discovery obligations. The Court need not decide if the State brought this prosecution years too late if the September 2022 order will never be produced. If it won't, then the Court cannot know whether the indictment offenses and the State Target Offenses are the same, and the prosecution must be dismissed. Likewise, the Court need not decide if the State is attempting to criminalize the routine practice of law if the wiretap evidence is suppressed. If it is, the State could not use the October 22, 2016 recording against Defendants, leaving the State with no evidence against (at least) Tambussi.

**C. To the extent the State attempts to blame its failure to produce basic discovery on the Third Interim Protective Order it agreed to, Defendants have agreed to and will continue to agree to a reasonable protective order.**

The parties took the Court's admonition to heart and spent months meeting-and-conferring over a protective order. It was just recently that agreement became impossible.

That is because the State has re-traded on the parties' agreement and now wants all protected discovery material to be filed under seal. Previously, the parties had agreed that all discovery material, even confidential discovery material, could be publicly docketed if it were part of motion practice in the case. In fact, prior to Tambussi's motion to dismiss filing, counsel confirmed that certain discovery material, including grand jury testimony, could be filed on the

public docket pursuant to the Third Interim Protective Order. The State agreed, responding that the “protective order plainly states that is permissible use of the material.” (Vartan Cert., Ex. J.) Defendants will not agree to the State’s new “one step forward, two steps back” requirement, and the Court should not include it in the final protective order, for three reasons.

First, it is inconsistent with State law. A protective order must be supported by “good cause,” and the State cannot show good cause to require that all protected discovery material be filed under seal. The State must overcome the presumption that “[t]he public has a common-law right of access to judicial proceedings and a right to inspect judicial records.” Lederman v. Prudential Life Ins. Co. of Am., Inc., 385 N.J. Super. 307, 315 (App. Div. 2006). This right applies to both criminal and civil proceedings. Id. Further, the First Amendment “also guarantees the public and the press their right of access to both civil and criminal trials.” Id. This right of access extends to pre-trial criminal proceedings, State v. Williams, 93 N.J. 39, 61-62 (1983), because “the process by which the government investigates and prosecutes its citizens is an important matter of public concern.” United States v. Wetch, 484 F.3d 194, 209-10 (3d Cir. 2007) (affirming the District Court’s decision to require the disclosure of Brady material in FBI personnel records to the public because the documents were filed with a motion that “clearly establishe[d]” them as judicial records).

The State cannot meet its burden because it has no valid justification for asking this Court to enter a blanket protective order that functions essentially as a gag order entered without any judicial findings or attendant due process. See New Jersey Court Rule 3:13-3(e)(1) (listing certain potential harms for the court to consider when deciding whether to issue a protective order); see also Lederman, 385 N.J. Super at 317 (“Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning, are insufficient” to restrict public access to judicial records).

Second, the State seeks to shield from view what it had no hesitation wielding as a public sword. The indictment liberally quotes from protected discovery material, including Touhy material. For example, the State quotes an October 22, 2016 recorded call authorized by a federal wiretap order in eight paragraphs of the indictment. See indict. ¶¶142-149 (“you can never trust him until you got a bat over his head”; “my guess is if Bill [Tambussi] is successful on the narrow issue of that view easement, I guarantee you [Developer-1’s] gonna pick up the phone and call his friend [an LPT senior vice president] and say, ‘How do we make the deal?’”; “[t]hat’s another point of attack on this putz”). Additionally, the State repeatedly quotes email communications in the indictment that it considers protected discovery material. See id. ¶193 (alleging that Philip Norcross emailed talking points to William Tambussi, including that “the City of Camden ‘will not be bullied or intimidated’ by Developer-1’s litigation tactics”); see also ¶134 (“Lawyer-2 wrote that ‘[t]he proposal is for CRA to file an application in Court to ask the Court to confirm that the power of eminent domain is available to extinguish the view easement. The idea is to get the complaint filed today or tomorrow. Phil Norcross is going to brief the Mayor [Dana L. Redd] who I believe will then discuss with [the then-chair of the CRA board].’”). That is, the indictment already violates the State’s requested protective order.

Third, the State made a deliberate decision to prosecute this case in the press. Defendants must not be limited in their chosen response or the ability to refute the false press narrative created by the State. It is a matter of simple fairness and fully justified by New Jersey’s Rules of Professional Conduct. See RPC 3.6(c) (“Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer’s client.”). The State opened this case by liberally quoting from protected discovery material, including the

federal wiretaps. See Press Conference of Attorney General Matthew J. Platkin on June 17, 2024 at <https://www.youtube.com/watch?v=EP192ThF5u4> (Platkin quotes from the federal wiretaps at approximately 4:20; 5:45; 7:02; 8:04; and 8:19). The Court must not allow the State's word to be the last.

### **CONCLUSION**

For the foregoing reasons, the Court should suppress the evidence obtained from the federal wiretaps and compel the State to produce the September 2022 order within 10 days. It should also enter a protective order that treats all Touhy material as presumptively confidential, but continues to allow any discovery material, including confidential discovery material, to be made public if appended to a motion or other public filing, unless the State offers good cause to litigate this matter outside the public eye.

Respectfully submitted,

CHIESA SHAHINIAN & GIANTOMASI PC  
*Attorneys for Defendant William M. Tambussi, Esq.*

By: /s/ Lee Vartan  
JEFFREY S. CHIESA  
LEE VARTAN  
JEFFREY P. MONGIELLO  
KATHRYN PEARSON  
JORDAN FOX

Dated: December 27, 2024



**CHIESA SHAHINIAN & GIANTOMASI PC**

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*Attorneys for Defendant William M. Tambussi, Esq.*

State of New Jersey,

Plaintiff,

vs.

George E. Norcross, III, Philip A. Norcross,  
William M. Tambussi, Dana L. Redd, Sidney R.  
Brown, and John J. O'Donnell

Defendants.

SUPERIOR COURT OF NEW JERSEY  
CRIMINAL DIVISION  
MERCER COUNTY  
INDICTMENT NO. 24-06-00111-S  
DOCKET NO. MER-24-001988

**CERTIFICATION OF  
LEE VARTAN, ESQ.**

Lee Vartan, Esq., of full age, hereby certifies as follows:

1. I am an attorney at law of the State of New Jersey and member of the law firm of Chiesa Shahinian & Giantomasi, PC, counsel for defendant William M. Tambussi, Esq. I have personal knowledge of the facts set forth herein, and I make this certification in further support of Defendants George E. Norcross, III, Philip A. Norcross, Esq., William M. Tambussi, Esq., Dana L. Redd, Sidney R. Brown, and John J. O'Donnell's motion to suppress the evidence obtained from the Title III wiretaps, to compel the immediate production of the September 2022 Judge Diamond Order defining the permitted "State Target Offenses," and to amend the existing protective order.

2. Attached hereto as **Exhibit A** is a true and correct copy of the Attorney General's letter to defense counsel dated October 15, 2024.

3. Attached hereto as **Exhibit B** is a true and correct copy of the Attorney General's

letter to defense counsel dated December 10, 2024.

4. Attached hereto as **Exhibit C** is a true and correct copy of the State's letter to FBI Philadelphia dated July 3, 2024.

5. Attached hereto as **Exhibit D** are true and correct copies of records of the Office of Public Integrity and Accountability's deputization of four Special Deputy Attorneys General and five Special State Investigators.

6. Attached hereto as **Exhibit E** is a true and correct copy of Michael Critchley, Esq. and Kevin Marino Esq.'s letter requesting the Attorney General to produce certain discovery dated June 21, 2024.

7. Attached hereto as **Exhibit F** is a true and correct copy of Lee Vartan, Esq.'s letter requesting the Attorney General to produce certain discovery dated November 1, 2024.

8. Attached hereto as **Exhibit G** is a true and correct copy of the Court's Third Interim Consent Protective Order Regarding Discovery dated November 6, 2024.

9. Attached hereto as **Exhibit H** is a true and correct copy of the Attorney General's letter to defense counsel dated November 22, 2024.

10. Attached hereto as **Exhibit I** is a true and correct copy of United States District Court Judge Paul S. Diamond's Order regarding the Eastern District of Pennsylvania's Interception Orders dated August 16, 2024.

11. Attached hereto as **Exhibit J** is a true and correct copy of Assistant Attorney General Michael Grillo's email to Lee Vartan, Esq. dated September 25, 2024.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

CHIESA SHAHINIAN & GIANTOMASI PC  
*Attorneys for Defendant*  
*William M. Tambussi, Esq.*

By: /s/ Lee Vartan  
Lee Vartan

Dated: December 27, 2024



# EXHIBIT A



*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY  
25 MARKET STREET  
PO Box 085  
TRENTON, NJ 08625-0085

PHILIP D. MURPHY  
*Governor*

TAHESHA L. WAY  
*Lt. Governor*

MATTHEW J. PLATKIN  
*Attorney General*

DREW SKINNER  
*Executive Director*

October 15, 2024

*(Via Email Only)*

Lee Vartan, Esq.  
Chiesa, Shahinian & Giantomasi, P.C.  
105 Eisenhower Parkway  
Roseland, New Jersey 07068

**Re: State v. George E. Norcross, III, et al.**  
**Indictment Number 24-06-0111-S**  
**Promis/Gavel Number 24-1988**

Dear Counsel:

The State has received your letter dated September 19, 2024, which requested “the immediate production of all communications, including group chats and text messages, in which this matter and investigation were discussed” including, but not limited to, “communications involving Attorney General Platkin and his staff, in addition to employees of OPIA . . . [and] all communications discussing the planning of a press conference to announce the indictment in this matter as well as any post-press conference discussions.” You claim these documents may be relevant to your “claims of selective prosecution” and may “contain exculpatory Brady information” to the extent they discuss decisions by other offices “not to indict” unspecified individuals or matters.

