

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss.

NO. SJC-12157

KEVIN BRIDGEMAN,
and others

V.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT,
and others

SUPPLEMENTAL RECORD APPENDIX OF THE PETITIONERS AND
THE COMMITTEE FOR PUBLIC COUNSEL SERVICES

BENJAMIN H. KEEHN
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September, 2016.

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The Commonwealth of Massachusetts

DISTRICT ATTORNEY OF SUFFOLK COUNTY
DANIEL F. CONLEY

Vincent DeMore, ADA
Suffolk County District Attorney
Chelsea District Court
120 Broadway, Room 203
Chelsea, MA 02150

Telephone: (617) 884-2200

VIA FIRST CLASS MAIL

August 25, 2016

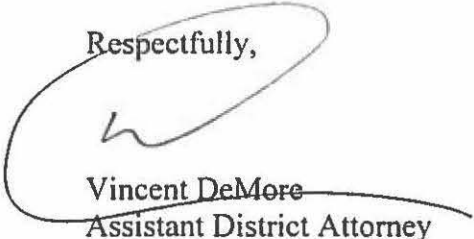
Hon. Margot Botsford
Supreme Judicial Court for the County of Suffolk
John Adams Courthouse, 1st Floor
One Pemberton Square, Suite 1300
Boston, MA 02102-1707

Re: *Bridgeman v. District Attorney for the Suffolk District, et al* SJ-2014-0005

Dear Judge Botsford,

Attached, please find a sample of the notice letters the Commonwealth will send on or before September 1, 2016. The Commonwealth has contracted with a vendor who will send notice to best current addresses of the identified individuals and then send a second round of mailings to all individuals whose letters are returned undelivered using a next best address.

Respectfully,


Vincent DeMore
Assistant District Attorney
Suffolk County District Attorney's Office

w/ encl.

cc w/encl.

Attorney Benjamin Keehn
Attorney Nancy Caplan
Attorney Matthew Segal
Clerk Amy Stewart

cc w/o encl.

Respondent District Attorneys

IMPORTANT NOTICE REGARDING A CLOSED CRIMINAL CASE

Address 1
Address 2
Address 3

Date

Dear _____:

According to court records, you were convicted of one or more drug offenses in Suffolk County between 2003 and 2011. It has been determined that chemist Annie Dookhan tested the drugs in your case(s), _____ COURT, DOCKET NO. _____.

Ms. Dookhan admitted to misconduct in her work at the drug lab. Because Ms. Dookhan tested evidence in your case, you have certain rights:

- You have the right to challenge the drug conviction(s) listed in this notice. If your challenge succeeds, your conviction(s) will be undone or "vacated," and your case will be returned to active status.
- The District Attorney's office may decide to try you again on the vacated drug charge(s), but if you are tried and convicted again, you will not face any punishment greater than what you already received. In other words, you cannot be additionally punished for choosing to challenge your conviction(s).

If you have any questions, please contact your original lawyer on your case(s). You may also choose to speak to a new lawyer. If you do not know how to contact your original lawyer, you may get that information at the criminal clerk's office at the court where your case was handled. Addresses for all of the District and Superior courts can be found at:

<http://www.mass.gov/courts/court-info/courthouses/courthouses-by-county-gen.html>

For more information, you may contact the Suffolk County District Attorney's Office at (617) 619-4348

De acuerdo con los documentos de corte, usted ha sido condenado por uno o más delitos de drogas en el Condado de Suffolk entre 2003 y 2011. Se ha determinado que la científica química Annie Dookhan examinó las drogas en su caso(s), _____ COURT, DOCKET NO. _____.

La Sra. Dookhan admitió a mala conducta de trabajo en el laboratorio de drogas. Debido a que la Sra. Dookhan examinó las drogas en su caso, usted tiene ciertos derechos:

- Usted tiene el derecho a impugnar la condena de drogas que figuran en esta notificación. Si usted tiene éxito, su condena(s) se puede deshacer o "desocupar" y su caso será devuelto a estado activo.
- La Oficina del Fiscal de Distrito puede optar en proceder con cargos criminales por los cargos de drogas que sean desasido. Pero, si usted es juzgado y condenado de nuevo, no enfrentará un castigo mayor de lo que ya había recibido por esos cargos. En otras palabras, usted no puede ser castigado adicionalmente por su elección de impugnar su condena(s).

Si usted tiene alguna pregunta, por favor póngase en contacto con el abogado original en su caso. Usted también puede elegir en hablar con un abogado nuevo. Si usted no sabe cómo comunicarse con su primer abogado, puede obtener esa información en la oficina del secretario criminal en el tribunal donde se trató su caso. Las direcciones de todos los tribunales de distrito y superior se pueden encontrar en:

<http://www.mass.gov/courts/court-info/courthouses/courthouses-by-county-gen.html>

Para más información, usted puede contactar la oficina del fiscal del condado de Suffolk al (617) 619-4348.

Important! Please have this notice translated immediately. [English]

Importante! Por favor haga traducir este aviso inmediatamente. [Spanish]

Importante! Fate tradurre questo avviso immediatamente. [Italian]

Pre inpotan! Fe tradui not sa a tousuit. [Haitian Creole]

Important! Faites traduire cet avis immédiatement. [French]

Importante! Mande traduzir este aviso imediatamente. [Portuguese]

Quan trong! Can dich cao thi nay lien. [Vietnamese]

Pilne! Proszę o niezwłoczne przetłumaczenie tego dokumentu. [Polish]

Vanzo! Prosimnajse to obves tilo takoj prevede! [Slovenian]

Mahalaga! Paki-salin itong paunawa. [Tagalog]

Vanzo! Molimda da se ova obavijest odmah prevede! [Croatian]

Կարևոր. Խոյս չաշխարհարդարիւնը անմիջապէս թարգմանել առւելք: [Armenian]

Προσοχή! Δώστε να σας μεταφράσουν αμέσως αυτή την ανακοίνωση. [Greek]

សំខាន់! សូមបកប្រែនៅការប្រកាសនេះជាបន្ទាន់ [Cambodian]

Внимание! Немедленно обеспечьте перевод
настоящего извещения! [Russian]

ቅግብሮ፡ ጥዕና ሰቢ ደ፣ ጸባዝዎ፡ ያህንን፡ ጥሰታወቂ ደ፡ ለሁሉን፡ ያስተርፉ:: [Amharic]

ВАЖНО! МОЛИМ ДА СЕ ОВО ОБАВЕШТЕНЈЕ ОДМАХ ПРЕВЕДЕ! [Serbian-Cyrillic]

重要！請立刻將本通知翻譯成中文。 [Chinese]

ສຳຄັນ! ຈົ່ງສົບແປກາມປະກາດນີ້ໂດຍດ່ວນ [Laotian]



August 31, 2016

By Email and U.S. Mail

The Honorable Justice Margot Botsford
Associate Justice
Supreme Judicial Court
John Adams Courthouse
One Pemberton Square, Suite 2500
Boston, MA 02108

Re: *Bridgeman v. Dist. Att'y for Suffolk County*, SJ-2014-0005

Dear Justice Botsford:

This letter responds to the letter from the District Attorney for Suffolk County stating that the Commonwealth intends to send notices to Dookhan defendants before the Full Court hears this case.

Petitioners and intervener continue to believe that, following this Court's consideration of the issue, Dookhan defendants should be sent notices saying that their convictions have been vacated and that the underlying charges have been dismissed. Although we do not oppose the mailing of some sort of preliminary notice, the notice that has been shared with us will mislead and confuse its recipients, and ultimately deter them from challenging their wrongful convictions.

Among other significant deficiencies, the notice fails to mention that the rights of Dookhan defendants are the subject of pending litigation in this very case; it does not mention the presumption of misconduct to which these defendants are already entitled; it ominously pledges that any defendant whose conviction is vacated *will* have an active criminal case (as though the District Attorneys have already decided not to dismiss any case in that posture); and it is not competently translated into Spanish.

Beyond the substance of this preliminary notice, our recent affidavits have pointed to the likelihood that the District Attorneys' May 2016 lists of Dookhan defendants are missing thousands of cases, 6/29/16 Colarusso Affidavit ¶ 17, and to the difficulties of transforming them into vendor-ready lists, 6/30/16 Villarreal Affidavit ¶¶ 13-

Justice Margot Botsford
August 31, 2016
Page 2

17. Progress on these important issues could continue to be made while the Full Court considers the remedies that will ultimately be available to Dookhan defendants. If the Court deems further "working group" meetings appropriate, petitioners and interveners are willing to attend such meetings.

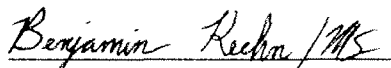
Please do not hesitate to contact us with any questions or concerns.

