

March 31, 2016

Hon. Richard J. Carey
Hampden Superior Court
50 State Street
Springfield, MA 01103

Dear Judge Carey,

On June 15, 2015, Attorney General Maura T. Healy appointed Judge Peter A. Velis (ret.) Special Assistant Attorney General as an independent investigator to work in conjunction with Assistant Attorney General Thomas A. Caldwell to address concerns articulated by the Supreme Judicial Court in *Commonwealth v. Cotto*, 471 Mass. 97 (2015). On August 6, 2015, Northwestern District Attorney David E. Sullivan appointed Judge Thomas T. Merrigan (ret.) Special Assistant District Attorney for the Northwestern District “in the matter of the investigation and prosecution of the conduct of the Massachusetts Attorney General Office relating to the case of *Commonwealth v. Sonja Farak*, Hampshire Superior Indictment Numbers 13-60 and 13-61.”

Although our assignments were framed differently, we concluded that there were sufficient overlapping and common issues to make it most effective to collaborate in fulfilling our responsibilities. We requested investigators to assist our undertaking from the office of Attorney General Healy. In turn, MSP Lieutenant Colonel Dermot Quinn assigned MSP Detective Captain Paul J. L’Italien and MSP Captain James F. Coughlin to assist our investigation.

Our investigation was primarily directed to issues raised by Attorney Luke Ryan in his July 22, 2015 correspondence addressed to Judge Velis.¹ Attorney Ryan’s letter was likewise the focus

¹ This July 22, 2015 correspondence is referred in the January 7, 2016 report of Det. Captain L’Italien and Captain Coughlin as the “Attorney Luke Ryan Affidavit.”

of the investigation by Det. Captain L'Italien and Captain Coughlin. The independent investigation conducted by Det. Captain L'Italien and Captain Coughlin, under our close supervision, was painstakingly thorough and detailed.

In addition, on October 22, 2015, we convened a meeting with a large group of defense attorneys involved in the post-conviction Farak related proceedings. This meeting also included representatives from CPCS and the Massachusetts Civil Liberties Union. At that meeting, the defense attorneys were invited to bring to our attention any additional matters not raised by Attorney Ryan's correspondence. Furthermore, throughout the course of this investigation, there was ongoing dialogue and communications with defense attorneys regarding their concerns. These interactions include specific in person meetings with Attorney Ryan and Attorney Rebecca A. Jacobstein, who acted as representatives for the defense attorneys.

The Captains reviewed many documents, most importantly those seized from Sonja Farak's motor vehicle and recorded and indexed as evidence items pursuant to a search warrant issued on January 19, 2013. These documents are central to the concerns of misconduct and improprieties raised by defense attorneys. Specifically to address Attorney Ryan's concerns regarding electronically stored information, the Captains obtained and reviewed nearly a thousand emails. Their review methodology involved each Captain cross checking the review of each individual email by the other.

The Captains conducted interviews of relevant witnesses (Assistant Attorney Generals and MSP officers) who at relevant times were employed by the Office of the Attorney General. At the conclusion of their investigation, Det. Captain L'Italien and Captain Coughlin recommended to us that there was no evidence of prosecutorial misconduct or obstruction of justice as raised by defense attorneys.

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After our thorough review of the investigative activities and their recommendations, we agree that there is no evidence of prosecutorial misconduct or obstruction of justice by the Assistant Attorney Generals and MSP officers in matters related to the Farak case.

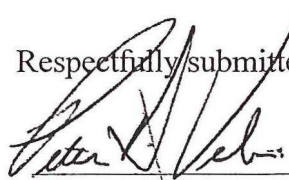
A copy of the January 7, 2016 report (with exhibits) of Det. Captain L'Italien and Captain Coughlin is submitted herewith.

We understand that Assistant General Caldwell, based on his investigation, will prepare and submit to the court an in-depth report addressing the scope of Farak misconduct in accordance with *Cotto*.

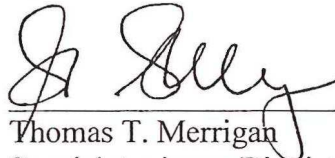
We are not providing copies of this correspondence to the parties, leaving it to the Court to determine if (and when) it is to be furnished to the Office of the Attorney General and defense attorneys.

Thank you.

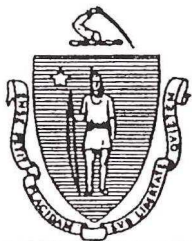
Respectfully submitted,



Peter A. Velis
Special Assistant Attorney General



Thomas T. Merrigan
Special Assistant District Attorney



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

DANIEL BENNETT
SECRETARY

COLONEL RICHARD D. MCKEON
SUPERINTENDENT

The Commonwealth of Massachusetts

Department of State Police

Division of Investigative Services

Forensic Services Group

124 Acton Street

Maynard, MA 01754

January 7, 2016

To: Judge Peter Velis, Special Assistant Attorney General
Office of the Attorney General

Judge Thomas Merrigan, Special Assistant District Attorney
Office of the Northwest District Attorney

From: Detective Captain Paul J. L'Italien #1317
Forensic and Technology Center
Massachusetts State Police

Captain James F. Coughlin #1818
Division of Standards and Training
Massachusetts State Police

Subject: Investigation of the Attorney Luke Ryan affidavit

STATEMENT OF FACTS:

1. On August 14, 2015 Detective Captain Paul L'Italien and Captain James Coughlin were assigned by Lieutenant Colonel Dermot Quinn to provide investigative support to the Office of the Attorney General and the Office of the Northwest District Attorney. The nature of this support would be to assist Judge Peter Velis and Judge Thomas Merrigan who were conducting an investigation involving an allegation of misconduct by sworn members and prosecutors assigned to the Office of the Attorney General. The complaint had been lodged by Attorneys Luke Ryan and Rebecca Jakobstein and surrounded the arrest and prosecution of Sonya Farak.
2. Sonya Farak is a former drug chemist who worked at the Amherst Drug Lab. On February 19, 2013 Farak was arrested and charged with Theft of a Controlled Substance from an Authorized Dispensary (4 counts), Tampering with Evidence (4 counts), and Possession of a Class B Substance (2 counts). On January 6, 2014 Farak

plead guilty to the charges and was sentenced to two-and-a-half years in the House of Correction, with 18 months to serve.

3. On August 24, 2015 at 3:00 p.m. Captain Coughlin and I attended a meeting at the Office of the Northwest District Attorney's in Northampton. At this meeting we met for the first time with Judge Velis and Judge Merrigan. During the meeting we were provided with an overview of allegations that had been made against various members of the state police and prosecutors assigned to the Office of the Attorney General. The allegations were made in writing by Attorney Luke Ryan and Attorney Rebecca Jakobstein. The roll that we were to assume would be to assist with the investigation surrounding allegations of prosecutorial misconduct and/or obstruction of justice committed by these officials. During this meeting we were also informed that there would be an independent review of the Sonya Farak wrongdoings and how far reaching these wrongdoings were. It was determined that Captain Coughlin and I would not be involved in the Farak wrongdoing investigation.

4. On September 1, 2015 at 9:00 a.m. Captain Coughlin and I met with Judge Merrigan at the State Police Bourne barracks. The purpose of this meeting was to review the complaint lodged by Attorney Ryan et al as well as reviewing all information that Judge Merrigan had pertaining to the Farak case.

5. The first item reviewed in this meeting was Attorney Ryan's affidavit, hereinto referred to as the "Ryan affidavit". The "Ryan affidavit" is seventeen pages in length and a copy is attached hereto as **Exhibit #1**.

6. The "Ryan affidavit" begins with a list of "things to do". This to do list has eleven directives and includes the review of servers, e-mails, electronic evidence, digital equipment, the issuance of subpoena's to communication providers and the conducting of interviews with various state police officers and members of the attorney general's staff. From there the affidavit outlines a step by step approach which the Ryan group believes should be followed. There are accusations and commentary of "undisclosed photographs", the "suppression of exculpatory evidence" and a "cover-up". (Page 5). The affidavit goes on to name several state police officials and staff members of the attorney general's office and speculates what they must have done to suppress evidence. There are also accusations of untruthfulness (page 9) and further speculation of what these officials may or may not say when confronted with the accusations being made in the affidavit. The affidavit makes reference to "the politicians" (page 13) and even has a "postscript" section (page 16). It should be noted that the "Ryan affidavit" does not mention or even infer that the group has an unnamed source of information providing them with facts behind their accusations.

7. The chief concern of the "Ryan affidavit" involves a "Servicenet Diary Card" and an "Emotional Regulation Worksheet" that were discovered during the execution of a search warrant on Sonya Farak's vehicle. The affidavit refers to these items as "treatment records law enforcement took extraordinary measures to conceal" (page 5). The affidavit also references the "misrepresentation of drug treatment records

as assorted lab paperwork” (page 4). “Assorted lab paperwork” was used to describe items 4, 5, and 8 of the return associated with the search warrant of Farak’s vehicle as well as a report written by Trooper Randy Thomas. (A copy of the search warrant for Farak’s vehicle, the search warrant return and the associated list of evidence are attached hereto as **Exhibit #2**).

8. There are also questions of whether or not there was an independent investigation being conducted under the direction of Major James Connolly at the crime lab. The “Ryan affidavit” makes reference to a statement made by Sergeant Joseph Ballou about an “independent investigation”. (page 9)

9. At the conclusion of the meeting with Judge Merrigan it was decided that the first steps to be taken in our investigation involved the following;

- Obtain all of the photographs and video associated with the arrest of Sonya Farak including the search of her vehicle and the photographs taken inside the Amherst Drug Lab.
- Determine whether or not there was an independent investigation lead by Major James Connolly as mentioned in the “Ryan affidavit”.
- Request e-mails from the Attorney General’s office in which Sonya Farak and/or the Amherst Lab are a part of the e-mail text.

10. During the course of the investigation a search was conducted in the State Police Crime Laboratory Information System (LIMS) for all documentation evidence associated with the Sonya Farak investigation. The case number associated with the Farak case was found to be 13-01679. A copy of the “Case jacket” associated with this investigation is attached hereto as **Exhibit #3**.

11. Submission #1 of case #13-01679 was submitted by Detective Lieutenant Robin Fabry of Crime Scene Services. On January 18, 2013 D/Lt. Fabry took photographs and collected twenty one (21) pieces of evidence from Room #236 at the Amherst Lab. D/Lt. Fabry wrote a report which indicates that the evidence was turned over to Trooper Geraldine Bresnahan of the Northwest District Attorney’s office. A copy of D/Lt. Fabry’s report, handwritten evidence collection sheets, a contact sheet of photographs and a compact disc (CD) containing said photographs are attached hereto as **Exhibit #4**.