The State is not aware of any obligation to produce: “all communications” discussing this matter; all communications discussing a press conference; or “any post-press conference discussions.” Such items are not broadly discoverable under the applicable rules and law and may implicate various privileges. We have previously addressed counsel’s claim that decisions of other offices’ charging decisions constitute Brady material.



The decision by one trial court judge you reference in another matter is not applicable to this case. That order was based on that Court's view of the specific facts and defense requests in that matter.

Very truly yours,

Matthew J. Platkin  
ATTORNEY GENERAL OF NEW JERSEY

By:



Andrew Wellbrock  
ASSISTANT ATTORNEY GENERAL

cc: Michael Critchley, Esq.  
Kevin Marino, Esq.  
Henry Klingeman, Esq.  
Lawrence Lustberg, Esq.  
Gerald Krovatin, Esq.



# EXHIBIT B





*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY  
25 MARKET STREET  
PO Box 085  
TRENTON, NJ 08625-0085

PHILIP D. MURPHY  
*Governor*

MATTHEW J. PLATKIN  
*Attorney General*

TAHESHA L. WAY  
*Lt. Governor*

DREW SKINNER  
*Executive Director*

December 10, 2024

*(Via Email Only)*

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*(Via Email Only)*

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*(Via Email Only)*

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*(Via Email Only)*

Gerald Krovatin, Esq.  
Krovatin Nau, LLC  
60 Park Place, Suite 1100  
Newark, New Jersey 07110

**Re: State v. George E. Norcross, III, et al.**  
**Indictment Number 24-06-0111-S**  
**Promis/Gavel Number 24-1988**

Dear Counsel:

The State has received the two letters dated November 1, 2024, the letter dated November 8, 2024, and the letter dated December 2, 2024, from Lee Vartan, Esq., counsel for William Tambussi, Esq. The State responds as follows (requests from defense counsel are in bold and italics):

- 1. Please confirm that you will make a supplemental request for all applications and affidavits relied upon in ¶16 of the October application, and that you will specifically request that unredacted applications and applications be provided. Likewise, please confirm that you will request unredacted versions of the applications and affidavits already provided.***



The State made a supplemental request on November 19, 2024 for the affidavits and applications incorporated by reference into the October application as well as unredacted versions of the affidavits and applications already provided.

2. *...whatever materials the Special State Investigators and Special Deputies Attorney General [sic] have in their possession, custody, or control belong to the State and must be immediately produced to the defense in accordance with R. 3:13-3(b).*

The State is aware of its discovery obligations and will continue to provide discovery in compliance R. 3:13-3(b) as it has been since the indictment was unsealed. This does not appear to be a request for particular documents. To the extent you are arguing that documents, if any, “created or obtained” by these individuals are within the possession, custody, or control of the State by operation of the designations you refer to, we disagree.

Mr. Vartan’s letter also highlights several categories of materials that he purports the State has failed to produce. Regarding those categories, the State responds as follows:

3. *Complete Touhy correspondence to and from the federal government. A July 8, 2024 letter to the U.S. Attorney’s Office of the District of New Jersey, C-0131, attaches a February 6, 2024 letter from the U.S Attorney’s Office for the Eastern District of Pennsylvania. That letter, which was not separately produced in discovery, references December 18 and 19, 2023 letters from the State, both of which were not produced in discovery. Additionally, the July 3, 2024 letter from your office to the FBI, Philadelphia, C-0129, references a Touhy authorization from the U.S. Attorney’s Office for the District of New Jersey, dated February 5, 2024, which has not been produced.*

While under no obligation to do so, as a courtesy, the State previously provided various *Touhy* requests to you in an effort to be transparent with the defense regarding the ongoing discovery process. They are not required discovery pursuant to R. 3:13-3(b) and we are aware of no obligation to produce such letters.

4. *Unredacted Touhy requests. There is no basis for the redactions.*

As previously stated, *Touhy* requests are not discoverable in the first instance. Where the State chose to produce *Touhy* requests, we redacted as necessary to protect confidential information as it existed at the time of the production. The document marked C-0129, including where that letter was reproduced as an exhibit to C-0133, C-0134, and C-0136, was redacted to remove reference to information that the State was not permitted to release prior to *Touhy* authorization. C-0131 was redacted to remove references to a sealed court order.

An unredacted version of C-0129 was provided on December 6, 2024 as Bates-stamped documents DCJ/202208042/00022467 to DCJ/202208042/00022475, now that the necessary *Touhy* authorization has been obtained.



**5. *All authorization requests and orders regarding Title III interceptions, including, but not limited to, the September 22, 2022 Order from the Honorable Paul S. Diamond, United States District Court, Eastern District of Pennsylvania.***

As detailed in our response to Item 1 above, the State made this *Touhy* request. However, to date, the requested Order remains sealed. The State is continuing to make efforts with respect to this document.

**6. *Unredacted wire applications and affidavits.***

As detailed in our response to Item 1 above, the State is undertaking efforts to obtain these documents.

**7. *All line sheets.***

We are not aware of any requirement to produce line sheets in discovery. In addition, they contain work product material.

However, on December 6, 2024, the State provided spreadsheets Bates-stamped DCJ/202208042/00022488 to DCJ/202208042/00022491 to assist in your review of the previously provided recordings. The State generated these spreadsheets by compiling index information provided by the FBI regarding the recordings (certain non-discoverable information was not included).

**8. *All text messages captured.***

The State recently obtained intercepted text messages from the Federal Bureau of Investigation and will provide them in discovery.

**9. *The minimization instructions for the wiretaps, including, but not limited to, the instructions around relevancy and privilege.***

Minimization instructions are contained within the provided Interception Order. SW-0067 contains minimization instructions at Bates numbers DCJ/202208042/00020165 to 00020172. SW-0067a contains minimization instructions at Bates numbers DCJ/202208042/00020196 to 00020203. SW-0067b contains minimization instructions at pages 15 through 22 (it appears as though Bates numbers DCJ/202208042/00020217 to 00020240 did not print on the produced PDF). SW-0067c contains minimization instructions at Bates numbers DCJ/202208042/00020244 to 00020249. SW-0068 and SW-0068a contain minimization instructions at Bates numbers DCJ/202208042/00021006 to 00021007 and DCJ/202208042/00021016 to 00021017, respectively, which make reference to the procedure outlined in SW-0068d on Bates numbers DCJ/202208042/00021122 to 00021128.

We have not obtained approval to provide you with any additional minimization instructions from federal authorities. Additionally, we are not aware of any requirement to provide these in discovery.



**10. Any log or other listing showing what calls were minimized.**

The State is reviewing this discovery request and any related materials and will respond substantively when that review is complete.

**11. Whether a taint team was used during any of the wiretaps and, if so, how the taint team was used, the instructions provided to the taint team, what calls, if any, were determined to be privileged, and any privilege logs or other work product created by the taint team.**

The State will be providing a letter detailing the filter process.

**12. Any log or other listing showing that the designation of a call was changed, e.g., from minimized to not or privileged to not privileged.**

The State is reviewing this discovery request and any related materials and will respond substantively when that review is complete.

**13. All 15-day reports.**

The State has not requested progress reports as they are not discoverable. *See U.S. v. Catanzaro*, 201 F.R.D. 72, 77-78 (W.D. N.Y. 2001); *U.S. v. Orozco*, 108 F.R.D. 313, 316 (S.D. Cal. 1985).

**14. ...the State wrote, "To the extent the State has discoverable materials in its possession, custody, or control that were provided to the State by the FBI, U.S. Attorney's Offices, or other federal or state agencies, we intend to provide them in discovery." Please confirm that all such material has already been produced and direct us to the Bates ranges for those materials.**

The State is aware of no obligation to categorize for you items produced in discovery by source. If you have questions regarding particular documents, we will consider those requests.

**15. We demand a full accounting of all investigative reports, witness interviews, and notes in the possession, custody and control of the federal government and the State, including a listing of what has been provided to the defense and what has not.**

The State has continually provided indexes of discovery as required by R. 3:13-3(b)(1). As previously stated, we do not agree with your characterization of the prosecution team as described in the fourth demand of one of your November 1, 2024 letters, nor do we agree with the factual mischaracterizations contained therein. The State is not aware of any obligation to provide such an accounting and is continually abiding by its discovery obligations.

**16. We demand the immediate production of those letters [referring to correspondence from the U.S. Attorney's Office for the Eastern District of Pennsylvania and the District of New Jersey].**



Those documents were provided on November 4, 2024 as Bates ranges DCJ/202208042/00022123 to 00022124.

***17. We also demand an accounting of what the State was given access to in the files of the federal government to satisfy its Brady and Giglio obligations.***

The State is aware of its Brady and Giglio obligations, and continues to work diligently to identify and turn over any Brady and Giglio material. As stated in prior responses, the State has made requests of the Federal Bureau of Investigation and the United States Attorney's Offices for the District of New Jersey and the Eastern District of Pennsylvania for Brady and Giglio information and continues its efforts to identify, obtain, and produce any such material to the extent any exists.

