

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY**

No. SJ-2021-0129

CHRIS GRAHAM, JORGE LOPEZ, MEREDITH RYAN, KELLY AUER,  
COMMITTEE FOR PUBLIC COUNSEL SERVICE, and HAMPDEN COUNTY  
LAWYERS FOR JUSTICE,  
Petitioners,

v.

DISTRICT ATTORNEY FOR HAMPDEN COUNTY,  
Respondent.

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**THE NEW ENGLAND INNOCENCE PROJECT, THE INNOCENCE  
PROJECT, INC. AND THE BOSTON COLLEGE INNOCENCE PROGRAM  
AMICI CURIAE SUBMISSION IN SUPPORT OF THE PETITIONERS**

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## **PRELIMINARY STATEMENT**

The New England Innocence Project ("NEIP"), Innocence Project, Inc., ("IP"), and Boston College Innocence Program ("BCIP")<sup>1</sup> urge this Court to exercise its authority under Massachusetts General Law Chapter 211, Section 3, to grant the emergency petition for relief in Graham et al., v. District Attorney for Hampden County, No. SJ-2021-0129 (April 6, 2021) ("Graham Petition"), or in the alternative, Reserve and Report the case to the full bench.

As the Graham Petition illustrates, there is a concerning pattern and practice of constitutional violations and misconduct by the Springfield Police Department ("SPD"), and a failure by the Hampden County District Attorney's Office ("HCDAO") to investigate this misconduct and disclose exculpatory evidence. This sort of police and prosecutorial misconduct contributes to wrongful convictions, violates fundamental due process rights, and damages the integrity of the entire criminal legal system. This Court's exercise of its superintendence authority is necessary to (i) prevent and correct wrongful convictions, (ii) protect Black people and people of color who are disproportionately harmed by official misconduct, and (iii) preserve the integrity of the Massachusetts criminal legal system.

The Commonwealth has ample cause for concern to investigate the ongoing official misconduct in Hampden County. The Springfield Police Department was the focus of an investigation by the United States Department of Justice ("DOJ")

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<sup>1</sup> The statements of interest of NEIP, IP, and BCIP are attached hereto as Appendix A.

under former President Trump, resulting in the DOJ's "sole pattern-and-practice finding against any police department in the country."<sup>2</sup> In July 2020, the DOJ released a report concluding that the SPD engaged in "a pattern or practice of using excessive force" in violation of the Fourth Amendment to the United States Constitution.<sup>3</sup> In addition to finding that the SPD excessively used unwarranted force, the DOJ report detailed pervasive falsification of police reports by the SPD, including failures to complete prisoner injury reports in 89% of cases in 2017.<sup>4</sup> Specifically, the DOJ reported that there was substantial evidence showing widespread misconduct by SPD officers, including:

- (i) failing to report use-of-force incidents that should have been reported even under the SPD's own lax reporting policies,
- (ii) using vague language when reporting force that prevented identification of unlawful use of force in a significant number of cases, and
- (iii) submitting reports with inaccurate or falsified information concerning police conduct.<sup>5</sup>

The report also found that these abuses of due process remained unchecked because the SPD has flawed and insufficient protocols in place to address systemic police misconduct.<sup>6</sup> As such, the DOJ could not determine the vast extent of

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<sup>2</sup> Graham Petition at 8.

<sup>3</sup> Investigation of the Springfield Massachusetts Police Department Narcotics Bureau, Department of Justice at 1, (July 8, 2020), <https://www.justice.gov/opa/press-release/file/1292901/download>.

<sup>4</sup> Id. at 16.

<sup>5</sup> Id.