Sincerely,

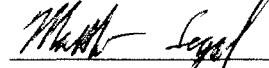
COMMITTEE FOR PUBLIC
COUNSEL SERVICES

KEVIN BRIDGEMAN, YASIR CREACH, and
MIGUEL CUEVAS,

by its Attorneys


Benjamin H. Keehn, BBO #542006
Nancy J. Caplan, BBO #072750
Committee for Public Counsel
Services
Public Defender Division
44 Bromfield Street
Boston, MA 02108
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bkeehn@publiccounsel.net

by their Attorneys


Matthew R. Segal, BBO #654489
Carlton E. Williams, BBO #600973
Adriana Lafaille, BBO #680210
American Civil Liberties Union
of Massachusetts
211 Congress Street
Boston, MA 02110
(617) 482-3170
msegal@aclum.org

cc: Assistant District Attorney Vincent J. DeMore, Esq.
Assistant District Attorney Quentin R. Weld, Esq.
Assistant District Attorney Robert Kidd, Esq.
Assistant District Attorney Brian S. Glenney, Esq.
Assistant District Attorney Robert J. Bender, Esq.
Assistant District Attorney Susanne M. O'Neil, Esq.
Assistant District Attorney Gail McKenna, Esq.
Assistant District Attorney Karen O'Sullivan, Esq.
Jean-Jacques Cabou, Esq.

Benjamin Keehn

Subject: FW: DA letter

From: Margot Botsford [mailto:margot.botsford@jud.state.ma.us]
Sent: Wednesday, August 31, 2016 5:56 PM
To: DeMore, Vincent (DAA); Weld, Quentin (DAA); 'b.keehn@publiccounsel.org'; 'msegal@aclum.org'
Cc: 'Amy Stewart'
Subject: DA letter

Greetings -

I just received a short while ago this afternoon a copy of the letter that the District Attorneys intend to send out tomorrow, as well as a response from counsel for the defendants. I appreciate that this is late in the game, but I would like to request that the letter not be sent before we have a hearing or in any event conversation about the letter and its relationship to the case pending before the full court. I know I have not included everyone involved in this litigation on this email, but the clerk's office is closed for the day, and I am not sure I have a complete email address list. Accordingly, I am hoping that you will forward the message to those concerned.

I look forward to hearing from you.

Best,

Margot Botsford



THE COMMONWEALTH OF MASSACHUSETTS
ESSEX DISTRICT ATTORNEY

SALEM

NEWBURYPORT

LAWRENCE



Jonathan W. Blodgett
District Attorney

Ten Federal Street
Salem, Massachusetts 01970

SALEM: (978) 745-6610
FAX: (978) 741-4971
TTY: (978) 741-3163

September 1, 2016

The Honorable Justice Margot Botsford
Associate Justice
Supreme Judicial Court
John Adams Courthouse
One Pemberton Square, Suite 2500
Boston, MA 02108

Dear Justice Botsford,

This letter responds to your email of yesterday, August 31, regarding the mailing of notice to Dookhan defendants. We wish to inform the Court that we have finalized a contract with the vendor to complete the mailing, and that the physical mailing will be sent to defendants within the week.

The mailing will effectively complete the process which all parties cooperatively began in January of this year. The District Attorneys have collectively committed approximately \$30,000 out of their operating budgets to complete the notice process, which all parties agree is a purely executive function. In June, the petitioners and intervenors elected not to pursue a cooperative approach to notice, thereby resulting in the sacrifice of nearly \$70,000 from the FY16 operating budget of MDAA. The District Attorneys clearly stated our intent to send this notice in the affidavits filed on August 5, 2016. See 8/5/16 DeMore affidavit ¶ 51; 8/5/16 McKenna Affidavit ¶ 28; 8/5/16 Weld Affidavit ¶ 13. We also voiced our intent to complete the notice process at the last Single Justice hearing, on June 1, 2016, at which the Court announced it would report the case to the full bench. On that date, the District Attorneys agreed to send a copy of the notice letter to the Court, and we have done so.

As CPCS requested at the June 1 hearing, the letter is silent as to appointment of counsel and any role which CPCS may take in the litigation of these cases going forward. The letter does provide the notified defendants with all of the information they need to file a motion to challenge their conviction. As always, we will happily work with CPCS going forward to ensure a speedy and fair disposition of any motions defendants may file as a result of the notice mailing.

Please do not hesitate to contact us with any questions or concerns.

Sincerely,

The District Attorneys

by their Attorney



Quentin R. Weld, BBO #683830

Assistant District Attorney

for the Eastern District

10 Federal Street

Salem, MA 01970

(978) 599-1630

Quentin.Weld@massmail.state.ma.us

cc:

Benjamin H. Keehn, Esq.

Matthew R. Segal, Esq.

Assistant District Attorney Vincent J. DeMore, Esq.

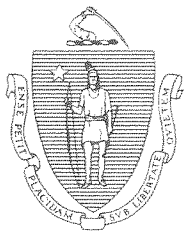
Assistant District Attorney Robert Kidd, Esq.

Assistant District Attorney Brian S. Glenny, Esq.

Assistant District Attorney Robert J. Bender, Esq.

Assistant District Attorney Susanne M. O'Neil, Esq.

Assistant District Attorney Gail McKenna, Esq.



The Commonwealth of Massachusetts
SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
JOHN ADAMS COURTHOUSE

ONE PEMBERTON SQUARE, SUITE 1300
BOSTON, MASSACHUSETTS 02108-1707

WWW.SJCCOUNTYCLERK.COM

CASE INFORMATION (617) 557-1100

FACSIMILE (617) 557-1117

ATTORNEY SERVICES (617) 557-1050

FACSIMILE (617) 557-1055

MAURA S. DOYLE
CLERK

September 2, 2016

Matthew Segal, Esquire
American Civil Liberties Union of Massachusetts
211 Congress Street
Boston, MA 02110

RE: No. SJ-2014-0005

KEVIN BRIDGEMAN, YASIR CREACH and MIGUEL CUEVAS
vs.

DISTRICT ATTORNEY FOR SUFFOLK COUNTY, DISTRICT ATTORNEY FOR
ESSEX COUNTY, DISTRICT ATTORNEY FOR BRISTOL COUNTY, DISTRICT ATTORNEY
FOR THE CAPE AND ISLANDS, DISTRICT ATTORNEY FOR MIDDLESEX COUNTY,
DISTRICT ATTORNEY FOR NORFOLK COUNTY, DISTRICT ATTORNEY FOR PLYMOUTH
COUNTY

Suffolk Superior Court
No. SUCR2005-10537; BOSTON MUNICIPAL COURT NO. 0501-CR-0142;
ESSEX SUPERIOR COURT NO: ESCR2007-1535

NOTICE OF DOCKET ENTRY

You are hereby notified that on September 2, 2016, the following
was entered on the docket of the above referenced case:

Notice to counsel/parties: Notice to counsel/parties: The Court,
Botsford, J., has SCHEDULED this matter for a HEARING on TUESDAY,
SEPTEMBER 6, 2016 at 4:00 p.m. at the Supreme Judicial Court for the
County of Suffolk, Courtroom Two, John Adams Courthouse, One
Pemberton Square, Boston, Massachusetts.

A handwritten signature in cursive script, appearing to read "Maura S. Doyle".

Maura S. Doyle, Clerk

To: Matthew Segal, Esquire

Carlton Williams, Esquire
Daniel N. Marx, Esquire
Shrutih Ramlochan-Tewarie, Esquire
Daniel Louis McFadden, Esquire
Caroline Stoker Donovan, Esquire
John P. Zanini, Assistant District Attorney
Vincent J. DeMore, Assistant District Attorney
Elin H. Graydon, Assistant District Attorney
Quentin Weld, Assistant District Attorney
David Aaron Wittenberg, Assistant District Attorney
Karen O'Sullivan, Assistant District Attorney
Patrick O. Bomberg, Assistant District Attorney
Robert P. Kidd, Assistant District Attorney
Brian S. Glenney, Assistant District Attorney
Edward F.X. Lynch, Assistant District Attorney
Robert J. Bender, Assistant District Attorney
Sara Concannon DeSimone, Assistant District Attorney
Susanne M. O'Neil, Assistant District Attorney
Gail M. McKenna, Assistant District Attorney
Benjamin H. Keehn, Committee for Public Counsel Services
Anthony J. Benedetti, Committee for Public Counsel Services
Nancy J. Caplan, Committee for Public Counsel Services
Emma A. Andersson
Suffolk Superior Court Dept.
Boston Municipal Court - Central
Essex Superior Court
Clerk - SJC for the Commonwealth
Jean-Jacques Cabou, Esquire

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss.