Additionally, regarding your letter of December 2, 2024, the State responds as follows (requests from defense counsel are in bold and italics):

***18. The State has yet to respond to our letters from November 1, 2024 and our letter from November 8, 2024. We request responses.***

The State's responses to your demands for discovery in the November 1 letter are outlined above. There are no demands for discoverable materials in your November 8 letter.

***19. ...the State represented that it had made a request for the complete wiretap applications. Please immediately produce that request.***

As noted above, this request does not seek discoverable information.

***20. ...we seek all communications between the State and federal government concerning the Touhy process and the Touhy materials, including, but not limited to, all e-mail and text communications between the State and federal government.***

As noted above, this request does not seek discoverable information.

***21. With respect to e-mail and text communications, the State has produced no e-mails or text communications from the investigators on this case. We note that we previously made a request for all communications in a letter dated September 19, 2024, which request the State has ignored.***

Contrary to your assertion, the State responded to this request by letter on October 15, 2024.

***22. ...the State said its purpose in deputizing the nine federal prosecutors and agents it deputized was "to share information." Please produce all information shared because of the deputizations. If the deputizations were for any other purpose(s), please include all documents and communications memorializing that purpose(s).***



This request does not seek discoverable information.


23. *...the State represented that certain of the federal prosecutors and investigators deputized by the State are no longer deputized. Please provide all documents and communications concerning their initial deputizations, as well as any termination of their deputizations.*

This also is not a request for discoverable materials.

Regarding all of defense counsels' discovery requests, the State is aware of its discovery obligations pursuant to R. 3:13-3, including its continuing obligations, and will produce any such material accordingly.

Very truly yours,

Matthew J. Platkin  
ATTORNEY GENERAL OF NEW JERSEY

By:   
Andrew Wellbrock  
ASSISTANT ATTORNEY GENERAL



# EXHIBIT C



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY  
25 MARKET STREET  
PO BOX 085  
TRENTON, NJ 08625-0085

MATTHEW J. PLATKIN  
*Attorney General*

DREW SKINNER  
*Executive Director*

TAHESHA L. WAY  
*Lt. Governor*

July 3, 2024

### **VIA EMAIL**

Carmen DiMario  
Chief Division Counsel  
FBI Philadelphia  
600 Arch Street  
Philadelphia, PA 19106

Re: Discovery for State v. George E. Norcross, III, et al.  
MER-24-06-0111-S

Dear Mr. DiMario:

### **Background**

The New Jersey Division of Criminal Justice (“DCJ”) and the Office of Public Integrity and Accountability (“OPIA”), both part of the State of New Jersey’s Office of the Attorney General and collectively referred to as “this office” for purposes of this letter, have conducted an investigation, with the assistance of the Federal Bureau of Investigation (“FBI”), related to the above-captioned matter. In January of this year, this office began a State Grand Jury investigation, which returned the above-referenced indictment. During the course of that State Grand Jury investigation, this office obtained Touhy authorizations from both the United States Attorney’s Office for the Eastern District of Pennsylvania (“USAO-EDPA”) and the United State’s Attorney’s Office for the District of New Jersey (“USAO-DNJ”) permitting the use of certain materials, information, and testimony.

The Touhy authorization from the USAO-EDPA, dated February 6, 2024, permitted this office to call Special Agent (“SA”) Stephen Rich of the FBI to testify before the grand jury regarding information obtained from 2016 federal wiretap interceptions of George E. Norcross, III, which were intercepted pursuant to interception orders dated June 6, 2016, July 28, 2016, October 18, 2016, and November 18, 2016 and referred to as “the 2016 interceptions.”

The Touhy authorization from the USAO-DNJ, dated February 5, 2024, permitted the use of materials obtained via federal grand jury subpoenas numbered as WF01, WF02, WF03, WF04, WF05, and WF06 as well as all FBI reports issued during the course of the grand jury investigation and included a sealed order, signed by the Honorable Susan D. Wigenton, United



States District Court Judge for the District of New Jersey and marked as Exhibit 5 of the Touhy authorization, permitting the disclosure of materials obtained via WF01 through WF06. Exhibit 6 of the authorization further identified the authorized FBI reports as follows:

1. FBI 302 report of interview of Mark Sheridan, dated February 24, 2016;
2. FBI 302 report of interview of Kevin M. O’Dowd, dated April 5, 2017;
3. FBI 302 report of interview of John Muscella, dated September 26, 2017;
4. FBI 302 reports of interviews of Matthew Abraham, dated February 3, 2017 and February 13, 2017; and
5. FBI 302 report and transcript of recorded interview of George E. Norcross, III, dated August 18, 2016.

On June 17, 2024, a 12-count indictment in the above referenced matter was unsealed, charging George E. Norcross, III; Philip A. Norcross; William M. Tambussi; Dana L. Redd; Sidney R. Brown; and John J. O’Donnell with racketeering conspiracy in the first degree and other crimes. The crimes charged also include two counts of conspiracy in the first degree to commit theft by extortion, criminal coercion, financial facilitation of criminal activity, misconduct by a corporate official, and official misconduct; one count of conspiracy in the second degree to commit theft by extortion, criminal coercion, and official misconduct; six counts of financial facilitation of criminal activity; and two counts of misconduct by a corporate official in the second degree, all in violation of N.J.S.A. 2C:41-2(d), N.J.S.A. 2C:5-2, 18 U.S.C. § 1951, N.J.S.A. 2C:20-5, N.J.S.A. 2C:13-5, N.J.S.A. 2C:21-25(a) and (c), N.J.S.A. 2C:21-9(c), and N.J.S.A. 2C:30-2.

The defendants are scheduled to be arraigned in Mercer County Superior Court on July 9, 2024.

### **This Office’s Discovery Obligations**

Discovery in criminal prosecutions in New Jersey is governed by Rule 3:13-3 of the Rules Governing the Courts of the State of New Jersey (“R. 3:13-3”). More specifically, R. 3:13-3(b)(1) mandates that, “except for good cause,” the prosecutor’s discovery for each named defendant be provided to the defendant “upon the return or unsealing of the indictment.” R. 3:13-3(b)(1) requires that the prosecution provide any relevant tangible objects belonging to the defendant or in possession of the prosecutor; statements by the defendant; mental or physical examinations or scientific tests; prior convictions; information about persons with relevant information (witnesses); records of statements; police reports; expert witnesses; records of out-of-court identifications; and records relating to jailhouse informants. R. 3:13-3(b)(1) further provides that “[g]ood cause shall include, but is not limited to, circumstances in which the nature, format, manner of collation, or volume of discoverable materials would involve an extraordinary expenditure of time and effort to copy.” We refer you to the full text of R. 3:13-3 that lays out the State’s discovery obligations.

Additionally, this office is required to disclose any Brady or Giglio information.

### **This Touhy Request**

This office requests Touhy authorizations from the FBI for any testimony and materials,

including reports (including underlying exhibits and notes), audio and video recordings, and wiretap evidence that will be needed at the various stages of this prosecution, as described below. These requests will initially be made through FBI Philadelphia with FBI Newark personnel copied on the requests.

Accordingly, the following information is provided to support the requested items listed below.

### **1. Nature of the Matter for Which the Request is Being Made.**

As noted above, this request is being made in order that this office may meet its discovery obligations in the above referenced prosecution.

### **2. Information/Testimony Sought.**

#### **a. Reports of Interviews**

As noted above, the USAO-DNJ previously authorized the use of the following FBI interview reports, which captured investigation conducted prior to 2019:

1. February 24, 2016 interview of Mark Sheridan;
2. August 18, 2016 interview of George E. Norcross, III;
3. April 5, 2017 interview of Kevin M. O'Dowd;
4. September 26, 2017 interview of John Muscella; and
5. February 3, 2017 and February 13, 2017 interviews of Matthew Abraham.

This office therefore requests authorization to turn these documents, previously the subject of the USAO-DNJ grand jury authorization, over in discovery. The following additional requests are made regarding these materials:

1. Authorization to turn over any investigator notes taken, exhibits used, or items obtained from the interviewee during the above described interviews.
2. Authorization to turn over the audio recording of the August 18, 2016 interview of George E. Norcross, III.