12. Submission #2 of case #13-01679 was submitted by Trooper Christopher Dolan of Crime Scene Services. On January 19, 2013 Trooper Dolan took photographs of Sonya Farak’s vehicle and the search thereof at the State Police barracks in Northampton. Trooper Dolan took seventy one (71) photographs. The “Ryan affidavit” indicates that Trooper Dolan “*must be regarded as a witness to the cover up*” (page 5). A review of the metadata associated with the photographs taken by Trooper Dolan revealed that they were taken on January 19, 2013 between 3:07 a.m. and 4:59 a.m.

The metadata identifies the photographs as DSC_4949 through DSC_5023. It should be noted that the numbers DSC_4954, DSC_4967, DSC_4984, DSC_4985 and not in the sequential list of images.

13. A close inspection of the photographs taken by Trooper Dolan compared to the items listed on the evidence sheet associated with Trooper Thomas' search warrant return reveals the following;

- Images **DSC_4949 through DSC_4975** are overall photographs of the exterior and interior of the vehicle
- **Item #1** corresponds with images **DSC_4976, DSC_4977, DSC_4978**
- **Item #2** corresponds with image **DSC_4981**
- **Item #3** corresponds with image **DSC_4988**
- **Items #4 & #5 & #8** correspond with images **DSC_4968, DSC_4969, DSC_4970, DSC_4989, DSC_4990, DSC_4991, DSC_4992**
- **Item #6** corresponds with images **DSC_4994, DSC_4995**
- **Item #7** corresponds with images **DSC_4973, DSC_4974, DSC_4975**
- **Item #9** corresponds with image **DSC_4998**
- **Item #10** corresponds with image **DSC_4996**
- **Item #11** corresponds with image **DSC_4987**
- **Item #12** corresponds with image **DSC_5003**
- **Item #13** corresponds with images **DSC_5005, DSC_5006, DSC_5007**
- **Item #14** corresponds with image **DSC_5010**
- **Item #15** corresponds with image **DSC_5001**
- **Item #16** corresponds with images **DSC_5008, DSC_5009, DSC_5012**
- **Item #17** corresponds with images **DSC_5013, DSC_5014, DSC_5015, DSC_5016**
- **Item #18** corresponds with image **DSC_5021**
- **Item #19** corresponds with images **DSC_5013, DSC_5014, DSC_5015**
- **Item #20** corresponds with image **DSC_5020**

14. A copy of Trooper Dolan's report, a contact sheet of the vehicle search photographs and a CD containing said photographs are attached hereto as **Exhibit #5**. It should be noted there is a clerical error on Trooper Dolan's report. His report indicates that the photographs were taken on January 18, 2013 when in fact the case jacket and metadata indicate they were taken on January 19, 2013.

15. Submission #3 of case #13-01679 was submitted by Trooper Christopher Baran, formerly of Crime Scene Services. On February 14, 2013 Trooper Baran took a video recording of the labs at the Morrill building (#611 North Pleasant Street, Amherst, Mass). A CD containing a copy of the video is attached hereto as **Exhibit #6**.

16. Submission #4 of case #13-01679 was submitted by Trooper Laura Cary of Crime Scene Services. On February 14, 2013 Trooper Cary took photographs of the labs at the Morrill building (#611 North Pleasant Street, Amherst, Mass). A contact

sheet of photographs and a CD containing said photographs are attached hereto as **Exhibit #7**.

17. On September 8, 2015 at 9:30 a.m. Captain Coughlin and I met with Judge Velis and Judge Merrigan at the Northwest District Attorney's office in Northampton. This meeting was in reference to items #4, #5 and #8 of the evidence associated with the vehicle search. These items were labeled "*assorted lab paperwork*". It was determined that we would review all of the recovered evidence associated with the search of Farak's vehicle.

18. On September 8, 2015 at 2:00 p.m. Captain Coughlin and I went to the Office of the Attorney General at #1 Ashburton Place in Boston. There we coordinated with Attorney Thomas Caldwell and were provided with the evidence associated with the Farak investigation. Captain Coughlin and I worked in a private office and were provided with a copy of a Department Case Report for case #13-034-4804-1003. This case report listed all of the evidence collected during the course of the Farak investigation. It should be noted that all of the narcotics related evidence was listed as being in the possession of the State Police Crime lab. (A copy of Case Report #13-034-4804-1003 is attached hereto as **Exhibit #8**).

19. Captain Coughlin and I carefully inspected all of the items that were described as "Assorted lab paperwork" (items #4, #5, #6). It should be noted that items #8, #11, #14 and #15 also had the words "assorted lab paperwork" or "lab paperwork" included in the description of the evidence.

20. The evidence labeled item #4 contained forty two (42) sheets of paper, some of which were two sided. These sheets of paper included MOSES (Union) information, Farak work e-mails, fiscal year information, court dates, Droid phone information and an empty Department of Public Health (DPH) envelope. Each of these items were copied and are attached hereto as **Exhibit #9**.

