

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

SUFFOLK, ss.

NO. SJ-2014-0005

KEVIN BRIDGEMAN,
and others

v.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT,
and others

Affidavit of Matthew R. Segal

I, Matthew R. Segal, state as follows:

1. I am legal director of the American Civil Liberties Union Foundation of Massachusetts (ACLUM).

2. I submit this affidavit to provide the Court with documents concerning investigations of drug lab scandals involving Annie Dookhan and Sonja Farak. These documents, in turn, contain information about the underlying misconduct.

3. ACLUM has participated in several cases concerning the Dookhan scandal. See Commonwealth v. Charles, 466 Mass. 63 (2013) (direct representation); Commonwealth v. Scott, 467 Mass. 336 (2014) (amicus participation); Bridgeman v. Dist. Atty. for the Suffolk Dist., 471 Mass. 465 (2015) (direct representation).

4. Since the Dookhan scandal was publicly disclosed in August 2012, ACLUM has fielded many calls and letters from people seeking information about

their rights as possible Dookhan or Farak defendants. The people making these queries often did not know what their rights were, or even whether Dookhan or Farak had in fact worked on their cases.

5. For nearly four years, ACLUM has also engaged in substantial non-litigation advocacy geared toward seeking a just and efficient approach to the Dookhan and Farak scandals.

6. For example, in October 2012 ACLUM joined with Families Against Mandatory Minimums to ask the Office of the Attorney General (OAG) and county District Attorneys to embrace alternatives to case-by-case litigation of Dookhan cases. See Exhibit 1.

7. Also in October 2012, ACLUM joined with the Massachusetts Bar Association, the Committee for Public Counsel Services, and the Massachusetts Association of Criminal Defense Lawyers to request an independent investigation of the Hinton Lab. See Exhibit 2.

8. The Office of the Inspector General (OIG) was then asked to conduct such an investigation.

9. The OIG produced a report on March 4, 2014, which described some of Dookhan's misconduct,¹ as well

¹ The OIG primarily focused on cases in which Dookhan allegedly added drugs to samples, which the OIG called "tampering." The OIG did not focus on the falsification of test results, known as "dry labbing." The term "dry labbing" appears only once in the OIG's March 2014 report. See Ex. 3 at 5.

as extensive failures in the Hinton Lab's management and oversight. See Exhibit 3.

10. Although the OIG report characterized Dookhan as the Hinton Lab's "sole bad actor," it also described other bad acts, including the silencing or ignoring of would-be whistleblowers. See, e.g., Exhibit 3 at 68, 70.

11. The OIG produced a supplemental report on the Hinton Lab on February 2, 2016. See Exhibit 4.

12. ACLUM and other organizations subsequently had extensive discussions with the OAG following this Court's decisions in Commonwealth v. Ware, 471 Mass. 85 (2015), and Commonwealth v. Cotto, 471 Mass. 97 (2015).

13. These discussions covered, among other topics, the investigation of the Amherst Lab, the need to identify and notify defendants, and alternatives to case-by-case litigation. See, e.g., Exhibit 5.²

14. It seems that this advocacy for alternatives to case-by-case litigation did not bear fruit.

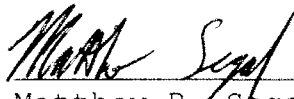
14. The OAG did, however, undertake an investigation of the Amherst Lab. As part of that effort, it elicited testimony from Sonja Farak before

² Although this September 2015 letter is critical of the District Attorneys' approach to identification of and notice to Dookhan defendants, it has also come to my attention that one or more District Attorneys did, to their credit, send some case-specific notices to affected Dookhan defendants or their lawyers.

the grand jury. See Exhibits 6-1, 6-2, and 6-3.

11. On April 1, 2016, the OAG completed a report on the Amherst Lab, finding extensive misconduct and serious problems with oversight. See Exhibit 7.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS
29th DAY OF JUNE, 2016.



Matthew R. Segal
BBO #654489
Legal Director
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF MASSACHUSETTS
211 Congress Street
Boston, MA 02110
(617) 482-3170

Bridgeman v. District Attorney for the Suffolk District
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Exhibits to Affidavit of Matthew R. Segal
June 29, 2016
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Letter from the MBA, CPCS, MACDL, and the ACLU of Massachusetts to Attorney General Martha Coakley, Oct. 24, 2012	2
Office of the Inspector General, <u>Investigation of the Drug Laboratory at the William A. Hinton State Laboratory Institute 2002 - 2012</u> , Mar. 4, 2014	3
Office of the Inspector General, <u>Supplemental Report Regarding The Hinton Drug Laboratory</u> , Feb. 2, 2016	4
Letter from the ACLU of Massachusetts, CPCS, MACDL, and the MBA to Deputy Attorney General Colin Owyang, Sept. 25, 2015	5
Transcript of Grand Jury Proceedings, <u>In re: Investigation</u> , Sept. 16, 2015	6-1
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Office of the Attorney General, <u>Investigative Report Pursuant to Commonwealth v. Cotto, 471 Mass. 97 (2015)</u> , Apr. 1, 2016	7