<sup>6</sup> See id. at 22-27 (detailing lack of procedures in place to prevent and address officer misconduct).

the problem and concluded that "more is required to address the constitutional violations and systemic deficiencies" within the SPD.<sup>7</sup>

The Department of Justice report requires action to remedy and prevent wrongful convictions caused by systemic official misconduct in Hampden County; however, the Hampden County District Attorney's Office has not undertaken a comprehensive investigation into the Springfield Police Department nor disclosed exculpatory evidence of police officer misconduct necessary to remediate the serious problems identified by the DOJ. The consequences of inaction have the potential to be devastating, including increasing the risk of wrongful convictions, exacerbating existing racial disparities in the criminal legal system, and undermining the integrity of the system as a whole. This Court's intervention is necessary to prevent these devastating consequences.

## **ARGUMENT**

### **I. The Court Should Grant The Graham Petition To Prevent And Correct Wrongful Convictions**

Police and prosecutorial misconduct — like the falsification of evidence and failure to investigate and disclose exculpatory evidence detailed in the Graham Petition — contributes substantially to wrongful convictions. Given the interdependent relationship between prosecutors and police officers, these forms of misconduct are often intertwined. In September 2020, a comprehensive analysis conducted by the National Registry of Exonerations, an independent research entity, revealed that official misconduct by police and prosecutors "contributed to the

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<sup>7</sup> Id. at 6, 19.

conviction of innocent defendants in 54% of known exonerations" across the nation.<sup>8</sup> Notably, concealing exculpatory evidence — as relevant to the Graham Petition — is one of the most prevalent types of official misconduct, contributing to about 44% of all known wrongful convictions.<sup>9</sup> Of the known wrongful convictions where official misconduct played a role, prosecutors were responsible for failing to disclose exculpatory evidence in 73% of exoneration cases (including numerous cases where prosecutors became aware of favorable evidence in the possession of police agencies), and police officers were responsible for concealing exculpatory evidence in 33% of those cases.<sup>10</sup>

In Massachusetts, police and prosecutorial misconduct has contributed to 60% of exonerations since 1989.<sup>11</sup> In Hampden County alone, police and prosecutorial misconduct has contributed to the wrongful conviction of at least five

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<sup>8</sup> Government Misconduct and Convicting the Innocent: The Role of Prosecutors, Police and Other Law Enforcement, National Registry of Exonerations, at 11, (September 1, 2020), [https://www.law.umich.edu/special/exoneration/Documents/Government\\_Misconduct\\_and\\_Convicting\\_the\\_Innocent.pdf](https://www.law.umich.edu/special/exoneration/Documents/Government_Misconduct_and_Convicting_the_Innocent.pdf) (emphasis added) (hereinafter cited as "Government Misconduct").

<sup>9</sup> Id. at 30, 32 (noting that failure to disclose exculpatory evidence is the most common type of official misconduct across all types of wrongful conviction cases where official misconduct played a role). Failure to disclose exculpatory evidence occurred twice as often as any other type of official misconduct — witness tampering, misconduct in interrogations, fabricating evidence, and misconduct at trial. Id. at 30.

<sup>10</sup> Id. at 82 (noting that there was more than one type of official misconduct present in about 11% of exoneration cases where official misconduct played a role).

<sup>11</sup> See Exoneration Detail List, National Registry of Exonerations (May 13, 2021), <https://www.law.umich.edu/special/exoneration/Pages/detailist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=ST&FilterValue1=MA&FilterField2=County%5Fx0020%5Fof%5Fx0020%5FCrime&FilterValue2=Hampden&FilterField3=OM&FilterValue3=8%5FOM>.

individuals since 1987, collectively robbing those innocent individuals of 77 years of freedom.<sup>12</sup>

Chris Graham's case is one illustrative example of the ongoing injustice in Hampden County. Mr. Graham, a Black man, was wrongfully convicted after Hampden County prosecutors failed to disclose exculpatory evidence undermining a Springfield police report incriminating Mr. Graham. Mr. Graham was convicted of firearm possession and served an 18-month sentence based on a Springfield police report claiming that Mr. Graham pointed a gun at police during a confrontation.<sup>13</sup> However, what was not disclosed was an eyewitness statement to 911 dispatchers that the person who had pulled the gun during the confrontation between the Springfield police officers and Mr. Graham was white — like the police officers and unlike Mr. Graham.<sup>14</sup>

