

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
No. SJ-2021-0129

COMMITTEE FOR PUBLIC COUNSEL SERVICES & others<sup>1</sup>

vs.

DISTRICT ATTORNEY FOR HAMDEN COUNTY

INTERIM ORDER

This matter came before me on a petition for extraordinary relief under G. L. c. 211, § 3. The petitioners assert an entitlement to relief related to alleged misconduct by unnamed members of the Springfield police department (SPD), in light of a Department of Justice (DOJ) report which concludes that, "there is reasonable cause to believe that Narcotics Bureau officers [of the SPD] engaged in a pattern and practice of excessive force in violation of the Fourth Amendment of the United States Constitution." The report states that a review of, inter alia, SPD records for the years 2013 to 2018 unearthed "examples where Narcotics Bureau officers falsified reports to disguise or hide their use of force," and attributes this

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<sup>1</sup> Chris Graham, Jorge Lopez, Meredith Ryan, Kelly Auer, and Hampden County Lawyers for Justice.

pattern or practice to "systematic deficiencies in policies, accountability, and training." The petitioners maintain that the office of the district attorney for Hampden County has not disclosed to defendants charged with criminal offenses in Hampden County documents in the control of the SPD that would identify the officers involved, and that the failure to disclose evidence which could be used, inter alia, to impeach those officers when they testify in the defendants' criminal cases violates Mass. R. Crim. P. 14, as well as the defendants' rights to the disclosure of exculpatory evidence under Brady v. Maryland, 373 U.S. 83 (1963).

The district attorney asserts in his written response that he has disclosed all exculpatory evidence in his possession, does not know the identities of the unnamed officers mentioned in the DOJ report, and has undertaken multiple efforts to obtain from the SPD and the DOJ the documents upon which the DOJ relied in its report, but that those efforts have yet to produce material results. Documents in the record include letters from the attorney general to the DOJ and the SPD, as well as information about a legal action the district attorney filed in the United States District Court for the District of Massachusetts to obtain this information from the DOJ.

At a hearing before me on July 14, 2021, counsel for the district attorney reported that the SPD would comply with the request that it produce the documents underlying the DOJ report, but states that the SPD cannot identify those documents in light of the manner in which the DOJ was provided access to the records of the SPD. More specifically, counsel represented that the DOJ was allowed access to all of the SPD's computer systems, and reached its conclusions based on information therein, as well as on other unidentified sources; the SPD did not deliver any specific documents to the DOJ and is unaware of which, if any, documents evinced evidence of the use of excessive force or falsified reports. Counsel also stated that the SPD recently provided the office of the district attorney with certain documents the SPD believes are related to the specific incidents discussed in the DOJ report; the office of the district attorney is reviewing those to determine if the documents constitute or reveal information required to be disclosed pursuant to Mass. R. Crim. P. 14, or the prosecutor's obligation to provide exculpatory information, and, if so, will provide the information and documents to the petitioners. Counsel also explained that the federal litigation is in its early stages.

In light of the representations of the parties at the

hearing before me, it is ORDERED that the parties each shall file a report on the status of the identification efforts sixty business days after the date of entry of this order. The office of the district attorney shall include in its report its determination whether the documents provided by the SPD are responsive to its requests for the documents underlying the DOJ report, and, if so, whether documents have not been provided, as far as it is able to determine, for any specific incident described in the DOJ report. The office of the district attorney also shall report on the status of the litigation in the United States District Court.

By the Court,

/s/ *Dalila Argaez Wendlandt*

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Dalila Argaez Wendlandt  
Associate Justice

Entered: July 16, 2021