This office has since identified one additional interview conducted by the FBI:

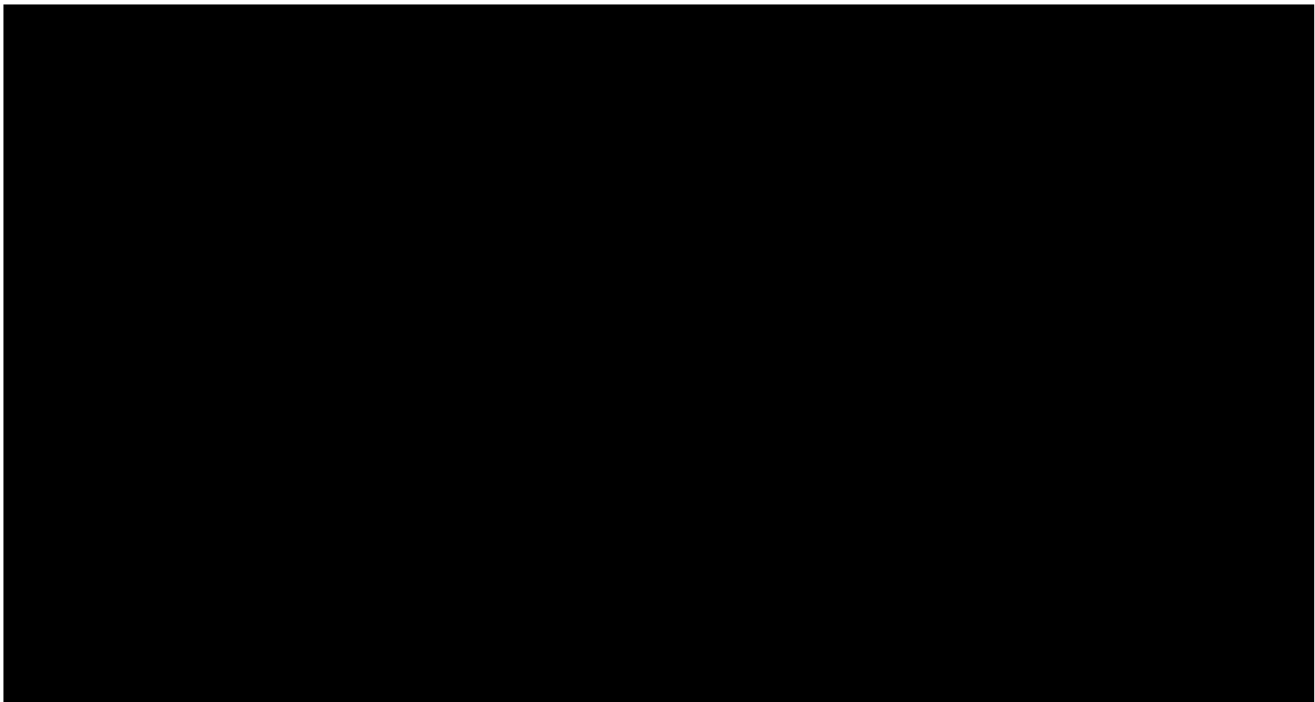
1. October 15, 2018 interview of Alan Razak.

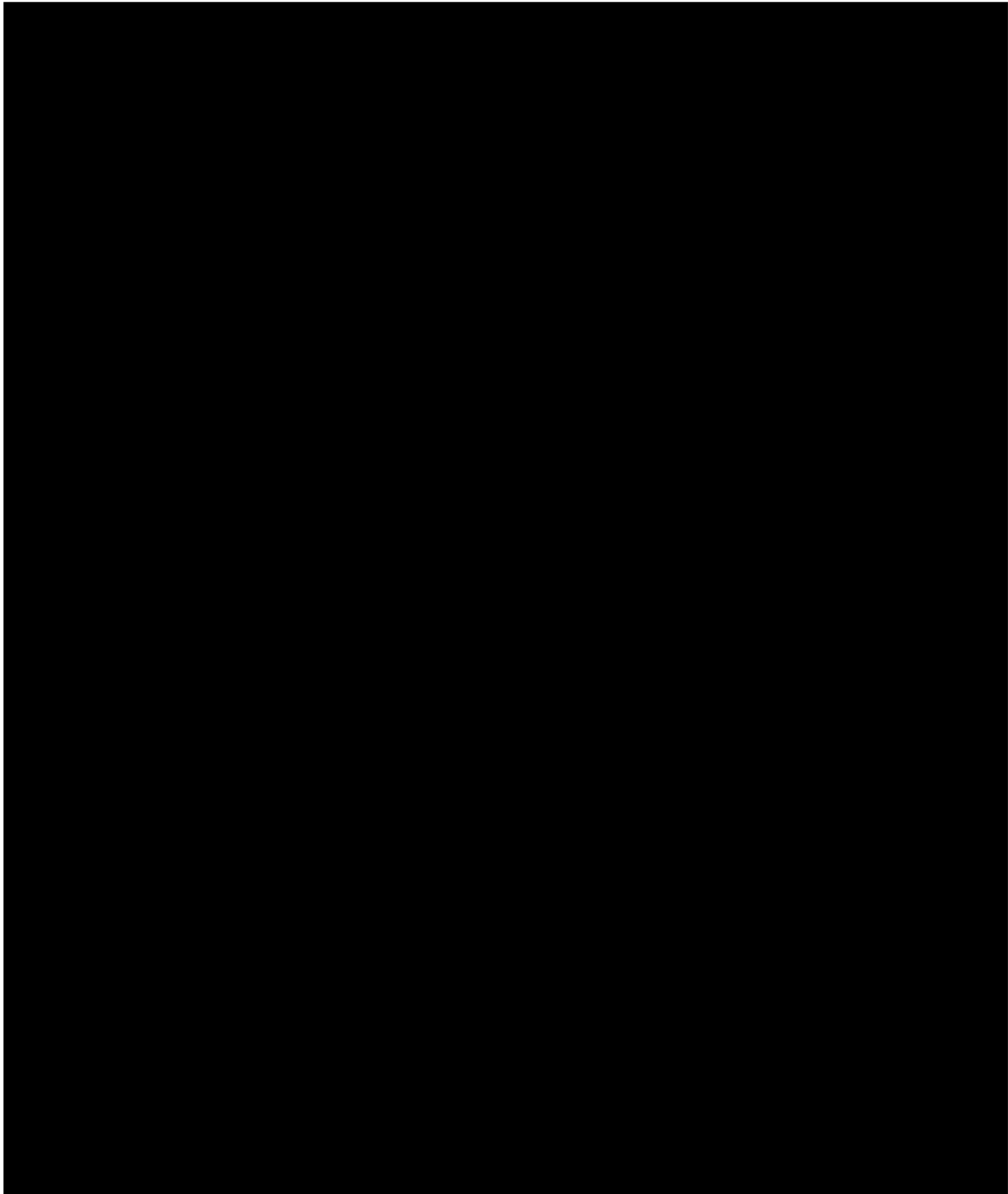
Razak was subsequently interviewed by state investigators working with this office on December 19, 2022. Given the overlap in subject matter of these two interviews, this office requests authorization to turn over the FBI investigative report for the October 15, 2018 interview of Razak as well as any investigator notes, exhibits used, or items obtained from Razak during the 2018 interview.

Additionally, the following interviews have been conducted since 2019, and were documented on FBI 302 reports:

1. October 9, 2019 interview of Mark Sheridan;
2. July 8, 2020 interview of Chuck Bragitikos;
3. October 7, 2020 interview of David Foster;
4. March 22, 2023 interview of Susan Bass Levin;
5. March 23, 2023 interview of Olivette Simpson;
6. March 29, 2023 interview of Anne Cummins;
7. May 4, 2023 interview of Marilyn Torres;
8. August 3, 2023 interview of David Foster;
9. August 8, 2023 interview of Marc Selover;
10. August 9, 2023 interview of Adrienne Kirby;
11. September 5, 2023 interview of Susan Bass Levin;
12. September 27, 2023 interview of Jake Gordon;
13. September 28, 2023 interview of Stephanie Connors;
14. November 7, 2023 interview of Brenda Ross-Dulan;
15. November 27, 2023 interview of Kevin Keppel;
16. November 28, 2023 interview of Donald Moore;
17. December 5, 2023 interview of Richard Landers;
18. February 14, 2024 interview of Karen Abbott;
19. April 5, 2024 interview of Joy DeJesus;
20. April 8, 2024 interview of William Simon;
21. April 8, 2024 attempted interview of Roy Goldberg; and
22. May 6, 2024 interview of Josh Harris.

This office also requests authorization to turn over these investigative reports as well as any investigator's notes, exhibits shown, or documents or objects provided to the FBI by the witness interview in discovery.





**c. Recordings and Related Investigative Documents**

On September 30, 2013, a second FBI CHS, numbered [REDACTED] and referred to as “CHS-2,”

working with FBI Philadelphia, Harrisburg Resident Agency, consensually recorded a conversation with defendant Philip A. Norcross. Prior to the initiation of the State Grand Jury investigation in this matter, SA Stephen Rich received permission from Assistant United States Attorney Michael Consiglio of the United States Attorney's Office, Middle District of Pennsylvania ("USAO-MDPA") to use this recording in the Grand Jury. Having done so, this office requests authorization to turn over the audio and video of this recording as well as any associated investigative paperwork relating to the supervision of the recording, including any documentation completed by SA Eric Patterson or any other FBI or law enforcement personnel working with SA Patterson during this consensual recording.

On April 1, 2015, two additional CHSs, numbered [REDACTED] and [REDACTED] and referred to as "CHS-3" and "CHS-4," working with FBI Philadelphia, Allentown Resident Agency, consensually recorded a conversation with defendant George E. Norcross, III. This recording was not used during the State Grand Jury investigation. However, it is this office's understanding that the recording captures evidence relevant to George E. Norcross, III and this office requests authorization to turn over the audio and video of this recording as well as any associated investigative documentation of the supervision of the recording.

#### **d. Wiretap Evidence**

On June 10, 2016, July 28, 2016, and October 18, 2016, the USAO-EDPA sought and obtained Title III orders authorizing the interception of George E. Norcross, III's telephonic communications. On November 18, 2016, the USAO-DNJ sought and obtained a Title III order authorizing the interception of George E. Norcross, III's telephonic communications. FBI Philadelphia conducted interception pursuant to these orders.

On September 22, 2022, the Honorable Paul S. Diamond, U.S. District Court for EDPA, signed an order authorizing disclosure to this office of the four interception orders described above as well as authorizing this office to "disclose and use the contents of the electronic and wire communications intercepted pursuant to the EDPA Interception Orders and the DNJ Interception Orders, and evidence derived therefrom, while giving testimony under oath or affirmation in any proceeding held under the authority of the State of New Jersey for violation of the State Target Offenses."