NO. SJC-12157

KEVIN BRIDGEMAN,
and others

v.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT,
and others

**EMERGENCY MOTION FOR AN ORDER STAYING THE MAILING OF
"NOTICE LETTERS" TO DOOKHAN DEFENDANTS**

Intervener, the Committee for Public Counsel Services (CPCS), requests an order directing the respondent District Attorneys to cease the mailing out of their "notice letters" to Dookhan defendants, pending the Court's consideration of this case during its November, 2016, sitting. At a hearing held late yesterday afternoon (September 6, 2016), the District Attorneys informed the single justice (Botsford, J.) that they have begun mailing out their notices, that "a certain percentage" of them have been mailed, and that the process will continue county by county until notices have been mailed to more than 20,000 Dookhan defendants.

This unilateral action by the District Attorneys will bring this case past a point of no return, because the notice disseminates confusing, misleading, and

threatening information that will be impossible to erase from the mind of any person who has the misfortune of receiving it. Moreover, the notice is virtually guaranteed to generate a low response rate and deter Dookhan defendants from challenging their wrongful convictions. And it seeks to "pre-decide" the very questions to be addressed by the full Court in November -- viz., whether Dookhan defendants are entitled to automatic vacatur of their tainted convictions, and, if so, how that remedy should be effected. Because the precise content of the notice to be sent to Dookhan defendants is what this case is all about, and because Dookhan defendants who receive and read the District Attorneys' notice will be less likely to want the relief to which intervenor believes they are entitled, the Court should enter an order directing the respondents to cease any further mailings, until further order of the Court.

In the alternative, the Court should enter an order requiring the District Attorneys to provide the parties and the Court with copies of all documents relating to any efforts by the District Attorneys to ensure that their notice will be received, read, and understood, including:

- contracts with vendors;
- documents, including e-mail communications, reflecting how the notice was translated into Spanish;

- any documents, including e-mail communications relating to content, format, and length of the notice.

In further support, CPCS states as follows:

1. This case is before the Court on reservation and report of the question whether the Court should exercise its supervisory authority to order vacatur and dismissal of about 24,000 tainted Dookhan cases which the District Attorneys have recently identified under the direction of the single justice.

2. The single justice reserved and reported the matter on August 16, 2016, the case was entered in this Court on August 24, 2016, and briefing has been scheduled so that the matter may be heard during the November sitting.

3. On August 29, 2016, the District Attorneys filed in the county court a cover letter addressed to the single justice (Attachment A), along with a sample of the notice (Attachment B), which, the respondents stated, they "will send on or before September 1, 2016." Although dated August 25, 2016, the District Attorneys' letter and sample notice was not received by the Court (or counsel for the petitioners or CPCS) until August 29, 2016.

4. On August 31, 2016, CPCS and the petitioners filed a response with the single justice stating in

part as follows:

Among other significant deficiencies, the notice fails to mention that the rights of Dookhan defendants are the subject of pending litigation in this very case; it does not mention the presumption of misconduct to which these defendants are already entitled [under the Scott case], it ominously pledges that any defendant whose conviction is vacated will have an active criminal case (as though the District Attorneys have already decided not to dismiss any case in that posture); and it is not competently translated into Spanish (Attachment C).

5. On August 31, 2016, the single justice sent the respondents an e-mail requesting that "the letter not be sent before we have a hearing or in any event conversation about the letter and its relationship to the case pending before the full court" (Attachment D).

6. On September 1, 2016, the District Attorneys responded to the single justice's request with a letter stating, in part, that the "notice process . . . is a purely executive function," and that their notice "will be sent to defendants within the week" (Attachment E).

7. On September 2, 2016, the single justice scheduled a hearing regarding the matter for September 6, 2016.

8. At that hearing, which was held as scheduled, the District Attorneys informed the single justice, petitioners, and CPCS that "a certain percentage" of their notices have in fact been mailed, and that the process would continue until mailings had been sent to

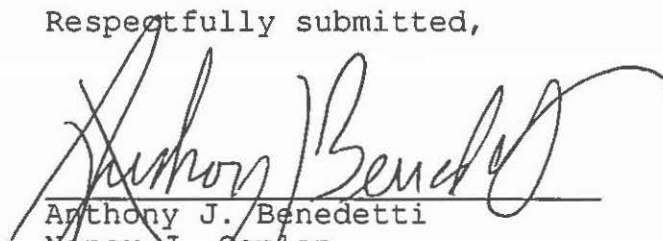
about 20,000 individuals. The District Attorneys further informed the Court that the content of their notice is identical to the sample notice provided with their letter filed on September 29, 2016, and that they had made no revisions to it in light of any of the concerns raised in the petitioners' and CPCS's letter of August 31, 2016.

CPCS will contend when this case is argued in November that Dookhan defendants are entitled to have their drug convictions vacated, to notice informing them of that fact and that further prosecution, if any, is subject to strict, court-ordered guidelines designed to protect Dookhan defendants' rights. The District Attorneys' notice envisions nothing of the sort. To the contrary, it assumes that they will persuade the Court not adopt CPCS's proposed remedy, anticipates the regime that will then exist, and proceeds as if that regime -- one in which any Dookhan defendant with the temerity to challenge her conviction will have her case "returned to active status" (Attachment B1) -- is a fait accompli.

For the above-stated reasons, the Court should order that mailings be ceased until further order of the Court, or, in the alternative, that the parties and the Court be provided with copies of all documents

relating to the District Attorneys' efforts to ensure that their notice will be received, read, and understood.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony J. Benedetti", is written over a horizontal line.

Anthony J. Benedetti
Nancy J. Caplan
Benjamin H. Keehn
COMMITTEE FOR PUBLIC COUNSEL SERVICES
44 Bromfield Street
Boston, MA 02108
(617) 482-6212
bkeehn@publiccounsel.net

Dated: September 7, 2016.

CERTIFICATE OF SERVICE

I, Benjamin H. Keehn, counsel for the Committee for Public Counsel Services, certify that on this 7th day of September, 2016, I caused a true copy of the foregoing motion and attachments thereto to be served by electronic mail and first-class mail, postage prepaid, to the following counsel for the other parties:

ADA Robert Bender
Middlesex County District Attorney's Office
15 Commonwealth Avenue
Woburn, MA 01801

ADA Vincent J. DeMore
Suffolk County District Attorney's Office
One Bulfinch Place
Boston, Massachusetts 02114

ADA Brian S. Glenny
Barnstable County District Attorney's Office
3231 Main Street
Barnstable, MA 02630

Daniel N. Marx
Fick & Marx
100 Franklin Street
Boston, MA 02210

ADA Gail McKenna
Plymouth County District Attorney's Office
32 Belmont Street
Brockton, MA 02301

ADA Susanne M. O'Neil
Norfolk County District Attorney's Office
45 Shawmut Road
Canton, MA 02021

ADA Karen O'Sullivan
Bristol County District Attorney's Office
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Matthew R. Segal
American Civil Liberties Union
of Massachusetts
211 Congress Street
Boston, MA 02110

ADA Quentin R. Weld
Essex County District Attorney's Office
10 Federal Street
Salem, Massachusetts 01970



Benjamin H. Keehn
BBO #542006
COMMITTEE FOR PUBLIC COUNSEL SERVICES
Public Counsel Division
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Boston, Massachusetts 02108
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bkeehn@publiccounsel.net

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COMMONWEALTH

In the case No. SJC-12157

KEVIN BRIDGEMAN & others

vs.

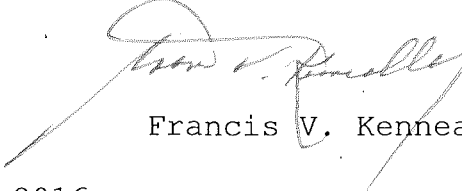
DISTRICT ATTORNEY FOR SUFFOLK COUNTY & others

O R D E R

It is hereby ORDERED that the following matter be referred to the single justice for a recommendation to the full court:

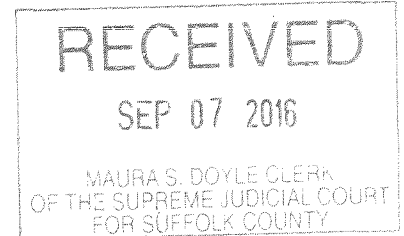
Emergency Motion for an order staying the mailing of "notice letters" to Dookhan defendants.

By the Court,



Francis V. Kenneally, Clerk

ENTERED: September 7, 2016



COMMONWEALTH OF MASSACHUSETTS
THE SUPREME JUDICIAL COURT
SINGLE JUSTICE SESSION

SJ-2014-0005

KEVIN BRIDGEMAN & others

v.

DISTRICT ATTORNEY FOR SUFFOLK COUNTY & others

THE DISTRICT ATTORNEYS' OPPOSITION TO PETITIONERS & INTERVENER'S
("PETITIONERS") FOR A STAY¹

INTRODUCTION

The District Attorneys uniformly oppose the petitioners' request for a "stay" of the mailing of notice to Dookhan defendants, because such a stay would amount to a grave usurpation of the District Attorneys' executive power, as enumerated in Article 30 of the Massachusetts Declaration of Rights.