21. The evidence labeled item #5 contained thirteen (13) sheets of paper. These sheets of paper included travel authorization paperwork and information pertaining to a Drug Enforcement Administration (DEA) Forensic Chemist seminar. The seminar paperwork included general information about the course as well as hotel and restaurant information. There is also an e-mail dated January 17, 2012 which verified enrollment in the seminar. Each of these items were copied and are attached hereto as **Exhibit #10**.

22. Item #6 contains material referred to in the "Ryan affidavit". There are two (2) ServiceNet Dairy Card's which have handwritten notes. There are two papers (each two sided) with the heading "The Four Responses". These sheets do not have any writing on them. There are three sheets of handwritten notes as well as a graph with the top heading "skills" This "skills" sheet also has handwritten notes on it. There is an "Emotional Regulation Worksheet" with handwritten notes. There is a "Nascar.com superstore" payment receipt. There are six (6) data file graphs, a blank DPH letterhead

sheet and a blank piece of paper. Each of these items were copied and are attached hereto as **Exhibit #11**.

23. Item #8 contains ten (10) sheets of paper, some of which were two sided. These include various sheets with a list of cases and trial dates. There are two data file graphs, a sequence table, a summons to Holyoke Court, sheets with handwritten notes and scribble on them. Each of these items were copied and are attached hereto as **Exhibit #12**.

24. Item #11 contains material referred to in the "Ryan affidavit". There were two (2) "emotional regulation worksheets", one of which was written on. There were seven (7) sheets of paper with various handwritten notes. There was a sheet entitled "Guidelines for skills training" and two (2) entitled "The path to clear mind". There were two (2) sheets entitled "DBT-S States of Mind". There were three (3) ServiceNet Diary Cards with no writing. There are ten (10) worksheets entitled "DBT Behavioral Chain analysis" with no writing. There is a "Distress tolerance worksheet" and various other sheets regarding behavior therapy and muscle relaxation techniques. There were also copies of news stories and an NFL Football schedule. Each of these items were copied and are attached hereto as **Exhibit #13**.

25. Item #14 contained "Date analyzed" index cards, data graphs, handwritten notes, lined note sheets, and five (5) blank cards with punched holes. Each of these items were copied and are attached hereto as **Exhibit #14**.

26. Item #15 contained five (5) pages of real estate information in the town of Greenfield. There were four (4) sheets with various shapes on them. There was a UMASS directory and campus map, a concert hall seating chart, and a state employee payroll search from the Boston Herald. There were five (5) lab graphs and a sequence table with sample names. Each of these items were copied and are attached hereto as **Exhibit #15**.

27. On September 23, 2015 at 12:10 p.m. I had a preliminary meeting with Major James Connolly (retired) at Suffolk University in Boston. Major Connolly is currently employed as a Captain for the campus police department. During this meeting Major Connolly provided an overview of the timeframe when the Department of Public Health (Hinton Lab) came under the jurisdiction of the State Police Crime Lab. The jurisdictional change occurred in July of 2012. In addition to the Hinton Lab, the Department of Public Health Amherst Lab also came under the jurisdiction of the State Police Crime Lab. Major Connolly indicated that the Annie Dookham investigation began shortly after the jurisdictional change and that the investigation was being conducted by the Attorney General's Office. It was not until October 10, 2012 that a Quality Assurance (QA) Audit was conducted at the Amherst Lab. This audit included a review of QA systems, lab security and access, evidence security and accountability. A copy of the Audit report is attached hereto as **Exhibit #16**.

28. Major Connolly indicated that he first became aware of the Sonya Farak case on January 18, 2013. He stated that he received a phone call from James Hanchett who was the supervisor in charge at the Amherst lab and was informed that there was missing drug evidence. Major Connolly stated that he traveled to Amherst on the same day and was present when photographs were taken by D/Lt. Fabry. He stated that the criminal investigation was ongoing between the Attorney General's Office and the Office of the Northwest District Attorney's. He indicated that there was coordination between all of the investigative groups but there was not an independent criminal investigation being led by him. Major Connolly indicated that he would collect everything he had in his possession and would provide me an opportunity to review his files and make copies.

29. On October 15, 2015 I met with Attorney Thomas Caldwell at the Office of the Attorney General in Boston. The purpose of this meeting was to receive the e-mails that had been requested as a part of this investigation. The e-mails were saved to a CD and were encrypted. There were a total of eight hundred and ten (810) e-mails pertaining to Sonya Farak and/or the Amherst drug lab. The earliest e-mail was from August 13, 2012 and the last e-mail was dated July 8, 2015. The encrypted CD is attached hereto as **Exhibit #17**.

30. Beginning on October 19, 2015 and over the next several days Captain Coughlin and I each reviewed all of the 810 e-mails received from the Office of the Attorney General. To illustrate the content of the e-mails we built an Excel spreadsheet which depicted a numerical value, the name of the person who sent the e-mail, the subject line of the e-mail, the date received and a brief comment which summarized the content of each e-mail. It should be noted that the term "thread" is frequently utilized in the comment section of this spreadsheet. "Thread" refers to an e-mail message that includes a running list of all the succeeding replies starting with the original email. It should also be noted that various e-mails are on the spreadsheet more than once because the same e-mail was addressed to various different persons. The first referenced e-mail in the spreadsheet is from July 8, 2015 and is given the number one (1). E-mail number eight hundred and ten (810) was from August 13, 2012. (A copy of said spreadsheet is attached hereto as **Exhibit #18**).