As noted above, on February 6, 2024, the USAO-EDPA provided Touhy authorization to this office to use the wiretap evidence in the State Grand Jury. This office did so and now requests authorization to turn over the following:

1. Audio recordings of communications intercepted pursuant to the four orders described above; and
2. Affidavits, applications, and orders relating to the four above described periods of interception, including any minimization instructions and documentation of minimization instructions being provided to and/or read by monitoring law enforcement personnel.

#### **e. Filter Team Evidence**

During the course of the interception of the wiretap, we understand the FBI employed a filter team process in order to ensure that privileged communications were not intercepted or monitored. After the conclusion of the wiretap, this office conducted a post-interception filter team review. As part of the post-interception filter team review, this office requested that FBI Philadelphia take the following steps:

1. Assign an FBI SA who was not part of the investigative team to log into the FBI's Title III monitoring system in order to produce a list of all identified people intercepted during the wiretap.
2. After a review of the materials generated by step 1 above, this office identified several additional people intercepted on the wiretap who may have been practicing attorneys. This office then requested that the FBI have a SA who was not part of the investigative team log into the FBI's Title III monitoring system in order to produce a corresponding list of dates, times, and session numbers that would enable it to identify and segregate intercepted calls involving these parties. This office then conducted a filter team review and identified calls that were potentially privileged.
3. Once step 2 was completed, this office sent to FBI Philadelphia a list of all intercepted calls from the four periods of interception that this office had identified as potentially privileged and requested that a SA who was not part of the investigation log into the FBI's Title III monitoring system and mark those calls as "privileged" which would result in personnel being unable to listen to them and exclusion of summaries of those calls from any line sheets generated.

This office requested for each of these steps that the appropriate FBI personnel document the steps taken. We request any documentation maintained by the FBI regarding the filter team process, and if not included in the documentation, identification of individuals with relevant knowledge of the process.

#### **f. Brady and Giglio Information**

This office requests that the FBI conduct a search of its files for any Brady and Giglio information relevant to the referenced indictment. A summary of the conduct charged is below. We intend to follow up with you regarding any potential locations/sources of Brady information and to discuss witnesses for whom the FBI could have Giglio material.

### **3. How the Information Relates to the Matter/Need for Testimony.**

As noted above, on June 17, 2024, a 12-count indictment in the above-referenced matter was unsealed, charging counts of racketeering conspiracy; conspiracy to commit theft by extortion, criminal coercion, financial facilitation of criminal activity, misconduct by a corporate official, and official misconduct; financial facilitation of criminal activity and misconduct by a corporate official, all in violation of N.J.S.A. 2C:41-2(d), N.J.S.A. 2C:5-2, 18 U.S.C. § 1951, N.J.S.A. 2C:20-5, N.J.S.A. 2C:13-5, N.J.S.A. 2C:21-25(a) and (c), N.J.S.A. 2C:21-9(c), and N.J.S.A. 2C:30-2.

As described in the indictment, the referenced prosecution includes the following areas of

conduct:

1. The defendants' roles in drafting economic redevelopment tax credit legislation in order to benefit themselves and others with regard to redevelopment in Camden, New Jersey.
2. The defendants' roles in forcing a nonprofit to give up its contractual right to purchase the L3 complex in Camden, causing it to be purchased by an entity controlled by associates of the defendants and, ultimately, partially by Cooper University Health ("Cooper Health"). This allowed Cooper Health to receive millions of dollars in tax credits for moving personnel into a building of which it owned 49 percent.
3. The defendants' roles in forcing Carl Dranoff, a Philadelphia based developer, to give up residential redevelopment rights on Camden's waterfront and to agree to terminate a view easement appurtenant to one of Dranoff's buildings in order to gain control of waterfront property in order to construct both a commercial and a residential building. The result of this was that certain defendants created LLCs that owned the land and then moved their companies into the newly constructed office building, resulting in the award of millions of dollars in tax credits.
4. The defendants' roles in annually collecting and selling the above referenced tax credits.
5. The defendants' roles in directing city officials to terminate a redevelopment contract held by Dranoff while delaying an application to transfer a payment in lieu of taxes ("PILOT") agreement which would have allowed Dranoff to sell a building for approximately \$70 million.
6. The defendants' roles in forcing the CEO of the nonprofit out of his position, under threat of reputational harm, in part in order to reward other members and associates of the enterprise with high paying jobs.
7. The defendants' roles in attempting to conceal the above activities from law enforcement, government, or media scrutiny.

We further direct you to the indictment and its description of the conduct at issue in this case.

As to the items described in the above categories of Reports of Interviews, [REDACTED] Recordings and Related Investigative Documents, and Wiretap Evidence, this office has either received prior authorization from the federal government to use these items as part of the investigation or they have been generated during the course this office's investigation, which has included the assistance of the FBI, typically working with state law enforcement or pursuant to process issued during the State Grand Jury investigation.

[REDACTED]

With regards to the Filter Team evidence, in order turn over any relevant discoverable materials, this office will need the requested documents and/or identification of relevant FBI witnesses.

Finally, this office requests a search for any Brady or Giglio information in order to meet its discovery obligations.

Should you have any questions please do not hesitate to contact me.

Sincerely,

MATTHEW J. PLATKIN  
Attorney General

A handwritten signature in cursive script that reads "Michael T. Breslin".

by MICHAEL T. BRESLIN  
Assistant Attorney General



# EXHIBIT D

STATE OF NEW JERSEY )  
 :SS.  
COUNTY OF  Mercer  )

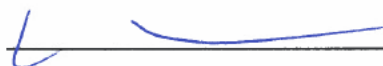
I,  Wioletta Wyszynska , do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special State Investigator, according to the best of my ability. (So help me God.)

The duration of my appointment as Special State Investigator will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as  DCJ No. 2019-07026 .

While performing my duties as Special State Investigator, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special State Investigator I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
Name

Sworn and subscribed to  
before me this  6<sup>th</sup>  day of  
 May ,  2022 .

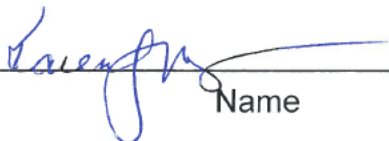
  
 Anthony A. Patino, AAL

STATE OF NEW JERSEY )  
 :SS.  
COUNTY OF  Mercer  )


I,  Karen J. Hagerman , do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special State Investigator, according to the best of my ability. (So help me God.)

The duration of my appointment as Special State Investigator will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as  DCJ No. 2019-07026 .

While performing my duties as Special State Investigator, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special State Investigator I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
Name

Sworn and subscribed to  
before me this  6<sup>th</sup>  day of  
 May ,  2022 .

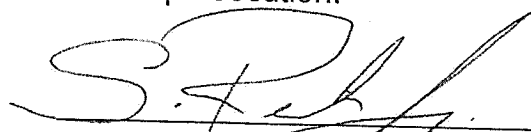
  
Anthony A. Costanzo, AAL

STATE OF NEW JERSEY )  
 :SS.  
COUNTY OF     Mercer     )

I,     Stephen Rich    , do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special State Investigator, according to the best of my ability. (So help me God.)

The duration of my appointment as Special State Investigator will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as     DCJ No. 2019-07026    .

While performing my duties as Special State Investigator, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special State Investigator, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
\_\_\_\_\_  
Name

Sworn and subscribed to  
before me this     29<sup>th</sup>     day of  
    October    ,     2019    .

\_\_\_\_\_  
\_\_\_\_\_


    Anthony A. Pina      
    An attorney at law in the State of New Jersey

STATE OF NEW JERSEY )  
 )  
 :SS.  
COUNTY OF Camden )


I, Tamkea Burton, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special State Investigator, according to the best of my ability. (So help me God.)

The duration of my appointment as Special State Investigator will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as DCJ No. 2019-07026.

While performing my duties as Special State Investigator, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special State Investigator, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
\_\_\_\_\_  
Tamkea Burton

Sworn and subscribed to  
before me this 7<sup>th</sup> day of  
November, 2019.

  
\_\_\_\_\_  
Anthony M. Pichon  
An attorney at law in the State of New Jersey

STATE OF NEW JERSEY )

:SS.

COUNTY OF Camden )

I, KT Newton, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special Deputy Attorney General, according to the best of my ability. (So help me God.)

The duration of my appointment as Special Deputy Attorney General will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as DCJ No. 2019-07026.

While performing my duties as Special Deputy Attorney General, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special Deputy Attorney General, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

KT Newton  
KT Newton

Sworn and subscribed to

before me this 9<sup>th</sup> day of

November, 2019.

[Signature]

Anthony A. Palmer  
An attorney at law of the State of New Jersey

STATE OF NEW JERSEY )  
 )  
 :SS.  
 COUNTY OF Camden )

I, Alyssa Finnegan, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special State Investigator, according to the best of my ability. (So help me God.)

The duration of my appointment as Special State Investigator will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as DCJ No. 2019-07026.

While performing my duties as Special State Investigator, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special State Investigator, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
Alyssa Finnegan

Sworn and subscribed to  
before me this 7<sup>th</sup> day of  
November, 2019.