Additionally, Dookhan defendants in the several counties are not represented by the present petitioners, and thus the petitioners have no standing to complain on their behalf. Moreover, the petitioners' motion is fatally untimely, and they

¹ A note on procedure and jurisdiction: the DAs do not waive their claim, asserted since the outset of the Bridgeman litigation -- that this case is not properly before the County Court or the Full Court. The issuance of the Full Court's decision in Bridgeman effectively terminated the prior proceeding in the County Court. The District Attorneys attended the single justice notice hearings in good faith, in the spirit of cooperation with CPCS, without the understanding that those hearings somehow constituted a case in controversy ripe for reservation and report to the Full Court. Given the so-called emergency nature of the petitioners' filing, and the short turnaround time afforded the District Attorneys for a response, we do not further develop our jurisdictional arguments here, but we do not waive them.

have repeatedly waived their present request for a stay. Finally, the petitioners have not shown that they would suffer irreparable harm should the mailing not be enjoined.

ARGUMENT

The order the petitioners now request -- after waiving such a request on many prior occasions -- to "stay[] the mailing of 'notice letters' to Dookhan defendants," would drastically interfere with the executive power as defined under Article 30 of the Massachusetts Declaration of Rights. The District Attorneys have the authority to act without an order of the single justice to that effect. The elected District Attorneys of Bristol, Cape & Islands, Essex, Middlesex, Norfolk, Plymouth, and Suffolk Counties are indisputably empowered by art. 30 to undertake this effort without interference:

In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

Art. 30, Massachusetts Declaration of Rights.

This power, specifically as it relates to the mailing of notice to affected Dookhan defendants, has been repeatedly acknowledged by the petitioners, the interveners, and the County Court in written filings as well as at each of the hearings on this matter. See Petitioners' and Intervener's Request for Briefing and Hearing Concerning Identification and Notification (Docket Paper

#55); letter to Honorable Margot Botsford from ADA Vincent DeMore, December 23, 2015 (Docket Paper #77); letter to Justice Botsford from Atty. Nancy Caplan, March 8, 2016 (Docket Paper #91); Interim Order, ¶ 3 (Docket Paper #114).²

With regard to the content of the mailing, it is governed by established case law in this Commonwealth. See Scott, Bridgeman. The notice letters being sent this week fully inform potentially affected defendants of the rights and presumptions available to them under those cases, and under Rule 30 generally.

Utterly disregarded in the present motion is the fact that the petitioners and interveners directly participated in the creation of the content of the notice mailing. Therefore, their present characterization of the District Attorney's action as "unilateral" (Emerg. Mot. 1) is fundamentally misleading. Putting aside the fact that the District Attorneys have the right to act unilaterally in this circumstance under their executive power, the motion disregards the many hearings -- attended voluntarily by the District Attorneys, petitioners, and interveners -- that were held for the express purpose of determining the form and manner of final notice to Dookhan defendants. The District Attorneys incorporated suggestions from the petitioners into the final notice mailing. They did so notwithstanding the fact that sending notice was firmly within the District Attorneys' own executive powers under art. 30.

² With regard to oral statements at the notice hearings, see, e.g., inter alia, the statement of Attorney Matthew Segal, Counsel for the Petitioners, at a single justice hearing on June 1, 2016: "Our position is that there are obligations on prosecutors to send notice."

Additionally, the very idea that the sending of notice now constitutes an "emergency" is entirely meritless, given the length of time the petitioners and intervenors have strongly advocated for this type of notice letter to be sent, and the fact that they collaborated in the drafting process. As of the June 1, 2016 hearing, the petitioners and intervenors had a copy of the final draft from the Respondents, (Docket paper #128), and clear notice from the District Attorneys of their intent to proceed with the mailing.

Moreover, insofar as the petitioners themselves have already been provided such notice with regard to their own convictions, they entirely lack standing to now try and prevent the Commonwealth from sending notice to other defendants. Their efforts to stop notice from being sent would delay notice to these other defendants, and could thus deny them the opportunity to challenge their convictions. Given the current speedy response times in the several counties, any Scott motions resulting from the mailing could be heard and adjudicated even before the Bridgeman case is heard by the full bench in the fall.

With regard to waiver, it is settled that rights must timely be asserted. The petitioners have known for months that this mailing would occur, and, as stated above, the overall content was created with their direct participation, albeit without their final approval. Here, the petitioners waived any request for a "stay"

based on their repeated failure to make such a request at an earlier date, despite many opportunities to do so.

A brief recap of recent events is instructive: At the end of December, 2015, over objections, the petitioners succeeded in adding the Bristol, Cape & Islands, Middlesex, Norfolk, and Plymouth District Attorney's Offices to this case for a specific reason -- to send notice to Dookhan defendants. The Court brokered a solution, agreed to by all, to facilitate the notice process.³ The District Attorneys' Offices participated in the hearings in this case in good faith, and used an extraordinary quantity of resources to prepare county-specific lists of defendants who were to receive notice.

In May of 2016, the petitioners unexpectedly reneged on the agreement, and asked that the question of mass universal dismissal be reserved and reported to the Full Court. The District Attorneys asked the Court to enforce the agreement.

At a hearing before the Single Justice on June 1, 2016, the District Attorneys advised the Court and the petitioners that they planned on sending notice to the identified defendants. The Court acknowledged that the District Attorneys had a right to do so.

In several affidavits filed with the Court on August 5, 2016, the District Attorneys advised that progress towards sending notice continued. Accordingly, on August 29, 2016, the Commonwealth

³ It is worth noting that the District Attorneys retain a belief in the wisdom of the "leveraged presumptions" conceived of by the Single Justice at prior notice hearings. Though those presumptions were never ordered given the abandonment of the collaborative notice process, they remain a very good idea.

provided the Court and opposing counsel with Courtesy copies of letters scheduled to be sent out the following week. At the present time, eight months had elapsed from the time the various District Attorneys' Offices were added to this case for the specific purpose of sending notice to Dookhan defendants.

Without acknowledging the current state of the law (Scott, et. seq.), counsel objected to the mailing, via an email, sent after-hours on August 31, 2016, on the ground that Dookhan defendants were entitled to dismissal of their convictions. Absent any authority, they labeled those convictions "wrongful." They did not move to enjoin the District Attorneys from sending notice.

Subsequently, Justice Botsford sent the parties an email requesting a response from the District Attorneys. On September, 1, 2016, the District Attorneys responded to that email by letter to the Court. The Court scheduled a hearing on Tuesday, September 6, 2016 at 4 P.M. At that hearing the petitioners did not ask the Court to enjoin the District Attorneys from sending notice. The District Attorneys advised that letters were already in the mail, and would continue to be sent through the week, ending on Friday.

On Wednesday, September 7, at about 3:30, the petitioners sent their request for injunction to the District Attorneys by email. The Court sent the Commonwealth an email at 4:25, ordering a response by Thursday, September 8 at the close of business.

The petitioners come before the Court now having acquiesced in the District Attorneys' actions and have thus forfeited any

possible entitlement to the extreme relief they request. There is no genuine emergency before the Court warranting the extraordinary relief sought. The motion is untimely, and seeks to stay actions that the petitioners are well aware have already taken place, or are substantially in progress. The doctrine of waiver applies here, and the motion, accordingly, should be denied.

Furthermore, the request for a stay/ injunction is meritless even if considered under the prevailing standard for preliminary injunctions:

"[W]hen asked to grant a preliminary injunction, the judge initially evaluates in combination the moving party's claim of injury and chance of success on the merits. If the judge is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the judge must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the opposing party. What matters as to each party is not the raw amount of irreparable harm the party might conceivably suffer, but rather the risk of such harm in light of the party's chance of success on the merits. Only where the balance between these risks cuts in favor of the moving party may a preliminary injunction properly issue"

Packaging Industries Group, Inc. v. Cheney, 380 Mass. 609, 617 & n.11 (1980). ("In the context of a preliminary injunction the only rights which may be irreparably lost are those not capable of vindication by a final judgment, rendered either at law or in equity").

Here, the equities firmly favor denial of the stay. In compliance with the express orders of this Court, the District Attorneys compiled lists of "Dookhan" defendants for the sole purpose of sending notice. The Commonwealth was forthright in

advising the Court and petitioners of its plan to proceed, even after the surprise withdrawal of the petitioners from their agreement with this Court.

Harm would accrue to the District Attorneys given the enormous assets focused on this case, including those used in compiling the lists, preparing for notice to be sent, contracting for the service, setting up "hotlines," and training staff. It is simply wrong to say that the letter is deceptive, threatening, or calculated to prevent defendants from personally opting to exercise their rights under Scott and its progeny. In fact, the letter informs the defendants of their rights, clearly and fully.