31. The review of the e-mails revealed nothing that would indicate a "cover-up" as asserted in the Ryan affidavit. There are various e-mails which have been printed and are attached hereto with the spreadsheet. E-mail #45 is attached hereto and illustrates a discovery request that began with Attorney Glenn Rooney, a staff counsel with the Massachusetts State Police. The last thread of the e-mail is from Sergeant Joseph Ballou on March 2, 2015 in which he is informing Captain Robert Irwin (State Police Detective Unit Commander) of the case number and the custody location of evidence in the investigation.

32. E-mail #71 is an e-mail in which various attorneys from the Office of the Attorney General correspond relative to a motion by Attorney Luke Ryan to inspect all evidence for a chain of custody issue. Included in the e-mail thread is Attorney Randall

E. Ravitz, the chief of the attorney general's appeals division. Attorney Ryan's motion was an attachment to the e-mail. Both the e-mail thread (#71) and attachment are printed and attached hereto with the e-mail spreadsheet.

33. E-mail #165 was originated from Mr. William Hebard, the manager of the UMASS drug of abuse laboratory in Worcester. The UMASS laboratory had been re-analyzing cases that Sonya Farak had worked on while employed at the Amherst Lab. The e-mail identifies a discrepancy in a case. The thread includes the State Police Crime Lab, Attorney Anne Kaczmarek (lead prosecutor in the Farak investigation), Captain Robert Irwin and Attorney John Verner, the chief of the criminal bureau for the Attorney General's office. The e-mail thread (#165) has been printed and is attached hereto with the e-mail spreadsheet.

34. E-mail #213 is between Attorney Sean Farrell, Deputy Chief Legal Counsel of the State Police and Attorney Kaczmarek. The topic of the e-mail is Comm. v. Penante and references an unnamed attorney that is described as rude, aggressive and who has misrepresented the Attorney General's office. The e-mail thread (#213) has been printed and is attached hereto with the e-mail spreadsheet.

35. E-mail #223 is an e-mail between Attorney Ravitz (Chief of Appeals) and Attorney Kris Foster who is an assistant attorney general also assigned to the appeals division of the criminal bureau. The e-mail originated on September 11, 2013 from Attorney Ryan with a motion to inspect the Amherst lab. The general discussion of the e-mail between the appeals attorneys is that it is their opinion that the request outlined in the motion is too broad. The e-mail thread (#223) has been printed and is attached hereto with the e-mail spreadsheet.

36. E-mail #224 is an e-mail between Sergeant Ballou and Attorney Kaczmarek regarding a "Farak hearing". The e-mail thread begins on September 10, 2013 and within the text of the e-mail is a discussion about bringing the Farak file to Boston to ensure everything is accounted for, particular photographs of evidence. The e-mail thread (#224) has been printed and is attached hereto with the e-mail spreadsheet.

37. E-mail #229 is an e-mail between Attorney Kaczmarek, Attorney Foster and Attorney Verner. The central topic of the e-mail is a hearing in which an unnamed defense counsel had a motion hearing before Judge Kinder requesting to have complete access to Sergeant Ballou's file. The discussion includes providing the judge with a memo explaining why the Attorney General's office believes something in the file should be considered "privileged". The e-mail thread (#229) has been printed and is attached hereto with the e-mail spreadsheet.

38. E-mail #255 is an e-mail originated on August 29, 2013 from Attorney Luke Ryan to Attorney Kris Foster. Attorney Ryan indicates in the e-mail that he is representing Rafael Rodriguez who had been indicted based on a drug analysis conducted by Sonya Farak. Attorney Ryan indicates that he plans to appear in a

courtroom before Judge Kinder and request a hearing on the matter. He goes on to say that he would like to be able to tell the judge that he had been in contact with a representative from the Attorney General's office to coordinate dates and times for a hearing. Attorney Ryan then asks if Attorney Foster would be willing to be the representative. It should be noted that this e-mail is referenced on page twelve (12) of the "Ryan Affidavit". E-mail #255 has been printed and is attached hereto with the e-mail spreadsheet.

39. E-mail #299 is an e-mail between Attorney Kaczmarek and Attorney Elaine Pourinski who was the defense attorney for Sonya Farak. The central topic of the e-mail is that Farak is requesting to have some personal belongings that had been seized returned to her. A portion of thread between Attorney Kaczmarek and Attorney Pourinski makes reference to "proposed redactions" involving the redaction of her mental issue. A later thread within this e-mail is from Attorney Kaczmarek to Sergeant Ballou inquiring about Farak's personal belongings. The e-mail thread (#299) has been printed and is attached hereto with the e-mail spreadsheet.

40. E-mail #437 is an e-mail between Attorney Kaczmarek and Sharon Salem of the State Police Crime Lab. Ms. Salem sends the e-mail on April 5, 2013 and the central topic is that drug samples are being moved from the Amherst lab to the State Police crime lab in Sudbury. Attorney Kaczmarek does indicate that she would like crack samples visually examined based on what Farak had been using to substitute the narcotics she had illegally taken. The e-mail thread (#437) has been printed and is attached hereto with the e-mail spreadsheet.