  
\_\_\_\_\_

Anthony A. Patton  
An attorney at law of the State of New Jersey

STATE OF NEW JERSEY )

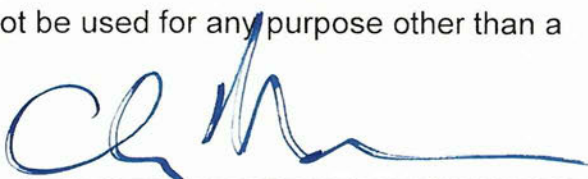
:SS.

COUNTY OF Camden )

I, Christopher Mannion, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special Deputy Attorney General, according to the best of my ability. (So help me God.)

The duration of my appointment as Special Deputy Attorney General will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as DCJ No. 2019-07026.

While performing my duties as Special Deputy Attorney General, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special Deputy Attorney General, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
\_\_\_\_\_  
Christopher Mannion

Sworn and subscribed to

before me this 7<sup>th</sup> day of

November, 2019.



*Notary At Public  
An attorney at law in the State of New Jersey*



STATE OF NEW JERSEY )

:SS.

COUNTY OF Camden )

I, Clare Pozos, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special Deputy Attorney General, according to the best of my ability. (So help me God.)

The duration of my appointment as Special Deputy Attorney General will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as DCJ No. 2019-07026.

While performing my duties as Special Deputy Attorney General, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special Deputy Attorney General, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.



Clare Pozos

Sworn and subscribed to

before me this 7<sup>th</sup> day of

November, 2019



*Anthony M. ...  
An attorney at law at the State of New Jersey*

STATE OF NEW JERSEY )

:SS.

COUNTY OF Camden )

I, Frank Costello, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New Jersey; that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people; and that I will faithfully, impartially and justly perform all the duties of the office of Special Deputy Attorney General, according to the best of my ability. (So help me God.)

The duration of my appointment as Special Deputy Attorney General will be for the period encompassing the investigation and prosecution of a Division of Criminal Justice, Office of Public Integrity and Accountability investigation designated as DCJ No. 2019-07026.

While performing my duties as Special Deputy Attorney General, I will serve under the authority and supervision of the Director, Office of Public Integrity and Accountability or his designee. While serving as Special Deputy Attorney General, I understand that any information received by me concerning Grand Jury proceedings is protected by legal rules of secrecy and may not be used for any purpose other than a criminal prosecution.

  
Frank Costello

Sworn and subscribed to

before me this 7<sup>th</sup> day of

November, 2019.



*Anthony M. ...  
An attorney at law of the State of New Jersey*

# EXHIBIT E

## CRITCHLEY, KINUM & LURIA, LLC

ATTORNEYS AT LAW  
75 LIVINGSTON AVENUE - SUITE 303  
ROSELAND, NEW JERSEY 07068

MICHAEL CRITCHLEY  
MICHAEL CRITCHLEY, JR.  
CHRISTOPHER W. KINUM  
AMY LURIA  
ARMANDO B. SUÁREZ  
JULIET M. SCHOLES

(973) 422 - 9200  
FAX: (973) 422 - 9700  
www.critchleylaw.com

June 21, 2024

### **Via E-Mail**

Mr. Andrew Wellbrock  
Mr. Michael Breslin  
Assistant Attorneys General  
State of New Jersey  
Office of the Attorney General  
25 Market Street  
PO Box 085  
Trenton, NJ 08625-0085

**Re: *State v. Norcross, et al.*, 24-06-00111-S**

Dear Assistant Attorneys General Wellbrock and Breslin:

We write on behalf of George E. Norcross, III and Philip A. Norcross. To date, we are in receipt of only certain grand jury transcripts. It is our understanding that this is the extent of the discovery produced by the State.

As you know, under N.J. Ct. R. 3:13-3, “[o]nce an indictment has issued, a defendant has a right to automatic and broad discovery.” *State v. Ramirez*, 252 N.J. 277, 295-96 (2022) (quoting *State v. Scoles*, 214 N.J. 236, 252 (2013) (citing R. 3:13-3)). Accordingly, please advise by when we will receive all discovery in accordance with R. 3:13-3.

In particular, however, we respectfully request the production of the following materials, immediately:

- (a) all grand jury transcripts, which have not already been provided;
- (b) all witness statements and witness interviews, regardless of whether recorded and/or memorialized in writing;
- (c) all search warrant (including communications data warrant) applications, affidavits, orders (including communications information orders), inventories, receipts, reports regarding, and itemizations of items seized, as well as all materials and information

Messrs. Wellbrock and Breslin

June 21, 2024

Page 2

seized pursuant to any searches and seizures, regardless of whether conducted pursuant to a warrant;

(d) all federal and state wiretap applications, affidavits, orders, records and reports regarding (including, but not limited to, 15 Day Reports), minimization instructions (including, but not limited to, instructions regarding privileges), as well as all recordings (including those identified as privileged) and transcripts; and

(e) all *Brady* and *Giglio* material.

Please note that this request is not limited to just those materials in the physical possession of the New Jersey Office of the Attorney General, but extends to all materials in the possession, custody and control of the FBI, the personal possession of FBI Special Agent Steve Rich, the U.S. Attorney's Office for the Eastern District of Pennsylvania, the U.S. Attorney's Office from the District of New Jersey, the New Jersey State Police, and any other federal or state agency, department or prosecuting body that participated in an investigation relevant to this Indictment and/or provided materials to the New Jersey Office of the Attorney General.

This letter should not be construed as delineating the full extent of the discovery to which we are entitled and demand.

Thank you for your time and prompt attention to this matter.

Respectfully,

/s/ Michael Critchley

Michael Critchley, Esq.

/s/ Kevin H. Marino

Kevin H. Marino, Esq.

# EXHIBIT F



CHIESA SHAHINIAN & GIANTOMASI PC

105 Eisenhower Parkway, Roseland, NJ 07068  
csglaw.com

LEE VARTAN  
Member  
lvartan@csglaw.com

O 973.530.2107

F 973.325.1501

November 1, 2024

*Via email*

AAG Andrew Wellbrock  
AAG Michael Breslin  
Division of Criminal Justice, 5<sup>th</sup> Floor West  
Office of Attorney General  
25 Market Street  
Trenton, New Jersey 08625

Re: State v. George E. Norcross, III, et al.,  
Indictment No. 24-06-0111-S

Dear Messrs. Wellbrock and Breslin:

This firm represents William M. Tambussi, Esq., in the above-referenced matter. We write on behalf of all defense counsel. On October 9, your office made a supplemental production to the defense. Included in that production was a wire application dated October 18, 2016 and an affidavit in support. (*See* DCJ/202208042/00020848-00020900). Portions of the affidavit were redacted. Paragraph 16 of the affidavit reads in relevant part:

I incorporate by reference the affidavits in Miscellaneous Matter 15-2005, submitted on April 29, 2015, June 2, 2015, July 9, 2015, August 12, 2015, September 22, 2015, October 23 2015, November 25, 2015, December 31, 2015, February 5, 2016, March 17, 2016, April 25, 2016, June 10, 2016, and July 28, 2016, in support of Applications for authorization under Title 18, United States Code, Section 2518, for Orders to intercept electronic and wire communications on TARGET TELEPHONES #1 through 4, 6, 8, and 9, wire communications on TARGET TELEPHONES # 5, 7 and 10.

In other words, the federal government's (and now the State's) application from October 2016 incorporated and relied upon a number of affidavits that came before. Of the affidavits relied upon, only the June and July 2016 affidavits have been provided in discovery. Both were heavily redacted.

Messrs. Wellbrock and Breslin

November 1, 2024

Page 2

The defense intends to challenge the State's October 2016 wire application. To do so, we need: (1) unredacted copies of the October 2016 wire application and affidavit; (2) unredacted copies of the June and July 2016 wire applications and affidavits on which the October 2016 application relies; and (3) unredacted copies of the remaining wire applications and affidavits on which the October 2016 application relies.

Without those materials, we cannot appropriately challenge the State's October 2016 wire application. *See, e.g., United States v. Manuszak*, 438 F. Supp. 613, 624 (E.D. Pa. 1977) ("Thus, a party must have access to these documents [the wire application and order] in order to make any kind of effective assessment of the surveillance's validity no matter what grounds may ultimately be relied upon to support a suppression motion.").

In the State's July 3, 2024 letter to FBI Chief Division Counsel Carmen DiMario, the State did not request any wire applications or affidavits prior to June 2016. Please confirm that you will make a supplemental request for all applications and affidavits relied upon in ¶16 of the October application, and that you will specifically request that unredacted applications and affidavits be provided. Likewise, please confirm that you will request unredacted versions of the applications and affidavits already provided. Without those unredacted applications and affidavits, the defense cannot make its contemplated motion.

We are available to discuss next week.

Very truly yours,

/s/ Lee Vartan

Lee Vartan  
Member



# EXHIBIT G

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

By: Michael D. Grillo, Assistant Attorney General (Attorney I.D. 037892009)

Office of Public Integrity and Accountability

Office of Public Integrity & Accountability

P.O. Box 085

Trenton, N.J. 08625-0085

---

STATE OF NEW JERSEY,

Plaintiff,

v.

GEORGE E. NORCROSS, III,  
PHILIP A. NORCROSS,  
WILLIAM M. TAMBUSI,  
DANA L. REDD,  
SIDNEY R. BROWN, and  
JOHN J. O'DONNELL,

Defendants.