The Commonwealth would be remiss in providing the false information suggested by the petitioners. In Scott and Bridgeman, the Full Court has already held that defendants are not entitled to have their convictions vacated and dismissed.

The petitioners have failed to show any harm, much less irreparable harm. The petitioners base their entire presentation on the premise -- entirely speculative -- that the Full Court will radically change the law and depart from settled precedent, in the absence of a persuasive factual showing as to why such a change is needed. If the Court rules in favor of the changes in the law they propose, the petitioners or the Court can send notice of their choosing. At that point, they can, as set forth in Packaging Industries, be "vindicated" by a final judgment in their favor. Thus, separate and apart from the fact that the stay is barred by

art. 30, it is, also, not warranted under the standard for such injunctions.

Finally, this Court should deny the petitioners' request for privileged materials, including internal emails and other matter, which are protected as attorney-client and work product privilege. It is unclear why the request is being made.

CONCLUSION

In sum, any stay of the present mailing would directly interfere with the executive powers of the District Attorneys. The present mailing is an important step in the collective effort to provide due process to Dookhan defendants. Moreover, the petitioners have repeatedly and definitively waived any request that the mailing be enjoined. For the above stated reasons, and any other that this Court finds just and appropriate, the petitioners' motion should be denied.

FOR THE DISTRICT ATTORNEYS:

Robert Bender (aw)

Robert Bender

Vincent Demore (aw)

Vincent Demore

Susanne O'Neil (aw)

Susanne O'Neil

Gail McKenna (aw)

Gail McKenna

Quentin Weld

Quentin Weld

cc:

Benjamin Keehn, Esq.
Matthew Segal, Esq.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR THE COUNTY OF SUFFOLK

SUFFOLK, ss.

DOCKET NO. SJ-2014-0005

KEVIN BRIDGEMAN, YASIR CREACH, & MIGUEL CUEVAS

v.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT

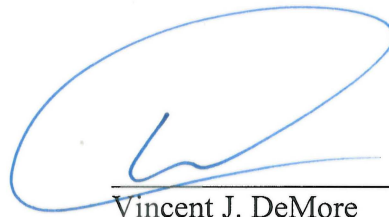
**AFFIDAVIT OF SUFFOLK COUNTY ASSISTANT DISTRICT ATTORNEY
VINCENT J. DEMORE**

I, Vincent J. DeMore, depose and state the following:

1. I am a Suffolk County Assistant District Attorney assigned to the instant matter.
2. Following the petitioners' unilateral choice to withdraw from the cooperative process the parties embarked upon in the winter of 2016 to provide notice to individuals whose cases included evidence tested by Annie Dookhan, the District Attorneys solicited bids from litigation support firms to complete the identification and notice process.
3. In June of 2016, the District Attorneys selected RG2 Claims and began the process of executing a contract.
4. RG2 was to be provided with each county's "Dookhan List" and, using names, dates of birth, and social security numbers, determine a best address for the defendant.
5. RG2 would then mail the notice letter in an envelope noting that the contents contained an important notice from the Commonwealth of Massachusetts.
6. Any letters returned undelivered will then be catalogued and a second address search will then be conducted in order to find a "next best" address.
7. A second mailing will then be made to those individuals whose letters were returned undelivered.
8. The notice letter contains language previously agreed upon by the parties and a clear, succinct statement of the remedies available to any individual who wishes to challenge their conviction. The letter differs in its content insofar as the recipient is provided with the phone number of the respective District Attorneys' offices rather than the Committee for Public Counsel Services pursuant to CPCS' request that they not be named.

9. Recognizing that many recipients would be Spanish speaking, the District Attorneys, rather than solely relying on the notice advising the recipient to translate the letter in nineteen different languages, also provided a Spanish translation of the contents of the letter.
10. The Spanish translation was provided by a bi-lingual Suffolk County Assistant District Attorney, who was raised in the Dominican Republic until the age of 16, speaking exclusively Spanish during that time.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 8TH DAY OF SEPTEMBER, 2016



Vincent J. DeMore
Assistant District Attorney

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss.

SJ-2016-M12

KEVIN BRIDGEMAN,
and others

v.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT,
and others

**RESPONSE TO DISTRICT ATTORNEYS' OPPOSITION TO
INTERVENER'S EMERGENCY MOTION FOR OR AN ORDER STAYING
THE MAILING OF "NOTICE LETTERS" TO DOOKHAN DEFENDANTS**

Intervener, the Committee for Public Counsel Services (CPCS),^{1/} submits this response to the District Attorneys' opposition to CPCS's emergency motion for an order staying further mailing of the District Attorneys' "notice letters" to Dookhan defendants.

1. Article 30. The District Attorneys contend that separation of powers principles give them essentially unfettered power to send Dookhan defendants any sort of notice they deem appropriate. This is specious. It is true that the District Attorneys are obliged to ensure that those who have been harmed by Dookhan's misconduct are provided with notice, because the fact that a defendant's conviction was obtained

^{1/}The District Attorneys' opposition proceeds on the mistaken premise that the emergency motion before the Court was filed by the petitioners.

with fraudulent evidence is information which is "obviously exculpatory" and which any ethical prosecutor would therefore seek to transmit, as soon as reasonably practicable, to affected defendants or their counsel, if represented. Commonwealth v. Ware, 471 Mass. 85, 95 (2015) (citation omitted). But the prosecutorial obligation to provide defendants with case specific notice is not accompanied by some unalloyed prosecutorial right to send defendants victimized by egregious government misconduct information about their legal status, rights, and remedies that is inaccurate and incomplete, that is likely to confuse, frighten, and deter Dookhan defendants from exercising their rights, and that has apparently been turned into Spanish by a "bi-lingual" prosecutor rather than a qualified legal translator. See Affidavit of Suffolk County Assistant District Attorney Vincent J. DeMore, 9/8/16, ¶10.

2. Notice. The District Attorneys assert that CPCS has "repeatedly waived" its right to seek an order staying any further mailing of their notices (a) by failing to ask for relief sooner, and (b) by "directly participat[ing] in the creation of the content of the notice mailing." Neither assertion is at all accurate.

(a) The District Attorneys first informed the parties that they were considering sending out their

own notices to Dookhan defendants at the status conference held by the single justice (Botsford, J.) on June 1, 2016 (paper no. 122 in SJ-2014-0005). In response to this information, the single justice asked the District Attorneys if they would agree to inform the Court and opposing counsel before sending out any notice. To the best of undersigned counsel's recollection, the District Attorneys (per ADA DeMore) acceded to the single justice's request. The District Attorneys did not then provide the single justice, the petitioners, or CPCS with any information about the substance of the notice which they had in mind -- which is presumably precisely why the single justice urged the District Attorneys to give the Court and opposing counsel the proverbial heads-up.

On August 5, 2016, the District Attorneys filed in the county court an "Affidavit of Assistant District Attorney Vincent J. DeMore." Paper no. 149 in SJ-2014-0005. The fifty-first and final paragraph of that affidavit states in part, "We anticipate sending notice shortly and will seek to supplement our filings after notice is sent." The affidavit is silent as to what this "anticipate[d]" notice might say or precisely when it might go out. An affidavit filed by Assistant District Attorney Quentin Weld on the same date

contains identical language, and goes on to prospectively congratulate the District Attorneys for their "anticipate[d] . . . notice[,] . . . assuming . . . [it] is sent." Paper no. 156 in SJ-2-14-0005, ¶13-14 (emphasis supplied).

Finally, on August 29, 2016, the District Attorneys filed their cover letter and "sample . . . notice letter[]," which, as stated in the cover letter, the District Attorneys "will send on or before September 1, 2016."^{2/} Although dated August 25, 2016, the cover letter was not post-marked until August 26, 2016. Attachment A, post. Notwithstanding its time-sensitive nature, and contrary to ADA DeMore's practice throughout the lengthy history of this case, electronic copies of the District Attorneys' filing were not served on opposing counsel via e-mail.

As soon as reasonably possible after receiving (on August 29, 2016) the District Attorneys' "sample notice letter," petitioners and CPCS filed (on August 31, 2016) a letter describing their objections to its contents.^{3/} Between August 31, 2016, and September 6, 2016, CPCS inquired of the District Attorneys, via voice mail messages and an e-mail, whether they had

^{2/}Attachments A and B of CPCS's emergency motion.

^{3/}Attachment C of CPCS's emergency motion.

"already mailed some or all of the notice letters."
Attachment B, post. The District Attorneys did not respond to these inquiries.^{4/} Thus, the fact that the District Attorneys had begun sending out notices was first made known to CPCS (and the petitioners) in open court at the September 7, 2016, hearing, when, in response to questioning by the single justice, the District Attorneys (per ADA DeMore) stated that "a

^{4/}CPCS's unanswered e-mail was sent by Attorney Nancy J. Caplan to ADAs DeMore and Weld on September 2, 2016. Its subject is "mailing of notices" and its text states as follows:

Hi Vince and Quentin,

I've left you both voice mails on this, following up with this email.