Another poignant example of the ongoing injustice in Hampden County is Mark Schand, who, due to official misconduct, served over 25 years in prison for crimes he did not commit. In 1987, Mr. Schand was convicted of first-degree murder, armed robbery and assault in connection with a 1986 shooting in a Springfield bar. He was convicted based on false eyewitness testimony. In 2013, the Superior Court vacated Mr. Schand's convictions based on evidence that the SPD used suggestive lineup identification procedures to obtain a false identification of Mr.

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<sup>12</sup> See Exoneration Detail List, National Registry of Exonerations (May 13, 2021), <https://www.law.umich.edu/special/exoneration/Pages/detailist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=ST&FilterValue1=MA&FilterField2=OM&FilterValue2=8%5FOM>.

<sup>13</sup> Graham Petition at 7.

<sup>14</sup> Id.



Schand and because Hampden County prosecutors failed to disclose exculpatory evidence that the integrity of the police lineups was corrupted. After his exoneration, Mr. Schand filed a federal civil rights lawsuit against the city of Springfield and Hampden County, and a jury awarded Mr. Schand \$27 million.<sup>15</sup>

The police and prosecutorial misconduct that contributes to wrongful convictions is not typically confined to isolated incidents of misconduct, but instead is often pervasive and symptomatic of a larger systemic problem — as is the case in Hampden County.<sup>16</sup> For example, in 2012 a decade-long investigation into the Chicago Police Department ("CPD") revealed a plague of officers creating false evidence by planting drugs on arrestees, the majority of whom were Black people and people of color. That year, then-CPD Sergeant Ronald Watts was federally indicted for trying to steal money and paying off an FBI informant. Subsequent investigations by the Chicago Office of the Inspector General and the city's civilian police oversight agency revealed that extensive misconduct, including falsifying evidence, had resulted in the wrongful conviction of scores of individuals. As of February 2021, reinvestigations by the Exoneration Project and other civil rights and criminal defense

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<sup>15</sup> Mark Schand, National Registry of Exonerations, (December 9, 2020), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4288>.

<sup>16</sup> Other Hampden County exoneration involving police and prosecutorial misconduct include Michael Hill, Roger Norton, George Perrot, and Charles Willhite. See Exoneration Detail List, National Registry of Exonerations, (May 13, 2021), <https://www.law.umich.edu/special/exoneration/Pages/detailist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=ST&FilterValue1=MA&FilterField2=County%5Fx0020%5Fof%5Fx0020%5FCrime&FilterValue2=Hampden&FilterField3=OM&FilterValue3=8%5FOM>.

attorneys, and by the Conviction Integrity Unit of the Cook County State's Attorney's Office have resulted in over 88 exonerations.<sup>17</sup>

The systemic deprivation of due process arising out of the Chicago Police Department serves as an instructive warning for the Commonwealth. In Cook County, the District Attorney's Office actively participated in an investigation to root out the police misconduct. The Hampden County District Attorney's Office must do the same here. As the Graham Petition shows, official misconduct in Hampden County is depriving individuals of their constitutional rights at a systemic level that the Commonwealth cannot ignore. A prompt investigation by the HCDAO into the Springfield Police Department — overseen by this Court or a Special Master — is necessary to root out this misconduct and protect against the grave injustice of wrongful convictions.