---

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, CRIMINAL PART  
MERCER COUNTY

INDICTMENT NO. 24-06-00111-S  
PROMIS/GAVEL NO. MER-24-001988

CRIMINAL ACTION

INTERIM CONSENT PROTECTIVE ORDER  
REGARDING DISCOVERY

**THIS MATTER** having been brought before the Court pursuant to R. 3:13-3(e) by the State of New Jersey, Assistant Attorney General Michael D. Grillo appearing on behalf of the State, for the entry of a Consent Protective Order Regarding the State's Discovery in the above-captioned matter; and the Defendants (Michael Critchley, Esq. appearing on behalf of the defendant, George E. Norcross, III; Kevin Marino, Esq. appearing on behalf of the defendant, Philip A. Norcross; Lee Vartan, Esq. appearing on behalf of the defendant, William M. Tambussi; Henry Klingeman, Esq. appearing on behalf of the defendant, Dana L. Redd; Lawrence S. Lustberg, Esq. appearing on behalf of the defendant, Sidney R. Brown; Gerald Krovatin, Esq. appearing on behalf of the defendant, John J. O'Donnell); and pending agreement to or a Court decision on a Final Protective Order which more specifically delineates the categories of confidential information to which it applies; and the parties and counsel for the parties having consented to the form and entry of this Order, and for other good

cause shown;

IT IS on this 6<sup>th</sup> day of November, 2024,

**ORDERED** as follows:

1. The State's motion pursuant to R. 3:13-3(e) for the issuance of a Consent Order regarding discovery in the above-captioned case is hereby **GRANTED**.

2. The State shall provide an unredacted copy of the State's discovery in the above-captioned matter to defense counsel; likewise, the Defendants will provide unredacted copies of any applicable defense discovery to the State.

3. This Interim Consent Protective Order ("Order") does not apply to information or records that are publicly available independent of the State's productions, nor does it apply to information or records which the Defendants or defense counsel came to possess by independent means, unrelated to the discovery process.

4. Counsel and the parties shall not copy, reproduce, duplicate, or otherwise disclose the discovery to any third party except as otherwise authorized by this Order.

5. Counsel for both parties may copy, reproduce, duplicate, image, and index the discovery for their use in the litigation of this matter.

6. Counsel for both parties may disclose or provide a copy of the discovery only to the following persons (referred to herein as "Designated Persons"):

- Investigative, secretarial, clerical, paralegal, and student personnel employed full-time or part-time by such counsel;
- Expert witnesses, investigators, advisors, consultants and vendors retained or consulted by the parties and/or their counsel in connection with this action;
- Prospective witnesses, and their counsel, to the extent deemed necessary by

counsel, for the purposes of the criminal proceedings in this case; and

- Such other persons who are essential to the litigation or the development of the litigation strategy of this case.

Nothing in this Order shall preclude the use of these such discovery by either party for us as Exhibits at trial or in connection with pretrial motions filed with the Court.

7. If such a disclosure or copy of the discovery is made, the Designated Persons to whom a disclosure or copy of the discovery is provided is also bound by the terms of this Order and, accordingly, counsel shall also provide a copy of this Order upon such Designated Persons before the disclosure or copy of the discovery is provided to that Designated Persons. Said Designated Persons shall not copy, reproduce, duplicate, or otherwise disclose the discovery. If a copy of the discovery is provided to the Designated Persons, the copy of the discovery must be returned to counsel at the conclusion of the litigation of the above-captioned matter. Counsel for both parties shall take reasonable measures to ensure that the copy of the discovery provided pursuant to this paragraph is returned to counsel, including, but not limited to, notifying the Court and the pertinent party within a reasonable time of any failure to return such discovery as required.

8. All persons who have been granted access under this Order to the Confidential Personal Identifiers and other materials contained in the discovery shall not use, copy, reproduce, duplicate, or otherwise disclose the Confidential Personal Identifiers and other confidential materials produced in discovery for any purpose not directly related to the litigation of the above-captioned matter without leave of the Court. Such an unauthorized use or disclosure may result in Contempt of Court or other appropriate proceedings for violation of this Order.

9. Upon the conclusion of this matter, counsel shall: (a) return the discovery and all copies thereof to the State or the applicable Defendant, as the case may be; (b) destroy all copies of the discovery; or (c) maintain all copies of the discovery in such a manner as to prevent unauthorized

disclosure.

10. Either side may move to relax or modify this Order, or for such other relief as may apply, for good cause shown on ten days' notice to the Court and the State.


11. The interim Consent Orders titled "Consent Protective Order Regarding the State's Discovery" entered on or about July 9, 2024 and August 7, 2024, as well as the interim Consent Order titled "Interim Consent Protective Order Regarding Discovery" entered on or about September 20, 2024, are hereby vacated.

12. If not previously vacated, this Order shall expire on January 22, 2025.

  
\_\_\_\_\_  
HON. PETER E. WARSHAW, JR., P.J. Cr.

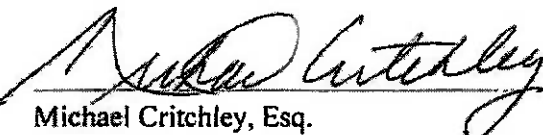
We hereby consent to the form and entry of this above Order:

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

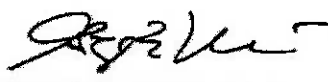
By:   
\_\_\_\_\_  
Michael D. Grillo  
Assistant Attorney General

Date: October 28, 2024

CRITCHLEY, KINUM & LURIA, LLC  
COUNSEL FOR GEORGE E. NORCROSS, III


By:   
Michael Critchley, Esq.

Date: 11/5/24

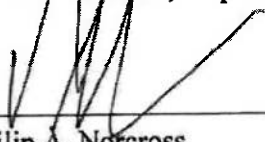
  
George E. Norcross, III

Date: 10/28/24

MARINO, TORTORELLA & BOYLE, P.C.  
COUNSEL FOR PHILIP A. NORCROSS

By:   
\_\_\_\_\_  
Kevin H. Marino, Esq.

Date: October 30, 2024

  
\_\_\_\_\_  
Philip A. Norcross

Date: 10/31/24

CHIESA, SHAHINIAN & GIANTOMASI, P.C.  
COUNSEL FOR WILLIAM M. TAMBUSSI

By: Lee Vartan  
Lee Vartan, Esq.

Date: October 28, 2024

William M. Tambussi  
William M. Tambussi

Date: October 28, 2024



KLINGEMAN CERIMELE  
COUNSEL FOR DANA L. REDD


By:   
Henry Klingeman, Esq.

Date: 10/29/2024


  
Dana L. Redd (DC) 29, 2024 11:28:10 AM  
Dana L. Redd

Date: 29/10/24

GIBBONS, P.C.  
COUNSEL FOR SIDNEY R. BROWN


By:   
\_\_\_\_\_  
Lawrence Lustberg, Esq.

Date: 10/30/2024

  
\_\_\_\_\_  
Sidney R. Brown

Date: 11/1/2024

KROVATIN NAU, LLC  
COUNSEL FOR JOHN J. O'DONNELL

By:   
Gerald Krovatin, Esq.

Date: 10/29/24

  
John J. O'Donnell

Date: 10/29/24

# EXHIBIT H



*State of New Jersey*

PHILIP D. MURPHY  
*Governor*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY  
25 MARKET STREET  
PO Box 085  
TRENTON, NJ 08625-0085

MATTHEW J. PLATKIN  
*Attorney General*

DREW SKINNER  
*Executive Director*

TAHESHA L. WAY  
*Lt. Governor*

November 22, 2024

Michael Critchley, Esq.  
Critchley, Kinum & Luria, LLC  
75 Livingston Avenue  
Roseland, New Jersey 07068

Lawrence Lustberg, Esq.  
Gibbons P.C.  
One Gateway Center  
Newark, New Jersey 07102

Henry Klingeman, Esq.  
Klingeman Cerimele  
100 Southgate Parkway, Suite 150  
Morristown, New Jersey 07960

Lee Vartan, Esq.  
Chiesa, Shahinian & Giantomasi, P.C.  
105 Eisenhower Parkway  
Roseland, New Jersey 07068

Kevin H. Marino, Esq.  
Marino, Tortorella & Boyle, P.C.  
437 Southard Boulevard  
Chatham, New Jersey 07928


Gerald Krovatin, Esq.  
Krovatin Nau, LLC  
60 Park Place, Suite 1100  
Newark, New Jersey 0710

**Re: State v. George E. Norcross, III, et al.**  
**Indictment Number 24-06-0111-S**  
**Promis Gavel Number 24-1988**

Dear Counsel:

Please be advised that the *Motion to Compel the Production of Title III Wiretap Applications* filed by Lee Vartan, Esq. on November 20, 2024 contains exhibits subject to the August 19, 2024 Order signed by the Honorable Paul S. Diamond of the United States District Court, Eastern District of Pennsylvania, which was previously provided to counsel. See, Bates Numbers DCJ/202208042/00020998 through DCJ/202208042/00021002. Due to the restrictions set forth in Judge Diamond's Order stating, among other things, that the materials are to remain under seal except for limited disclosures and setting forth requirements governing individuals who receive the materials, the State requests that you remove the exhibits, which are currently publicly accessible on eCourts, and refile them as "confidential."