41. E-mail #559 is an e-mail between Major James Connolly and Attorney Kaczmarek. Major Connolly originated the e-mail on March 19, 2013 inquiring about the status of the grand jury. Attorney Kaczmarek provides an update to Major Connolly to include information that there may be more compromised samples based on information that Farak had been using heavily for 4-5 months before her arrest. The e-mail thread (#559) has been printed and is attached hereto with the e-mail spreadsheet.

42. E-mail #618 is the most significant finding of the e-mail audit. It is an e-mail from Sergeant Ballou to Attorney Kaczmarek with a carbon copy of the e-mail being sent to Captain Irwin and Attorney Verner. The e-mail was sent on February 14, 2013 with the subject line "Farak admissions". The e-mail reads as follows;

"Anne",

"Here are those forms with the admission of drug use I was talking about. There are also news articles with handwritten comments about other officials being caught with drugs. All of these were found in her car inside of the lab manila envelope"

"Joe"

There were also four attachments to the e-mail. The attachments were entitled "Articles and Notes", "Emotional Regulation Homework", "Positive Morphine Test" and "Emotion Regulation Worksheet". A copy of the e-mail (#618) and all four attachments have been printed and are attached hereto with the e-mail spreadsheet.

44. E-mail #671 was sent by Attorney Lee Hettinger, an assistant attorney general from Springfield. It was sent on January 29, 2013 to Attorney Kaczmarek and Attorney Verner. The central topic of the e-mail was that Hampden was receiving pressure from a judge to identify cases handled by Farak. A prosecutor had been assigned by Hampden to gather information about pending cases in Hampden. This e-mail (#671) has been printed and is attached hereto with the e-mail spreadsheet.

45. E-mail #723 was sent by Sergeant Ballou on January 23, 2013 to Attorney Kaczmarek with a carbon copy to Captain Irwin and Attorney Verner. The central topic of the e-mail was that the Springfield police department had a drug case that had been analyzed by Sonya Farak and the drug samples appeared to have been tampered with. A copy of the e-mail (#723) has been printed and is attached hereto with the e-mail spreadsheet.

46. E-mail #763 was sent by Attorney Kaczmarek on January 21, 2013 and had an attachment requesting a statewide grand jury. The attachment was addressed to "The Honorable Barbara J. Rouse" and was from Attorney General Martha Coakley. A copy of the e-mail (#763) and the attachment have been printed and are attached hereto with the e-mail spreadsheet.

47. On October 22, 2015 at 9:30 a.m. Captain Coughlin and I attended a meeting at the office of the Northwest District Attorney. Judge Velis and Judge Merrigan were present as were several defense attorneys who had an interest in the Soyna Farak wrongdoings and how she affected various defendants. Present during this meeting were Attorney Luke Ryan and Attorney Rebecca Jakobstein. Attorneys Ryan and Jakobstein were the authors that had signed the "Ryan affidavit".

48. During the meeting each attorney had an opportunity to speak. Attorney Ryan went over the timeframe and judicial steps he took to gain access to the evidence associated with Soyna Farak. He indicated that he obtained a court order to view the Farak evidence during July of 2014. He also indicated that he went to the Attorney General's office in Boston with an investigator to review and photograph the evidence. This process occurred on October 30, 2014 under the authority of the court order and was supervised by a state trooper. Judge Merrigan asked if any court orders to view the evidence had been violated and no information relative to a violation of a court order was mentioned by Attorney Ryan. During the meeting Judge Merrigan referenced the "Ryan affidavit" and specifically asked the defense attorneys if there was "evidence beneath the evidence". Nobody from the group of defense attorneys added any new information that would add merit to the information contained in the "Ryan affidavit".

49. On November 13, 2015 I received a packet from Assistant Attorney General Thomas Caldwell. This packet contained a copy of a "prosecution memo" regarding the Sonya Farak investigation. Attorney Caldwell had informed me that this type of memo is utilized as a standard practice in the criminal bureau of the Attorney Generals office. The names of the attorneys (Verner and Kaczmarek), defendant (Farak), defense attorney (Pourinski) and lead investigator (Ballou) are listed on the first page of the memo. There is not a formal date on the memo but there are two handwritten dates of "3/27/13" and "3/28/13". The memo is thirteen (13) pages in length and has handwritten notes throughout. A portion of page five (5) makes reference to "**mental health worksheets describing how Farak feels when she uses illegal substances and the temptation of working with urge-ful samples**". This is footnoted with the number seven (7). At the bottom of page five (5) is a key to the footnotes for the page and number seven (7) indicates "**these worksheets were not submitted to the grand jury out of abundance of caution in order to protect possibly privileged information. Case law suggests, however, that the paperwork is not privileged**". A copy of the prosecution memo is attached hereto as **Exhibit #19**.

50. On November 25, 2015 I met with Major Connolly at Suffolk University. Major Connolly provided me with a three ring binder which had copies of everything he possessed as it relates to the Farak investigation. This three ring binder included copies of the state police detective reports for the Farak investigation. There was a report which made recommendations for new security procedures to the drug labs in Sudbury and Amherst. There were MOSES (Union) correspondences relative to Farak's work status pending the criminal proceedings against her. There was a report written by Major Connolly entitled "Amherst Drug Laboratory". This report outlines the case backlog for narcotic cases within the Crime lab system and how the lab would proceed with continuing to provide drug analysis services for the Commonwealth. Finally, there is an evidence inventory report form which outlines an audit conducted at the Amherst drug laboratory on January 19, 2013. As indicated above, Major Connolly did not conduct an independent criminal investigation, but an administrative investigation focusing on how to continue providing services to the Commonwealth. Copies of the Amherst Drug laboratory report and the evidence inventory report are attached hereto as **Exhibit #20**.