**II. The Court Should Grant The Graham Petition To Protect Black People And People Of Color Who Are Disproportionately Harmed By Official Misconduct Within The Criminal Legal System**

In June 2020, the Justices of this Court pledged the Court's commitment to racial justice in the Commonwealth:

"As judges, we must look afresh at what we are doing, or failing to do, to root out any conscious and unconscious bias in our courtrooms; to ensure that the justice provided to African-Americans is the same that is provided to white Americans; to create in our courtrooms, our corner of the world, a place where all are truly equal. . . . And as members of the legal community, we need to reexamine why, too often, our criminal justice system fails to treat African-Americans the same as white Americans, and recommit ourselves to the systemic change needed to

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<sup>17</sup> Eveless Harris, National Registry of Exonerations, (March 2, 2021), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5923>.

make equality under the law an enduring reality for all. This must be a time not just of reflection but of action."<sup>18</sup>

This Court made clear that, where there is a systemic failure that disproportionately impacts Black people and people of color, this Court must not just reflect, but act.

The Graham Petition provides an important opportunity for this Court to protect the communities that are disproportionately harmed by the kinds of official misconduct plaguing Hampden County.

Police and prosecutorial misconduct is a leading contributor to the disproportionate number of wrongful convictions of Black people and people of color. Nationally, Black people account for 48% of all known wrongful convictions while representing only 13% of the United States population.<sup>19</sup> Equally troubling, 57% of wrongfully convicted Black persons were victims of proven official misconduct.<sup>20</sup> This percentage is even more egregious for wrongful murder convictions (78%) and capital convictions (87%).<sup>21</sup> Black people are also more than twice as likely as their white counterparts to have been wrongfully convicted of drug

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<sup>18</sup> Letter from the Seven Justices of the Supreme Judicial Court to Members of the Judiciary and the Bar, Massachusetts Supreme Judicial Court, (June 3, 2020), <https://www.mass.gov/news/letter-from-the-seven-justices-of-the-supreme-judicial-court-to-members-of-the-judiciary-and>.

<sup>19</sup> See Government Misconduct at 28.

<sup>20</sup> Id.

<sup>21</sup> Id.

crimes (47% compared to 22%) due to official misconduct.<sup>22</sup> And this is despite the fact that Black and white people use drugs at comparable rates.<sup>23</sup>

There is substantial evidence of racial bias — and its consequences — within the Commonwealth's criminal legal system. A 2020 Harvard Law School study commissioned by the late Chief Justice Ralph Gants revealed the consequences of racially biased policing and prosecutorial practices that contribute to racial disparities throughout the Massachusetts justice system.<sup>24</sup> For example, the study demonstrated that police disproportionately target Black people and people of color: though they comprise only 24% of Boston's population, Black people were subjected to approximately 63% of interrogations, searches, and seizures by Boston police.<sup>25</sup> In the Commonwealth, individual members of racial minority groups also receive harsher sentences than their white counterparts.<sup>26</sup> The study identified the racially disparate application of prosecutorial discretion as a substantial contributor to those disproportionate sentences.<sup>27</sup> In felony cases where the courts share concurrent

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<sup>22</sup> Id.

<sup>23</sup> Race and Wrongful Convictions in the United States, National Registry of Exonerations, at 16, (March 17, 2017), [http://www.law.umich.edu/special/exoneration/Documents/Race\\_and\\_Wrongful\\_Convictions.pdf](http://www.law.umich.edu/special/exoneration/Documents/Race_and_Wrongful_Convictions.pdf).

<sup>24</sup> See Racial Disparities in the Massachusetts Criminal System, Criminal Justice Program and Harvard Law School, at 1, 3, (September 2020), <https://hls.harvard.edu/content/uploads/2020/11/Massachusetts-Racial-Disparity-Report-FINAL.pdf> (citing former Chief Justice Gant's purpose in commissioning the study to take "a hard look at how we can better fulfill our promise to provide equal justice for every litigant").

<sup>25</sup> Id. at 18.

<sup>26</sup> Id. at 35.

