

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

COMMITTEE FOR PUBLIC COUNSEL SERVICES & others¹

vs.

DISTRICT ATTORNEY FOR HAMPDEN COUNTY.

MEMORANDUM OF DECISION AND REPORT

This case came before the court, Wendlandt, J., on a petition for relief pursuant to G. L. c. 211, § 3, and for declaratory relief pursuant to G. L. c. 231A, § 1. Pursuant to the court's Third Interim Order, the parties submitted a "Joint Statement of Agreed Facts and Contested Material Facts" and the "Parties' Response to Question 1 of the Third Interim Order," which required the parties to list the agreed legal issues and contested material legal issues for this case. Because the parties were unable to agree to all facts necessary to permit the court to decide the issues raised in the petition, as amended, or to come to a complete agreement as to the legal issues that must be decided, I appointed the Honorable Judith Fabricant (ret.) as a special master. I referred the matter to her to determine which, if any, relevant facts were agreed to by the parties; to hold a hearing or hearings, as necessary; to make any and all findings of fact and credibility determinations, beyond the facts agreed to by the parties, that she deemed necessary and relevant to resolution of the legal issues raised by the petitioners in their petition, as amended, the legal issues raised by the respondent in its opposition to the petition, the legal issues that the parties

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

have agreed are raised for this case, and any other legal issues that the special master deemed necessary and relevant to resolution of the case; and to report to the court her findings of fact, credibility determinations, determinations as to agreed facts, and any recommendations or conclusions of law.

The Special Master has now filed her Report of Special Master, dated October 18, 2022; stipulated and redacted exhibits entered in evidence at the hearings before the special master and transcripts of those hearings also were filed (collectively, Report). After reviewing the filings, the Report, the petitioner's objections to the Report, and the respondent's opposition to the objections, I held a hearing for the principal purpose of identifying whether there were any further areas of agreement. Ultimately, after review of the record, and in light of the extraordinary, declaratory, and equitable relief requested by the plaintiffs, the issues presented and the facts found in the Report, I conclude this is a matter best decided by the full court. I therefore exercise my discretion to reserve and report this matter. The record before the full court shall include all pleadings, the Report, the petitioners' objections to the Report, the respondent's opposition to the objections, and all other documents and materials filed in the county court in this case, as well as the docket sheet for SJ-2021-129, and this reservation and report.

In their briefs, the parties shall address the following issues, which were identified in the parties' Joint Statement of Contested Material Legal Issues:

1. Has the July 2020 Department of Justice Report, together with other evidence of misconduct by the Springfield Police Department, triggered the Commonwealth's duty to investigate and, if so, what does that duty entail?

2. When a police department has been alleged by an investigating agency to have engaged in a "pattern or practice" of misconduct, what evidentiary disclosures must a State prosecutor make in order to satisfy the duty to "learn of and disclose to a defendant any exculpatory evidence that is 'held by agents of the prosecution team'" in matters involving that police department? See Matter of a Grand Jury Investigation, 485 Mass. 641 (2020); Commonwealth v. Cotto, 471 Mass. 97, 112 (2015).

3. What obligations does the prosecution have when a police department declines to turn over exculpatory evidence concerning police officers who are members of prosecution teams?

4. Do each of the petitioners have standing to bring this case and invoke the court's superintendence power?

The petitioners are designated as the appellants. The parties shall confer with the Clerk of the Supreme Judicial Court for the Commonwealth to determine a briefing schedule. This matter shall proceed in all respects in conformance with the Massachusetts Rules of Appellate Procedure.

So ordered.

/s/ Dalila Argaez Wendlandt
Dalila Argaez Wendlandt
Associate Justice

Entered: January 30, 2023