CPCS needs to know if your vendor has already mailed some or all of the notice letters and if mailing will take place tomorrow and/or Tuesday. We need this information so we can appropriately advise bar advocates, bar advocate organizations and the courts who might be contacted by Dookhan defendants seeking representation.

Quentin has already told me he didn't know if mailings have, indeed, started, indicating that it was expected that the mailings would start around this time and continue through next week. I'm hoping that one of you can get me a more definite answer on this.

Thanks for whatever you can do.

Nancy

Attachment B, post.

certain percentage" of the notices had already gone out. CPCS filed the instant emergency motion less than twenty-four hours later. The District Attorneys' contention that CPCS waited too long before seeking relief fails.^{5/}

(b) The District Attorneys' assertion that CPCS "directly participated in the creation" of the notices that they have begun sending is fiction. The content of the notice, like the fact of its mailing, was not revealed to CPCS until the September 7, 2016, hearing, when the District Attorneys acknowledged, in response to the single justice's questions, that the notice they had begun sending out was substantively identical to their "sample notice" and that they not made any changes to the notice in response to the petitioners' and CPCS's written concerns.

The notice that the District Attorneys have started sending out is truly awful, for the reasons previously stated. No entity genuinely interested in ensuring that Dookhan defendants receive actual,

^{5/}Had the District Attorneys not strategically avoided providing CPCS with notice of their notice until the September 7, 2016, hearing itself (and thereby given CPCS a reasonable opportunity to request a stay from the single justice), and had the single justice granted such relief, the District Attorneys of course would have appealed to the full bench, thereby preventing the one judge who has the most knowledge regarding this complex case from participating in its resolution.

meaningful notice would "participate[]" -- directly or indirectly -- "in the creation" of a notice this inaccurate, confusing, incomplete, threatening, and badly translated. To be sure, CPCS participated in the meetings that sought to hammer out a fair notice, until it was concluded -- after the agency received confirmation (via the District Attorneys' so-called final lists submitted in May of 2016) of the jaw-dropping number of confirmed Dookhan-tainted adverse dispositions obtained over the course of Dookhan's tenure -- that CPCS could not responsibly participate in a notice process which effectively pledged, contrary to fact, that CPCS would have the resources to assign postconviction lawyers to litigate motions to vacate on behalf of 20,000 or more Dookhan defendants, free of charge. Even before reaching that conclusion, however, CPCS made clear, on May 10, 2016, that it was "unable to accept" the "final draft notice," Attachment C1, post, which had then been proposed by the District Attorneys, see Attachment D2-3, post, and submitted its own proposed notice instead. Attachment C2-3, post. That proposed notice looks nothing at all like the prejudicial muddle which the District Attorneys have begun mailing out and which they now seek, falsely, to attribute to CPCS.

* * * *

The burdens of a systemic lapse are not to be borne by the defendants who are its victims. See Bridgeman I, 471 Mass. 465, 476 (2015), citing Lavallee v. Justices in the Hampden Superior Court, 442 Mass. 228, 246 (2004). This first principle is blatantly violated, both by the substance of the District Attorneys' notice and the recklessness with which they have begun sending it out. The Court should therefore issue an order staying any further mailings.

COMMITTEE FOR PUBLIC COUNSEL SERVICES

By its attorney,

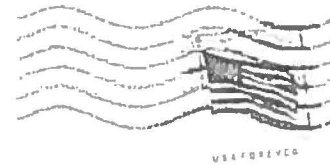


Benjamin H. Keehn
BBO #542006
Public Defender Division
44 Bromfield Street
Boston, MA 02108
(617) 482-6212
bkeehn@publiccounsel.net

Dated: September 9, 2016.

AFTER 3 DAYS RETURN TO
SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE
CHELSEA DISTRICT COURT
120 BROADWAY, ROOM 203
CHELSEA, MA 02150

BOSTON MA 021
30 JUL 2016 PM 7 L



Benjamin Keehn
Committee for Public Counsel Services
Public Defender Division
44 Bromfield Street
Boston, MA 02108-4909

-Attachment A-

-SRA 40-



02108-490902



-Attachment B-

Benjamin Keehn

From: Nancy Caplan
Sent: Friday, September 02, 2016 3:25 PM
To: DeMore, Vincent (DAA); quentin.weld@state.ma.us
Cc: Benjamin Keehn
Subject: mailing of notices

Hi Vince and Quentin,

I've left you both voice mails on this, following up with this email.

CPCS needs to know if your vendor has already mailed some or all of the notice letters and if mailing will take place tomorrow and/or Tuesday. We need this information so we can appropriately advise bar advocates, bar advocate organizations and the courts who might be contacted by Dookhan defendants seeking representation.

Quentin has already told me he didn't know if mailings have, indeed, started, indicating that it was expected that the mailings would start around this time and continue through next week. I'm hoping that one of you can get me a more definite answer on this.

Thanks for whatever you can do.

Nancy

-Attachment C1-

Benjamin Keehn

From: Nancy Caplan
Sent: Tuesday, May 10, 2016 10:57 AM
To: amy.stewart@jud.state.ma.us
Cc: O'Neil, Susanne (DAA); DeMore, Vincent (SUF); Weld, Quentin (EAS) (Quentin.Weld@MassMail.State.MA.US); gail.mckenna@statema.us; robert.bender@state.ma.us; DeSimone, Sara (DAA); Wittenberg, David A (DAA) (david.a.wittenberg@state.ma.us); brian.glenny@state.ma.us; Matthew Segal; Carl Williams; eandersson@aclu.org; Marx, Daniel; McFadden, Daniel (DMcFadden@foleyhoag.com); Benjamin Keehn
Subject: Bridgeman - Petitioner/Respondent Proposed Notice Letter
Attachments: Bridgeman proposed notice letter, 5.5.16.docx

Dear Ms. Stewart,

Attached is the Petitioner/Respondent proposed notice letter. We have reviewed the District Attorney's proposed language and are unable to accept it. We are, of course, willing to continue to engage in discussions about the content of the notice.

We apologize for the delay in getting this to you.

Thank you.

Nancy Caplan

-Attachment C2-

Date _____

You may have been wrongfully convicted
due to misconduct by Annie Dookhan at the Hinton State Drug Lab
in Boston, Massachusetts.

Dear _____:

This letter is an official, court-ordered notice of your legal rights. It is not an ad from a lawyer or a threat from a prosecutor. You can confirm the information in this letter by looking at the following court web site:

A court has determined that you may have been wrongfully convicted of one or more drug crimes due to misconduct by chemist Annie Dookhan. From 2003 to 2012, Ms. Dookhan was a chemist at the Hinton State Drug Lab who tested samples involving people charged with drug crimes. Ms. Dookhan's work included the following case(s) in which you were convicted:

- [INSERT INFO HERE]

You have the right to challenge the conviction(s) listed in this notice in court. Here are the rights that you will have

- You will be entitled to a presumption that Annie Dookhan tested the drug sample in your case(s).
- You will be entitled to a presumption that Ms. Dookhan committed serious misconduct in your case.
- You will have the right to ask a court to undo your conviction. A prosecutor might or might not oppose your request. If your request is successful, your conviction will be undone or "vacated." A prosecutor might then agree to dismiss your case. If this happens, the conviction will be cleared from your criminal record.
- If a court vacates your conviction, a prosecutor may choose to re-prosecute your case. If this happens, *you will not have to face any charges in addition to those of which you were already convicted.*
- If you are re-prosecuted and are later convicted, *you will not have to face any punishment in addition to what you already received. In other words, you will not be penalized for exercising your rights under this notice.*

If you choose to challenge the conviction(s) identified in this notice, you will have the right to have a lawyer advise you about your case, and to represent you in court. If you cannot afford a lawyer, a lawyer will be appointed to represent you free of charge.

-Attachment C3-

To learn how to exercise your rights, you can make a confidential call to the toll-free Dookhan Case Hotline, which has been created by court order and is operated by defense attorneys with the Committee for Public Counsel Services, the Massachusetts public defender agency. The number is:

The Hotline is open _____. You may also request legal advice by returning the enclosed self-addressed, stamped envelope to the Committee for Public Counsel Services.

[Spanish translation to be included in mailing. Notice to include advisory, in all appropriate languages, that recipient should seek translation as soon as possible.]

-Attachment D1-



The Commonwealth of Massachusetts

OFFICE OF THE DISTRICT ATTORNEY
FOR THE NORFOLK DISTRICT

MICHAEL W. MORRISSEY
DISTRICT ATTORNEY

45 SHAWMUT ROAD
CANTON, MA 02021
(781) 830-4800
FAX (781) 830-4801

May 20, 2016

The Honorable Margot Botsford
Supreme Judicial Court
John Adams Courthouse, Ste. 1300
One Pemberton Square
Boston, MA 02108

RECEIVED

MAY 21 2016

RE: Bridgeman et al. v. Suffolk District Attorney et al.
SJ-2014-0005

Dear Justice Botsford:

Attached is a draft notice letter prepared for the scheduled meeting of the working group on Monday, May 23, 2016.