51. On December 4, 2015 at 9:30 a.m. Detective Captain Robert Irwin was interviewed at State Police General Headquarters in Framingham. Detective Captain Irwin is a thirty (30) year veteran of the Massachusetts State Police. Detective Captain Irwin was assigned to the Office of the Attorney General from August of 2006 until July of 2015 when he was promoted from Captain to Detective Captain. He was the designated officer in charge of the state police detective unit from March of 2009 until July of 2015. It should be noted that he was the lead investigator in the Chemist Annie Dookham investigation which began in 2012. Prior to his assignment at the Office of the Attorney General he was assigned to the Essex County District Attorney's office for thirteen (13) years.

52. During the interview, Detective Captain Irwin provided a summary of how his unit became involved in the Soyna Farak investigation. He indicated that on January 18, 2013 he was advised of the ongoing investigation at the Amherst lab and that he traveled there on the same day. He indicated that there was an ongoing collaboration between the Northwest District Attorney's office, the Attorney General's office and members of the lab (Crime Scene Services). He stated that during the early morning hours of January 19, 2013 he was present when a search warrant was executed on Sonya Farak's vehicle in a garage at State Police Northampton.

53. Due to the time of the search warrant execution it would have been poor practice to thoroughly inspect each piece of paper found in the vehicle. The investigative team was lacking manpower and mistakes could have been made with the labeling and handling of evidence. It was better practice to review the evidence and paperwork more thoroughly at a later time at a better facility for that purpose. Detective Captain Irwin was asked specifically about the labeling of items 4, 5 and 8 as "assorted lab paperwork". He stated that this was a generic and acceptable term to classify numerous papers that appeared to have evidentiary value.

54. Detective Captain Irwin indicated that he did become aware of the paperwork seized from the vehicle that was associated with Farak's admitted drug use. He stated that there was concern that this information may be privileged due to the HIPAA Act (Health Insurance Portability and Accountability Act). He went on to say that the "return" of the search warrant had to be completed within seven days and a determination of the HIPAA concern had not been reached. Therefore, the wording "assorted lab paperwork" remained on the evidence sheets and return.

55. During the interview I asked Detective Captain Irwin if he remembered an e-mail sent by Sergeant Ballou on February 14, 2013 (#618). He stated that he does remember the e-mail being sent and that the timeframe of the e-mail would have been leading up to grand jury proceedings and that Sergeant Ballou was inquiring whether or not the items would be introduced at the grand jury.

57. Detective Captain Irwin indicated that the chief of the criminal division at that time was Attorney John Verner. The directive from the criminal division was that the investigation was to focus on Farak's wrongdoings associated with her arrest. The systematic wrongdoing in the lab was not a focus of the investigation. He noted that during the Dookham investigation his focus was on her wrongdoing. An investigation surrounding the systematic failures of the Jamaica Plain lab was undertaken by the office of the inspector general. The interview with Detective Captain Irwin concluded at approximately 11:00 a.m.

58. On December 9, 2015 at 1:00 p.m. Captain Coughlin and I interviewed Attorney Anne Kaczmarek at the Office of the Attorney General in Boston. Attorney Kaczmarek was the lead prosecutor for both the Annie Dookham criminal investigation and the Sonya Farak criminal investigation. Attorney Kaczmarek stated that she worked as an assistant attorney general (AAG) from 2005 to July of 2014. From 2005-

2008 she was assigned as an SNI (Safe Neighborhood Initiative) AAG at the Suffolk County District Attorney's office. From 2008-July 2014 she was an AAG assigned to the criminal bureau of the Attorney General's office. Prior to working for the Attorney General's office she was a Suffolk County prosecutor from 2000-2004. Attorney Kaczmarek is currently an assistant clerk magistrate at Suffolk Superior Court.

59. Attorney Kaczmarek first explained how the Annie Dookham criminal investigation was conducted independently from the systematic failures of the Department of Public Health lab in Jamaica Plain. There had been a directive from Governor Deval Patrick that the focus of the Attorney General's office would be Dookham's criminal wrongdoings and the systematic failures of the lab would be independently investigated by the Inspector General. This directive was for the purpose of avoiding any possible confusion or conflicts which may have been created by one agency conducting both investigations. Attorney Kaczmarek stated that the Farak investigation was to be conducted in the same manner that Dookham was. Although Attorney Kaczmarek was never specifically told so, she was under the impression that the Inspector General would investigate the systematic failures in Amherst.

60. Attorney Kaczmarek indicated that as the Farak investigation was ongoing there would be periodic "discovery dumps" that would be sent to the district attorney's offices that had cases affected by the Farak wrongdoings. She indicated that these offices would then handle individual discovery requests for the cases that had been prosecuted in their jurisdiction. She said that her directive was to complete the Farak grand jury investigation by the end of the sitting period for the grand jury and that Farak was indicted in December of 2013.