Very truly yours,

  
AMANDA E. NINI  
Deputy Attorney General



# EXHIBIT I

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF THE APPLICATION :  
OF THE UNITED STATES OF AMERICA : MISC. NO. 15 - 2005  
FOR AN ORDER AUTHORIZING THE :  
INTERCEPTION OF ELECTRONIC AND :  
WIRE COMMUNICATIONS :  
: Filed Under Seal

ORDER

AND NOW, this 16<sup>th</sup> day of August 2024, upon application of the United States for a limited disclosure order, good cause having been shown, the government's application, pursuant to 18 U.S.C. § 2518(8)(b), for limited disclosure of the following Title III materials:

The applications and affidavits submitted in support of the EDPA Interception Orders dated June 10, 2016, July 28, 2016, and October 18, 2016;

The application and affidavit submitted in support of the Interception Orders of the District of New Jersey ("DNJ") dated November 18, 2016 - Misc. No. 16-271 (D.N.J.); and

The EDPA Order dated September 6, 2016;

is hereby **GRANTED**.

1. The Court finds that good cause exists under 18 U.S.C. § 2518(8)(b) for the limited disclosure of the applications and affidavits described above, as well as the EDPA Order of September 6, 2016, which were filed under seal, namely, that the New Jersey Attorney General's Office ("NJAG") is required to make the information contained in these materials available to counsel of record in the State of New Jersey criminal prosecution against George E.

Norcross, III, Philip A. Norcross, William M. Tambussi, Dana L. Redd, Sidney R. Brown, and John F. O'Donnell, Superior Court Docket No. 24-06-00111-S (collectively, the "Norcross Defendants").

2. The NJAG may make such use of the applications and affidavits described above, as well as the EDPA Order September 6, 2016, as is necessary to perform its law enforcement duties, including as necessary for the purposes of the prosecution of the Norcross Defendants including disclosure to the defense required by the applicable criminal discovery principles governing charges brought by the State of New Jersey.

**IT IS FURTHER ORDERED** that:

3. The applications, affidavits and September 6, 2016 Order that are the subject of this Court's Order, as well as the contents of the intercepted electronic and wire communications and interception orders that were previously disclosed, are to be maintained under seal in this Miscellaneous matter and are unsealed only for the limited purpose of permitting the NJAG to perform its law enforcement duties, including as necessary for the purpose of the prosecution of the Norcross Defendants, including to comply with its discovery obligations.

4. This Order does not apply to the original sealed magneto optical disks filed in these matters, which shall not be unsealed at this time. Instead, the NJAG is authorized to disclose, subject to the terms of this Order, the working copies of the digital recordings, which have been maintained by the Federal Bureau of Investigation.

5. The disclosure of the applications, affidavits and September 6, 2016 Order that are the subject of this Court's Order, as well as the contents of the intercepted electronic and wire communications and interception orders that were previously disclosed, is limited to the NJAG,



the Norcross Defendants, any attorney representing the parties, and any investigator or expert retained by the parties that is necessary to prepare for trial or use at trial, including the disclosure by the NJAG to counsel for the defendants to comply with its discovery obligations. The NJAG and the Norcross Defendants may not use the Title III materials for any other purpose and may not disclose the Title III materials or information contained in the Title III materials except as authorized by this Order.

6. If such a disclosure or copy of the Title III materials is intended pursuant to this Order, counsel for the disclosing party shall also serve a copy of this Order upon the investigator or expert witness before the disclosure or copy of the discovery is provided to the investigator or expert witness. The investigator or expert witness shall not copy, reproduce, duplicate, or otherwise disclose the discovery. Any copies of the Title III materials in the possession of an investigator or expert witness must be returned to counsel at the conclusion of the NJAG's prosecution of the Norcross Defendants. Counsel shall take reasonable measures to ensure that the copy of the discovery provided to any investigator or expert witness is returned to counsel, including, but not limited to, notifying the NJAG and the United States Attorney's Offices for the Eastern District of Pennsylvania and New Jersey within a reasonable time if any investigator or expert witness fails to return the copy of the discovery to defense counsel.

7. All persons who have been granted access under this Order to the Title III materials or any confidential or personally identifiable information, including information protected by the Privacy Act, shall not use, copy, reproduce, duplicate, or otherwise disclose the information for any purpose not related to the prosecution of the Norcross Defendants without leave of the Court. Such an unauthorized use or disclosure may result in enforcement

proceedings for violation of this Order.

8. Except for Title III materials that have been made part of the record in the NJAG's prosecution of the Norcross Defendants, counsel for the Norcross Defendants shall return to the NJAG or securely destroy or delete all Title III materials and any copies thereof within 30 days of: (a) the expiration of the period for direct appeal from any verdict in the NJAG's prosecution; (b) the expiration of the period of direct appeal from any order dismissing any of the charges in the NJAG's prosecution; (c) the granting of any motion made on behalf of the Government dismissing any charges in the NJAG's prosecution; or (d) the issuance of an opinion by an appellate court that terminates the NJAG's prosecution, whichever date is later.


9. This Court retains jurisdiction over the subject matter of this Order for the purpose of resolving disputes arising under this Order, entering orders modifying this Order, or effectuating or enforcing compliance with this Order.

10. The disclosure of the Title III materials that are the subject of this Order and were previously disclosed by the NJAG shall also be governed by any protective order entered in any case brought by the NJAG against the Norcross Defendants, to the extent such a protective order is not inconsistent with this Order.

11. Except for the limited disclosures authorized by this Order, the Clerk of the Court shall continue to maintain under seal the Title III applications, supporting affidavits, orders, and any related documents, and docket entries in this Miscellaneous matter, including the application for this limited disclosure order.

12. Copies of this Order shall be served by the Clerk's Office, the United States Attorney's Office (EDPA), or NJAG's Office on counsel of record for the Norcross Defendants.

**BY THE COURT:**



*For:*

**HONORABLE PAUL S. DIAMOND  
UNITED STATES DISTRICT COURT JUDGE**

# EXHIBIT J

**From:** [Michael Grillo](#)  
**To:** [Vartan, Lee](#)  
**Subject:** RE: Question  
**Date:** Wednesday, September 25, 2024 4:03:34 PM  
**Attachments:** [image003.png](#)

---

**\* External Message \***

I agree with that reading, Lee. I think protective order plainly states that is permissible use of the material. I appreciate you confirming, though.

-Mike

Michael Grillo  
Assistant Attorney General  
Counsel to the Executive Director  
Office of Public Integrity & Accountability  
Trenton, New Jersey 08625  
Office: (609) 403-7955  
Mobile: [REDACTED]  
Email: [Grillomi@njdcj.org](mailto:Grillomi@njdcj.org)

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---

**From:** Vartan, Lee <[lvartan@csglaw.com](mailto:lvartan@csglaw.com)>  
**Sent:** Wednesday, September 25, 2024 2:47 PM  
**To:** Michael Grillo <[GrilloMi@njdcj.org](mailto:GrilloMi@njdcj.org)>  
**Subject:** [EXTERNAL] Question

Hope you are well. We are filing our brief on behalf of Mr. Tambussi tomorrow. We will be including some of the discovery material, including GJ excerpts. I read the current protective order as allowing that material to be filed on the public docket. Let me know if you disagree.

Lee



**LEE VARTAN**

Member  
Chiesa Shahinian & Giantomasi PC

☎ 973.530.2107 | 📠 973.294.9615

[lvartan@csglaw.com](mailto:lvartan@csglaw.com)

105 Eisenhower Parkway | Roseland, NJ 07068

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Thank you.

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**CHIESA SHAHINIAN & GIANTOMASI PC**

Jeffrey S. Chiesa, Esq. (031271990)  
Lee Vartan, Esq. (041252006)  
Jeffrey P. Mongiello, Esq. (017262011)  
Kathryn Pearson, Esq. (021982012)  
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Roseland, NJ 07068  
973.325.1500  
jchiesa@csglaw.com  
lvartan@csglaw.com

*Attorneys for Defendant William M. Tambussi, Esq.*

State of New Jersey,

Plaintiff,

vs.

George E. Norcross, III, Philip A. Norcross,  
William M. Tambussi, Dana L. Redd, Sidney R.  
Brown, and John J. O'Donnell

Defendants.

SUPERIOR COURT OF NEW JERSEY  
CRIMINAL DIVISION  
MERCER COUNTY  
INDICTMENT NO. 24-06-00111-S  
DOCKET NO. MER-24-001988

**ORDER**

**WHEREAS** this matter comes before the Court on motion by Chiesa Shahinian & Giantomasi PC, attorneys for defendant William M. Tambussi, Esq., on behalf of all Defendants seeking an Order suppressing the evidence obtained from the Title III wiretaps, compelling the immediate production of the September 2022 Judge Diamond Order defining the permitted “State Target Offenses,” amending the existing protective order, and for such other relief as the Court deems just and proper; and the Court having considered the submissions of the parties; and for good cause shown;

It is on this \_\_\_ day of \_\_\_\_\_, 2025,

**ORDERED** that Defendants’ motion to suppress the evidence obtained from the Title III wiretaps is hereby granted;

**IT IS FURTHER ORDERED** that Defendants’ motion to compel the immediate production of the September 2022 Judge Diamond Order defining the permitted “State Target Offenses” is hereby granted;

**IT IS FURTHER ORDERED** that Defendants’ motion to amend the existing protective order is hereby granted;

**AND IT IS FURTHER ORDERED** that Chiesa Shahinian & Giantomasi PC shall forward a copy of this Order as executed by the Court to all other counsel who have appeared within seven (7) days of the Order’s execution.

\_\_\_\_\_  
HON. PETER E. WARSHAW, JR., P.J. Cr.

Motion Unopposed \_\_\_\_\_  
Motion Opposed \_\_\_\_\_