As requested by the Court at the May 11, 2016 status conference that representatives of the parties continue to work on a draft notice letter, Assistant District Attorney Robert Bender and undersigned counsel met with Attorneys Matt Segal and Nancy Caplan on May 18, 2016. Attorneys Segal and Caplan represented that their position now was that no notice of rights letter should be sent. Despite this position, the parties did discuss some of the merits of the notice of rights letter. By agreement, the attached draft is consistent with the conversation we had about the language although there remain points to discuss; it was understood that we would use this draft for the discussion on Monday.

The Commonwealth would oppose any effort to abandon the remedy procedure that the Court has developed over the past months after joinder of the five District Attorneys' Offices to the original respondents. We look forward to working with the Court and the Petitioners and Intervenors to finalize the language and implement the proposed notice plan.

Respectfully submitted,
For the Respondents,


Susan M. O'Neil
Assistant District Attorney

Enc. Draft Notice of Rights Letter
cc: electronic mail only
Matthew Segal, Esq.
Nancy Caplan, Esq.
Assistant District Attorney Robert Bender

**NOTICE: You may have been wrongfully convicted based on
misconduct by Annie Dookhan, a drug tester at the Hinton Lab**

Address 1

Date

Address 2

Address 3

Dear _____:

This letter is a court-ordered notice of your legal rights in drug case(s) if Annie Dookhan tested the drugs. You can confirm that the court ordered you be notified by going on-line at [www._____](http://www._____.).

You are receiving this notice because some or all of the drug evidence in your criminal case(s), INSERT DOCKET NO. 1234CR005678 was tested at the Hinton State Drug Lab by chemist Annie Dookhan. Ms. Dookhan was convicted for her misconduct at the drug lab. The Massachusetts Supreme Judicial Court decided in *Commonwealth v. Scott*, 467 Mass. 336 (2014) and *Bridgeman, et al. v. District Atty. for Suffolk Distr., et al.*, 471 Mass. 465 (2015), that as a "Dookhan defendant" you have certain rights.

- You have the right to challenge the drug conviction(s) that are listed in this notice without more proof that Ms. Dookhan was involved in testing drugs in your case than this letter.
- If you want to challenge any of the "Dookhan" drug conviction(s) listed in this letter, you have the right to a lawyer to advise you about your case, and to represent you in court. If you cannot afford a lawyer, a lawyer will be appointed to represent you free of charge.
- If you win your challenge(s) in court, your "Dookhan" drug conviction(s) will be undone or "vacated." The district attorney's office may try you again on the vacated drug charge. *BUT you do not face any punishment more than what you already received. In other words, you will not be penalized for asking to challenge your "Dookhan" drug conviction(s) or otherwise exercising your rights.*

To learn how to exercise your rights, call the confidential toll-free "Dookhan Case Hotline" operated by defense attorneys with the Committee for Public Counsel Services ("CPCS") at (XXX) XXX-XXXX.

The Hotline is open _____. You may also ask for legal advice by mailing the enclosed self-addressed, stamped envelope to CPCS at 44 Bromfield Street, Boston, MA 02110.

To help us protect your rights, please let us know you received this letter by calling the Hotline at CPCS or by returning the enclosed envelope.

[Spanish translation to be included on the back mailing. Notice to include advisory, in all appropriate languages, that recipient should seek translation as soon as possible.]

AVISO: Es posible que haya sido condenado injustamente basado en mala conducta por Annie Dookhan, un probador de drogas en el Laboratorio de Hinton

Dirección 1
Dirección 2
Dirección 3

Fecha

Querido _____:

Esta carta es una notificación judicial de sus derechos legales en el caso (s) droga si Annie Dookhan probó las drogas. Puede confirmar que el tribunal ordenó que notificará por ir en línea en www.

Usted está recibiendo este aviso porque algunas o todas las pruebas de drogas en su caso (s) penal, inserte Docket NO. 1234CR005678 se puso a prueba en el Estado de Drogas Lab Hinton por el químico Annie Dookhan. La Sra Dookhan fue condenado por su mala conducta en el laboratorio de drogas. La Corte Suprema Judicial de Massachusetts decidió en la *Commonwealth v. Scott*, 467 Mass. 336 (2014) y *Bridgeman, et al. v. Fiscal de Distrito. Suffolk Distr., et al.*, 471 Mass. 465 (2015), que como "Dookhan acusado" tiene ciertos derechos.

- Usted tiene el derecho a impugnar la condena (s) de drogas medicamentos que se mencionan en esta notificación, sin más pruebas de que la Sra Dookhan participó en la prueba de drogas en su caso de esta carta.
- Si desea impugnar cualquiera de la condena por drogas "Dookhan" (s) que aparece en esta carta, usted tiene el derecho a un abogado para aconsejarle sobre su caso, y para que lo represente en la corte. Si no puede pagar un abogado, se nombrará a un abogado para que lo represente de forma gratuita.
- Si gana el desafío (s) en el tribunal, su condena por drogas "Dookhan" (s) se puede deshacer o "desocupado". La oficina del fiscal de distrito puede volver a intentar la carga de la droga dejado vacante. No se enfrentan a cualquier castigo más de lo que ya recibió. En otras palabras, usted no será penalizado por preguntar a desafiar a su condena por drogas "Dookhan" (s), o por ejercer sus derechos.

Para aprender cómo ejercer sus derechos, llame a la gratuita y confidencial "Caso Dookhan Línea Directa" espíritu [de] los abogados de defensa con el Comité de Servicios Public Counsel ("CPC") al (XXX) XXX-XXXX.

La línea directa está abierta _____. También puede solicitar el asesoramiento legal por correo la auto-dirigida sobre franqueado adjunto para CPCS al 44 Bromfield Street, Boston, MA 02110.

Para ayudarnos a proteger sus derechos, por favor sepamos que ha recibido esta carta llamando a la línea directa de CPCS o devolver el sobre adjunto

CERTIFICATE OF SERVICE

I, Benjamin H. Keehn, counsel for the Committee for Public Counsel Services, certify that on this 9th day of September, 2016, I caused a copy of the foregoing response and its attachments to be served by electronic mail and first-class mail, postage prepaid, to the following counsel for the other parties:

ADA Robert Bender
Middlesex County District Attorney's Office
15 Commonwealth Avenue
Woburn, MA 01801

ADA Vincent J. DeMore
Suffolk County District Attorney's Office
One Bulfinch Place
Boston, Massachusetts 02114

ADA Brian S. Glenny
Barnstable County District Attorney's Office
3231 Main Street
Barnstable, MA 02630

Daniel N. Marx
Fick & Marx
100 Franklin Street
Boston, MA 02210


ADA Gail McKenna
Plymouth County District Attorney's Office
32 Belmont Street
Brockton, MA 02301

ADA Susanne M. O'Neil
Norfolk County District Attorney's Office
45 Shawmut Road
Canton, MA 02021

ADA Karen O'Sullivan
Bristol County District Attorney's Office
P.O. Box 973
88 Purchase Street
New Bedford, MA 02740

Matthew R. Segal
American Civil Liberties Union
of Massachusetts
211 Congress Street
Boston, MA 02110

ADA Quentin R. Weld
Essex County District Attorney's Office
10 Federal Street
Salem, Massachusetts 01970



Benjamin H. Keehn
BBO #542006
COMMITTEE FOR PUBLIC COUNSEL SERVICES
Public Counsel Division
44 Bromfield Street
Boston, Massachusetts 02108
(617) 482-6212
bkeehn@publiccounsel.net

Supreme Judicial Court for the Commonwealth of Massachusetts

John Adams Courthouse

One Pemberton Square, Suite 1400, Boston, Massachusetts 02108-1724

Telephone 617-557-1020, Fax 617-557-1145

SEP 16 2016

Benjamin H. Keehn, Esquire
Committee for Public Counsel Services
Public Defender Division
44 Bromfield Street
Boston, MA 02108-4909

RE: Docket No. SJC-12157

KEVIN BRIDGEMAN & others

vs.

DISTRICT ATTORNEY FOR SUFFOLK COUNTY & others

NOTICE OF DOCKET ENTRY

Please take note that the following entry was made on the docket of the above-referenced case:

September 13, 2016 - ORDER: This matter came before the court on an order of reference for recommendation from the single justice concerning Internever CPCS's emergency motion for an order staying the mailing of "notice letters" to certain defendants referred to as Dookhan defendants. Upon consideration thereof, it is ORDERED that the emergency motion is DENIED. It is FURTHER ORDERED that a copy of every notice sent to a Dookhan defendant, including all records, including telephonic voice mails, e-mails and notes, relating to any or other additional communication received from or transmitted to any recipient of the notice; the recipient address lists and the development of those lists, contracts with vendors; and the translation of the notice into Spanish shall be retained by the offices of the District Attorneys. By the Court.