61. She was asked about the e-mail sent by Sergeant Ballou on February 14, 2013 containing the "assorted lab paperwork" and Farak's admission of drug use. She stated that there had been ongoing dialogue with Attorney Vernor and others whether these items were privileged documents. Due to the uncertainty of whether the items were privileged there was a strategic decision to not enter the items into the grand jury. Had Farak gone to trial they would have been introduced. She indicated that Farak's defense attorney (Elaine Pourinski) was aware of the existence of these items and that discovery certificates had been sent to Attorney Pourinski which outlined all of the evidence that could have been introduced at trial.

62. Attorney Kaczmarek was asked about her receiving a subpoena to appear in court regarding a motion filed by Attorney Luke Ryan. She stated that she did receive the subpoenas but as was the practice in the attorney general's office she forwarded them to the appeals division and they were handled at that level. She indicated that the subpoenas for her appearance were later quashed. In closing Attorney Kaczmarek adamantly denied any wrongdoing or prosecutorial misconduct pertaining to any of her duties associated with the Soyna Farak investigation. The interview concluded at approximately 2:00 p.m.

63. On December 9, 2015 at 2:30 p.m. Captain Coughlin and I met with Attorney Thomas Caldwell. The purpose of this meeting was to obtain the discovery certificates for the Farak investigation. Attorney Caldwell provided us with said discovery certificate and it is attached hereto as **Exhibit #21**.

64. After receiving the discovery certificates efforts were made to reach Attorney Pourinski to verify that she did in fact receive the discovery certificate and was aware of the Farak admissions of drug use. On December 14, 2015 Captain Coughlin and I visited the office of Attorney Pourinski (Add: 13 Old South Street, Suite C, Northampton, Mass). There was nobody at the office and we left a telephone message requesting that Attorney Pourinski contact us. As of this writing neither investigator has been contacted by Attorney Pourinski.

CONCLUSIONS:

a. **We find no merit in any of the allegations of prosecutorial misconduct or obstruction of justice made in the "Ryan affidavit".**

b. Regarding the allegations made against Trooper Christopher Dolan. Based on the review of the photographs and metadata associated with the photographs taken by Trooper Dolan on January 19, 2013 there is no evidence of undisclosed photographs or suppression of exculpatory evidence as asserted on page five (5) of the Ryan affidavit. Furthermore, the e-mail audit found no e-mails sent to or by Trooper Dolan as it relates to the Farak investigation.

c. Regarding the allegations made against Detective Captain Robert Irwin. Based on the interview of Detective Captain Irwin and his investigation into the Dookham matter, the Farak investigation was conducted in a consistent manner. Investigators of the state police detective unit focused on the criminal wrongdoings of Sonya Farak and were not charged with undertaking an investigation surrounding the systematic failures of the Amherst drug lab. As indicated in the body of this report, the systematic failures of the Hinton lab were investigated by the Office of the Inspector General.

d. Regarding the allegations made against Sergeant Joseph Ballou. Page ten (10) of the Ryan affidavit specifically states "*If/when Ballou recognizes that it's in his best interest to cooperate, he may be willing and able to share how and when the initial choice to conceal the treatment records were made*". As indicated in paragraph forty two (42) of this report, the e-mail sent by Sergeant Ballou on February 14, 2013 to Attorney Kaczmarek (including carbon copies to Attorney Verner and Captain Irwin) was the most significant finding of the e-mail audit. It is our collective opinion that e-mail (#618) dispels the unprofessional, unfounded and negligent allegations within the "Ryan Affidavit" (pages 6-10) which accuses Sergeant Ballou of serious wrongdoings.

e. Regarding the allegations made against Attorney Kris Foster. Attorney Foster was a member of the Attorney General's appeals division. Various e-mails in the audit revealed that there was ongoing dialogue between members of the Attorney General's office and they were not in agreement with Attorney Ryan's assertion that he should have access to the Farak evidence. On page twelve (12) of the Ryan affidavit there is an assertion by Attorney Ryan that Attorney Foster "*refused a defense request to inspect the physical evidence in an e-mail dated August 29, 2013*". This referenced e-mail (marked #255) was reviewed during the audit. The e-mail was sent by Attorney Ryan to Attorney Foster and illustrates a very assertive approach being taken by him. The e-mail outlines his strategy to address Judge Kinder without a hearing and he requests to use her name as his point of contact at the Office of the Attorney General. We could not find an e-mail within the body of the audit in which Attorney Foster refuses Attorney Ryan's request to review the Farak evidence.

f. Regarding the allegations made against Attorney Anne Kaczmarek. Like Detective Captain Irwin, she was involved in the Annie Dookham investigation in which the systematic failures of the Hinton lab were investigated by the Office of the Inspector General. During her interview Attorney Kaczmarek provided an overview of that investigation and how the Farak investigation was to be handled in the same manner. As indicated above, the e-mail audit revealed an ongoing dialogue in which the Attorney General's office did not agree with Attorney Ryan's position that he should have access to the Farak evidence. The Attorney General's office argued his position through the legal system and once an order was made by the court, Attorney Ryan was in fact given access to the evidence. As it relates to the allegation of concealing the treatment records and admission of drug use, there was a concern that these items may have been privileged. The strategy taken by the Office of the Attorney General was in the abundance of caution to not introduce these items into the grand jury. The evidence was however disclosed to Farak's defense counsel and would have been introduced if there had been a criminal trial.

Respectfully Submitted,



Detective Captain Paul L'Italien #1317
Massachusetts State Police



Captain James Coughlin #0818
Massachusetts State Police