

**PROTECTIVE ORDER FOR DEFENSE  
COUNSEL**

DOCKET NO.

**Trial Court of Massachusetts**

CASE NAME

**Commonwealth v.**

On consideration of the defendant's motion pursuant to Rule 17(a)(2) of the Massachusetts Rules of Criminal Procedure, 378 Mass. 885 (1979), it is hereby ORDERED that defense counsel ("counsel") who has signed this protective order and filed it with the Clerk of Court in the above-captioned case be provided access to presumptively privileged records subject to the following terms and conditions:

1. Counsel shall have access to presumptively privileged records solely in his or her capacity as an officer of the Court. Counsel shall review any presumptively privileged records in the Clerk's office, or a space within the courthouse designated by the Clerk, during regular business hours under arrangements to be made with the Clerk.
2. Counsel shall not copy, and shall not directly or indirectly disclose, disseminate, or otherwise make available to any person, including the defendant, any of the presumptively privileged records, any portion thereof, or any of their contents without prior application to and an order of the Court.
3. Counsel may read and make notes concerning the presumptively privileged records. Any such notes shall be governed by this Protective Order.
4. Presumptively privileged records reviewed pursuant to this Protective Order shall not be used for any purpose other than the defense of the above-captioned case.
5. If counsel believes that copying or disclosure of any presumptively privileged records, or portions thereof, is necessary to prepare this case for trial, he or she may file a motion to modify this Protective Order to permit copying of records or disclosure to specifically identified individuals. The motion shall be accompanied by an affidavit, and notice shall be provided to all parties. If the Court enters an order vacating or modifying any term of this Protective Order, counsel shall then be bound by the terms of that Court order.
6. At the conclusion of the trial, direct appeal, or other disposition of the above-captioned case, the signatory shall deliver to the Clerk of Court, under seal, any and all copies of any records produced pursuant to any modified protective order or any other order of the Court. Notwithstanding the entry of any order terminating the case, this Protective Order shall remain in effect unless terminated by entry of a Court order.
7. The prohibitions against disclosure shall not apply to communications made under the following circumstances:
  - (a) where counsel is engaged in the private practice of law, communications with other attorneys in counsel's law firm, provided that such communications are for the purpose of consultation in this matter;
  - (b) where counsel is a staff attorney employed by the Committee for Public Counsel Services ("CPCS"), communications with other staff attorneys employed by CPCS, provided that such communications are for the purpose of consultation in this matter;

(c) where counsel is private counsel assigned by CPCS, communications with attorneys employed or assigned by CPCS, provided that such communications are for the purpose of consultation in this matter; or

(d) communications with counsel's support staff, operating under counsel's direction, for the purpose of preparing pleadings and other documents in this matter.

In making any of the above communications, counsel shall, insofar as possible, use a pseudonym in place of the true name of the person protected by the privilege. Counsel will instruct any person receiving a communication pursuant to paragraph 7 of the court-ordered confidentiality of the material disclosed.

**The Court and any counsel shall report any violation of this order to the Board of Bar Overseers.** Violations may also be reported to the Court and/or Board of Bar Overseers by the privilege holder, the keeper of records, and any other person who believes, in good faith, that the terms of this Order have been violated.

Entered:	By the Court, ( _____ , J.) X _____ Signature of Justice
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**CERTIFICATION BY COUNSEL**

I agree to be bound by the terms of this Protective Order.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Date:	Signature of Counsel: X _____
BBO. No.:	Printed Name and Address of Counsel:     