<sup>27</sup> See id. at 39, 41.

jurisdiction, prosecutors can exercise discretion in indicting defendants either in the Boston Municipal Court or District Courts (which limits sentences to no more than two-and-a-half years) or the Superior Court (which may impose longer sentences).<sup>28</sup> Black and Latinx defendants are more than twice as likely to be indicted in Superior Court than white defendants, which puts Black and Latinx defendants at a greater risk of long sentences than their white counterparts.<sup>29</sup> The study further showed that Black and Latinx defendants who were charged with drug and weapon crimes were "more likely to be convicted and sentenced to incarceration," and these sentences were substantially longer than their similarly situated white counterparts.<sup>30</sup> The study demonstrated that these racial disparities involving drug and weapon crimes — like in Mr. Graham's case — drive the broader sentencing and incarceration disparities in the Massachusetts criminal legal system.<sup>31</sup>

Mr. Graham's case exemplifies the confluence of these factors: a Black man was wrongfully convicted of a firearms offense after Hampden County prosecutors failed to disclose an eyewitness statement that the individual holding the gun was white and therefore could not have been Mr. Graham, as alleged in the Springfield police report. Unfortunately, Mr. Graham's case is not uncommon. In 2005, Robert Aldrich — a Black man — was convicted in Norfolk County Superior Court of auto theft. The police officers who arrested Mr. Aldrich told the jury that Mr. Aldrich was their initial suspect because they had heard over the police radio a

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<sup>28</sup> Id. at 38-39.

<sup>29</sup> Id. at 39.

<sup>30</sup> Id. at 44.

<sup>31</sup> Id.

description of a man running from a stolen car that matched Mr. Aldrich's description. The transcript of the radio broadcast was not produced at trial, despite Mr. Aldrich's requests. However, when the transcript was finally produced months after Mr. Aldrich's conviction, it revealed a dark truth: the police officers falsely reported the description, which was in fact never broadcast over the police radio. After his exoneration, Mr. Aldrich filed a federal civil rights lawsuit against the police department detailing the real reason for his arrest: when Mr. Aldrich asked why he was being arrested, the police officers said it was for "BBB" ("Being Black in Brookline").<sup>32</sup>

In Massachusetts, persistent racial disparities in policing and prosecutorial practices account for the Commonwealth outpacing the national racial disparity rates and incarcerating African-Americans at a rate of 7.9 times that of their white counterparts.<sup>33</sup> More than half (55%) of those known to have been wrongfully convicted in Massachusetts as a result of official misconduct are Black or Latinx.<sup>34</sup> Wrongful convictions, especially those related to official misconduct, only exacerbate the consequences for Black people and people of color in Springfield. The Graham Petition provides this Court with a critical opportunity to address the disparate impact

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<sup>32</sup> Robert Aldrich Jr., National Registry of Exonerations, (December 31, 2016), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5056>.

<sup>33</sup> Racial Disparities in the Massachusetts Criminal System, at 1.

<sup>34</sup> See Exoneration Detail List, National Registry of Exonerations, (May 18, 2021), <https://www.law.umich.edu/special/exoneration/Pages/detaillist.aspx?View={FAF6EDDB-5A68-4F8F-8A522C61F5BF9EA7}&FilterField1=ST&FilterValue1=MA&FilterField2=OM&FilterValue2=8%5FOM>.

of official misconduct on communities of color in jurisdictions like Hampden County, which the DOJ has flagged for immediate intervention.

**III. The Court Should Grant The Graham Petition To Preserve The Integrity of the Commonwealth's Criminal Legal System**

The integrity of the criminal legal system depends on proper investigation to uncover systemic abuse and correct prosecutorial and police misconduct. A swift and systematic investigation into the Springfield Police Department overseen by this Court — and adequate disclosure of the SPD's misconduct by the Hampden County District Attorney's Office — is necessary to preserve the integrity of the Commonwealth's criminal legal system.

