



The Commonwealth of Massachusetts

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September 25, 2020

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The Honorable Charlie Baker
Governor of the Commonwealth of Massachusetts
Massachusetts State House, Room 280
Boston, MA 02133

Thomas Turco, Secretary of Public Safety and Security
Executive Office of Public Safety and Security
1 Ashburton Place, Suite 2133
Boston, MA 02108

Glenn A. Cunha, Inspector General
Office of the Inspector General
1 Ashburton Place, Room 1311
Boston, MA 02108

RE: Request for Further Investigation Into Sonja Farak's Work at the Former DPH Hinton Laboratory

Dear Governor Baker, Secretary Turco, and Inspector General Cunha:

In 2015, the Supreme Judicial Court held that Sonja Farak's misconduct at the Amherst lab "raised significant concerns about the administration of justice in criminal cases where a defendant was convicted of a drug offense and she was the analyst." Commonwealth v. Ware, 471 Mass. 85, 93 (2015). Given Farak's misconduct at the Amherst Lab, substantial questions have been raised about whether she engaged in similar misconduct while she was employed at the DPH Hinton Laboratory ("Hinton Lab") from May 2003 to August 2004, immediately prior to her employment at the Amherst Lab.

Unfortunately, this cloud of doubt remains because despite its comprehensive investigation into the Hinton Lab, the Office of the Inspector General ("OIG") has not affirmatively stated whether its investigation determined whether Farak engaged in misconduct at the Hinton Lab. Instead, the sole mention of Farak is relegated to a footnote in the one hundred and twenty-nine (129) page OIG report. The footnote simply states that Farak had been convicted of various charges arising out of her theft of drug evidence and testing samples from the Amherst Lab. In its report, the OIG stated that it did



a “top to bottom” investigation and concluded that Annie Dookhan “was the sole bad actor.” Although this suggests by negative implication that the OIG concluded that Farak had not engaged in misconduct at the Hinton Lab, the OIG has not stated this expressly nor has it specifically explained how its investigation ruled out misconduct by Farak.

The ACLU and numerous members of the defense bar have raised concerns about the adequacy of the OIG investigation. Farak’s misconduct at the Amherst Lab was egregious. She stole and personally used laboratory drug standards. She also stole and used drugs that both she and other chemists were responsible for testing. As a result, thousands of convictions were set aside. Farak’s malfeasance at the Amherst Lab occurred shortly after she left the Hinton Lab, raising questions about whether she had engaged in similar misconduct at the Hinton Lab before she left. Moreover, several “red flags” have been identified relating to Farak’s work at the Hinton Lab. These include the fact that Farak’s testing numbers were comparable to Annie Dookhan’s and evidence that Farak’s use of illegal drugs predated her employment at the Hinton Lab.

In addition, concerns about the adequacy of the OIG’s investigation were recently raised in a Superior Court case, Commonwealth v. Sutton, Docket No. 0481CR00986. In Sutton, the Superior Court vacated the defendant’s conviction, reasoning that the OIG’s investigation had not sufficiently focused upon potential misconduct by Farak at the Hinton Lab. Sutton involved a small amount of drugs (.04 of a gram) and the defendant does not face additional jail time. On its own merits, therefore, the facts and circumstances of Sutton do not warrant retrying the case. Accordingly, I intend to file a *nolle prosequi*.

Mr. Sutton’s case, however, does not stand alone. Statewide, nine thousand, seven hundred and ninety-three (9,793) convictions arising out of Farak’s work at the Hinton laboratory have now been called into question, including sixteen hundred and twenty-one (1,621) Middlesex County cases. Each one of these cases raises the same fundamental issue about whether the OIG’s investigation may be relied upon to determine whether Farak engaged in misconduct.

The OIG is uniquely positioned to address concerns relating to Farak’s work at the Hinton Lab. The OIG conducted an investigation, which took place over fifteen months, at a cost of \$6 million. This investigation encompassed the work of all of the chemists employed at the Hinton Lab and was conducted with the assistance of experts in the field of forensic science. The OIG worked with a team of experts from the firm Marcum LLP, including Frank Rudewicz (a forensic expert specializing in fraud investigations), Jack Mario (a chemist and expert in forensic testing) and Michael Wolf (former FBI Assistant Director with experience dealing with drug lab fraud). The OIG also retained numerous outside experts, including a consulting firm with litigation support and “e-discovery” experience. Governor Deval Patrick selected the OIG to investigate the

Hinton Lab because of the OIG's statewide authority and its expertise in investigating State agencies. The OIG, and the OIG alone, is in a position to clearly explain what its investigation revealed about the possibility that Farak engaged in misconduct while employed at the Hinton Lab.

In the wake of the Sutton decision, it imperative that the OIG definitively state whether Farak tampered with evidence while employed at the Hinton Lab and specifically explain how the scope and methodology of its investigation allows it to reach this conclusion. If the OIG believes that additional investigative steps are necessary to make this determination, I request that it identify those steps and take appropriate action immediately in order to dispel the cloud of doubt that surrounds Sonja Farak's work at the Hinton Lab.

Sincerely,

Marian T. Ryan
District Attorney
Middlesex County



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November 19, 2020

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Glenn A. Cunha, Inspector General
 Office of the Inspector General
 1 Ashburton Place, Room 1311
 Boston, MA 02108

RE: Request for Confirmation Regarding Scope of Investigation
 Into Sonja Farak's Work at the Former DPH Hinton
 Laboratory

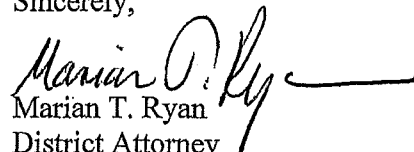
Dear Inspector General Cunha:

As expressed in my September 25, 2020, letter to you, in the wake of the Sutton decision, a definitive statement is needed from your office as to whether Sonja Farak tampered with evidence while employed at the Hinton Laboratory, and explaining the scope and methodology of your office's investigation.

On October 2, 2020, you replied to my letter, indicating that you were preparing a fuller response with information about the extent of your office's investigation.

While I understand that your office has been working on a response, almost two months have passed since I sought an explanation of the scope of the investigation. I request that you submit your response by December 1, 2020, and remind you that the seriousness of this issue cannot be overstated where the justice of convictions throughout the Commonwealth remains in question.

Sincerely,


 Marian T. Ryan
 District Attorney
 Middlesex County



cc: Andrea Harrington, District Attorney, Berkshire County
 Thomas Quinn, District Attorney, Bristol County
 Michael O'Keefe, District Attorney, Cape & Islands

Jonathan W. Blodgett, District Attorney, Essex County
Anthony Gulluni, District Attorney, Hampden County
Marian Ryan, District Attorney, Middlesex County
Michael Morrissey, District Attorney, Norfolk County
David E. Sullivan, District Attorney, Northwestern
Timothy J. Cruz, District Attorney, Plymouth County
Rachael Rollins, District Attorney, Suffolk County
Joseph D. Early, Jr., District Attorney, Worcester County
Tara Maguire, MDAA