The type of misconduct that the DOJ has identified as pervasive in Hampden County is precisely the type of official misconduct that must be investigated and disclosed to defendants because it severely undermines the integrity of our criminal legal system. In evaluating a duty to disclose falsified police reports, this Court acknowledged that "[c]oncealing police brutality against an arrestee, whether by the officer or a fellow officer, or making false statements that might lead to an unjust conviction are for law enforcement officers the equivalent of high crimes and misdemeanors in this regard." In re Grand Jury Investigation, 485 Mass. 641, 652 (2020) (concluding that prosecutors had a duty to disclose exculpatory evidence). Indeed, the HCDAO continues to prosecute cases without knowledge of whether the facts upon which they rely may have been tainted by the misconduct detailed in the DOJ report. It is difficult to imagine a circumstance more worthy of this Court's emergency attention and superintendence powers.

This Court has intervened previously where there has been a comparable systemic lapse that undermines a fair and just criminal legal system, including taking action to remedy official misconduct that had the potential to taint criminal prosecutions.

- This Court responded to systemic misconduct by a forensic lab technician, Annie Dookhan, who tampered with evidence at the Hinton drug lab, that affected thousands of drug convictions, by holding that "it is incumbent upon us to exercise our superintendence power to fashion a workable approach to motions to withdraw a guilty plea brought by defendants affected by this misconduct." Commonwealth v. Scott, 467 Mass. 336, 352 (2014).
- This Court responded to the systemic failure of the Commonwealth to thoroughly investigate Sonja Farak, another lab technician, whose widespread misconduct at the Amherst drug lab caused a severe miscarriage of justice in an unknown number of cases. The Court decided to "exercise [its] superintendence power to fashion a workable approach" to provide defendants whose evidence samples were analyzed by Farak an opportunity to discover whether, in fact, their cases were affected by her misconduct. Commonwealth v. Cotto, 471 Mass. 97, 114 (2015) (citation omitted).
- This Court also recognized the role of the Court to "exercise its superintendence authority and vacate and dismiss all criminal convictions tainted by governmental wrongdoing" that was "compounded by prosecutorial misconduct" related to the Farak scandal. Comm. for Pub. Couns. Servs. v. Att'y Gen., 480 Mass. 700, 704–05 (2018) (affirming prophylactic measures are appropriate in this case to ensure exculpatory evidence is disclosed). This Court opined that "[i]f similar, widespread abuse does come to light in the future, the appropriate remedy must be complete, and it must correspond to the scope of the misconduct." Id. at 734.

This precedent demonstrates that, while honoring the separation of powers between the judicial and executive branches, this Court must intercede where the executive fails to protect the integrity of the criminal legal system. The Springfield Police Department's pattern and practice of misconduct described in the DOJ report is no less serious or systemic than the misconduct of the lab employees



that compelled this Court previously to exercise its superintendence power. If this Court found it appropriate to exercise its superintendence powers to address a failure to investigate misconduct by civilian lab employees who are indirect agents of the criminal legal system, then there is even more reason for the Court to exercise its powers here, where police and prosecutors (officers of the court) play a direct role in upholding (or eroding) the integrity of the criminal legal system.

To date, the Hampden County District Attorney's Office has failed to take any meaningful steps to (i) determine whether and to what extent official misconduct of the kind detailed in the DOJ report has contributed to wrongful convictions or otherwise undermined the integrity of cases in which individuals were convicted or (ii) investigate whether official misconduct continues to taint ongoing prosecutions of individuals in Hampden County whose liberty is in jeopardy.<sup>35</sup> Without an independent and comprehensive investigation into the scope of misconduct by the Springfield Police Department, the scope of the consequences — and damage to the criminal legal system — cannot be known. Granting the Graham Petition is a necessary first step to remedying the ongoing injustice in Hampden County.

### **CONCLUSION**

The New England Innocence Project, the Innocence Project, Inc., and the Boston College Innocence Program respectfully urge this Court to grant the Graham Petition or Reserve and Report the case to the full bench. The Springfield Police Department's misconduct — compounded by the failure of the Hampden

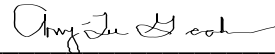
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<sup>35</sup> See Graham Petition at 15-19.

County District Attorney's Office to pursue a comprehensive investigation and disclose known exculpatory evidence — contributes to wrongful convictions in Hampden County, exacerbates racial injustice in the Commonwealth, and undermines the integrity of our entire criminal legal system. This Court has the authority and opportunity to ensure that the official misconduct in Hampden County is investigated and remediated. We respectfully ask the Court to intercede.

Dated: May 21, 2021  
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Respectfully submitted,



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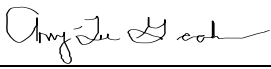
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**CERTIFICATE OF SERVICE**

Under the penalties of perjury, I, Amy-Lee Goodman, hereby certify that on May 21, 2021, a true copy of the foregoing New England Innocence Project, Innocence Project, Inc., and Boston College Innocence Program Amici Curiae Submission In Support Of The Petitioners was served by email upon Counsel for Petitioners, Martin M. Fantozzi, Matthew P. Horvitz, Abigail Fletes, Goulston and Storrs PC, 400 Atlantic Avenue, Boston, MA 02110, mhorvitz@goulstonstorrs.com; Somil Trivedi, American Civil Liberties Union Foundation, Inc., 915 15th St., NW, Washington, DC 20005, strivedi@aclu.org; Ezekiel Edwards, American Civil Liberties Union Foundation, Inc., 125 Broad Street, 18th Floor, New York, NY, eedwards@aclu.org; Matthew R. Segal, Jessica J. Lewis, Daniel L. McFadden, William C. Newman, American Civil Liberties Union Foundation Of Massachusetts, Inc., 211 Congress Street, Boston, MA 02110, msegal@aclum.org; and Rebecca Jacobstein, Mitchell Kosht, Committee For Public Counsel Services, 100 Cambridge Street, 14th Floor, Boston, MA 02110, rjacobstein@publiccounsel.net, and Counsel for Respondent, Assistant District Attorney Katherine E. McMahon, Roderick L. Ireland Courthouse, 50 State Street, Springfield, MA 01102, kate.mcmahon@state.ma.us.

Dated: May 21, 2021

  
\_\_\_\_\_  
Amy-Lee Goodman

## **APPENDIX A**

The New England Innocence Project ("NEIP") is a nonprofit organization dedicated to correcting and preventing wrongful convictions in the six New England states. In addition to providing pro bono legal representation to individuals with claims of innocence, NEIP advocates for judicial and policy reforms that will reduce the risk of wrongful convictions. This includes ensuring that the presumption of innocence applies robustly and equally to all people and at all stages of the criminal legal system, from the moment of their encounter with the police through trial. It also includes ensuring that all evidence, regardless of its source or pedigree, is subjected to appropriately rigorous scrutiny and bears sufficient indicia of reliability before it is used against criminal defendants. Finally, in recognition of the grossly disproportionate number of members of communities of color who have been wrongfully convicted, NEIP's mission includes ensuring that explicit or implicit racial bias does not operate in ways that serve to undermine the presumption of innocence.

The Innocence Project, Inc. ("IP") is a 501(c)(3) national legal services and criminal justice reform organization based in New York that seeks to exonerate the wrongfully convicted and prevent future miscarriages of justice. Founded in 1992 by Barry Scheck and Peter Neufeld, the Innocence Project's attorneys pioneered the litigation model that has, to date, led to the exoneration of more than 350 wrongfully convicted persons in the United States through post-conviction DNA testing, and hundreds more through other forms of newly discovered evidence. To date, the Innocence Project's attorneys have served as lead or co-counsel for more than 230 exonerated individuals in 32 states and the District of Columbia.

The Boston College Innocence Program ("BCIP") is a clinical legal educational program at Boston College Law School where students and faculty study the problem of wrongful convictions and work to remedy and prevent these injustices. In addition to its educational mission and in-house clinic providing pro bono representation to indigent Massachusetts prisoners maintaining their factual innocence, BCIP brings legal and interdisciplinary research to bear on law and policy reform initiatives to identify, correct, and prevent wrongful convictions.