Francis V. Kenneally, Clerk

Dated: September 13, 2016

To: Matthew Segal, Esquire
Daniel N. Marx, Esquire
John P. Zanini, A.D.A.
Vincent J. DeMore, A.D.A.
Elin H. Graydon, A.D.A.
Quentin Weld, A.D.A.
David Aaron Wittenberg, A.D.A.
Karen O'Sullivan, A.D.A.

Patrick O. Bomberg, A.D.A.
Robert P. Kidd, A.D.A.
Brian S. Glenny, A.D.A.
Edward F.X. Lynch, A.D.A.
Robert J. Bender, A.D.A.
Sara Concannon DeSimone, A.D.A.
Susanne M. O'Neil, A.D.A.
Gail M. McKenna, A.D.A.
Benjamin H. Keehn, Esquire
Anthony J. Benedetti, Esquire
Nancy J. Caplan, Esquire

COMMONWEALTH OF MASSACHUSETTS
THE SUPREME JUDICIAL COURT
SINGLE JUSTICE SESSION

SJ-2014-0005

KEVIN BRIDGEMAN & others

v.

DISTRICT ATTORNEY FOR SUFFOLK COUNTY & others

THE DISTRICT ATTORNEYS' RESPONSE¹

Most of the contentions in the petitioners and intervener's Response to the Opposition to the Motion to Stay ("Pet. Resp.") do not require a response. Further, the Motion to Stay was denied, and any present discussion of its merits is therefore moot.

One claim, however, does warrant a response, in the interest of clarifying for the record that the District Attorneys did not, as the petitioners and intervener claim, "strategically avoid[] providing CPCS with notice of their notice until September 7, 2016" (Pet. Resp., n. 5), as follows:

- At a public hearing on June 1, 2016, as well as at several prior meetings and hearings, the District Attorneys advised the Court, and the petitioners and intervener, that the District Attorneys intended to send notice letters to Dookhan defendants informing them of their rights under

¹ . . . to the Response to the Opposition to the Motion to Stay.

Scott and Bridgeman. The petitioners and intervener have never disputed that the original purpose of the notice hearings was to formulate and execute a plan for so notifying Dookhan defendants.

- On August 5, I and other ADAs filed affidavits with the Court, served electronically on the petitioners and intervener, again informing them of our intent to send notice letters.
- In their filing, the petitioners and intervener acknowledge receiving an advance copy of the notice letter on August 29, 2016. See Pet. Resp. 4.
- When CPCS Attorney Nancy Caplan called me on Friday, September 2, to inquire as to the status of the notice mailing, I informed her that I understood that the letters had been sent to the vendor contracted to send the mailing, and that the vendor would begin mailing the letters either that day, September 2, or the following week of September 5 through 9.
- At a public hearing on September 6, 2016 (not September 7, as stated at Pet. Resp. 5), the petitioners acknowledged having received an advance copy of the letter on August 29.

Given the foregoing, the claim that the District Attorneys "strategically avoided providing CPCS with notice of their notice until September 7 [or 6], 2016" (Pet. Resp., n. 5), is unsupported by the record.

For the District Attorneys,



Quentin R. Weld
Assistant District Attorney
for the Eastern District
10 Federal Street
Salem, MA 01970
(978) 745-6610, x. 5030
BBO#: 683830

Dated: September 19, 2016

CERTIFICATE OF SERVICE

I, Quentin R. Weld, hereby certify under the penalties of perjury that I caused a copy of the within document to be served by first-class mail, postage prepaid, upon:

Benjamin H. Keehn, Esq.
Committee for Public Counsel Services
Public Defender Division
44 Bromfield Street
Boston, MA 02108

Matthew Segal, Esq.
American Civil Liberties Union of Massachusetts
211 Congress Street
Boston, MA 02110



Quentin R. Weld
Assistant District Attorney
for the Eastern District
10 Federal Street
Salem, Massachusetts 01970
(978) 745-6610, x. 5030

Dated: September 19, 2016

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

SUFFOLK, SS.

NO. SJC-12157

KEVIN BRIDGEMAN and Others :

v. :

DISTRICT ATTORNEY FOR THE :

SUFFOLK DISTRICT, and Others :

AFFIDAVIT OF DR. MICHAEL O'LAUGHLIN

I, Dr. Michael W. O'Laughlin, state as follows:

1. My name is Dr. Michael W. O'Laughlin, and I am the director of the Interpreter Training Program at Boston University.
2. I hold graduate degrees from Oxford and Harvard Universities, where one of my principle fields of study was translation.
3. I was hired as a full-time court interpreter in California in 1978, the same year that the Court Interpreter Act became law. Thus, I was one of the first interpreters to be hired full time anywhere in the United States.
4. In Massachusetts I have played an active role in the creation of the court interpreter profession since arriving here in 1981.
5. I have testified as an expert witness regarding language and cultural issues in over 130 cases in the District, Juvenile, and Superior Courts of the Commonwealth. I have consulted in over 190 cases in these courts of the Commonwealth and the Federal District Court.

6. I am a member of the International Association of Forensic Linguists, the American Council on the Teaching of Foreign Languages, and the National Association of Judicial Interpreters and Translators. I am on the board of the Massachusetts Association of Court Interpreters and the advisory board of the International Medical Interpreters Association.
7. I am the only per-diem Certified Interpreter in Massachusetts who was asked to appear before the Committee for the Administration of Interpreters and consult with Judge Mulligan (then the Chief Justice for Administration and Management) concerning interpreter issues.
8. Further details regarding my qualifications can be found in the attached resume.
9. I was asked to examine a document entitled, "IMPORTANT NOTICE REGARDING A CLOSED CRIMINAL CASE." This notice is in English and Spanish. It contains thirteen (13) sentences in English and fourteen (14) sentences in Spanish, plus a heading and salutation in English only.
10. Besides being incomplete, the Spanish translation contained within this document is not accurate or clear.
11. The translator of this document makes grammatical errors and apparently has little or no training in the field of translation.
12. A recipient of this notice who spoke Spanish, but not English, would have great difficulty understanding several of the sentences as translated. I was only able to determine what the translator was attempting to communicate by first reading the English version.

13. The notice as a whole reads like a rough and inexperienced translation that combines Spanish words with English syntax, rather than reading like Spanish.

14. Serious, specific errors include the following:

- a. On the twelfth line, the English “vacated” is translated as “desocupar,” which is the term for vacating premises, not for vacating a judicial decision. In addition, the verb tense in this clause is translated incorrectly, so that what *will* happen in English (i.e., the vacating of the conviction) is only a possibility in Spanish.
- b. On the thirteenth line, the English “may decide to try you again on the vacated drug charge(s),” is translated as “puede optar en proceder con cargos criminales por los cargos de drogas que sean desasido.” This means, “can opt in* proceed with criminal* charges* for the drug charges that could be* freed.*” I have starred the numerous errors that make this sentence unintelligible. The errors are as follows:
 - i. The preposition used after “optar” (“decide” in English) is incorrect. Instead of “en” it should be “por.”
 - ii. The correct translation of “criminal charges” is “cargos penales,” not “cargos criminales.” A “crimen” in Spanish is a violent felony, normally a murder.
 - iii. “Try you again” is translated as “proceder con cargos criminales,” which means “proceed with criminal charges” (again, with the wrong word being used to translate “criminal”).
 - iv. The correct translation of the phrase “vacated drug charges” is “cargo(s) de droga(s) anulado(s).” This is mistranslated in the Notice as “cargos de drogas que sean desasido.” This means “drug charges that could be freed.” “Desasir” means to free oneself from some bondage or hold, not to vacate a court judgment. Thus, the use of the word is incorrect in this context, which calls for the verb “anular.” Additionally, “desasir” is a low-frequency word; one not

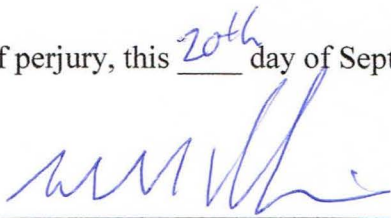
commonly used by Spanish speakers. Finally, the past participle “desasido” is improperly used in the singular form. Where a past participle follows a plural noun, such as “cargos” (“charges” in English), it should be in the plural, ending with an “s.” The words “que sean” improperly add an element of doubt to this section of the notice, since they are in the subjunctive mood, which normally refers to actions which might or might not happen. The corresponding English text states “vacated charges,” which indicates that the charges have been vacated, not that they might be. The use of the words “que sean” thus incorrectly translate the English text by adding an element of doubt which the English text does not contain.

- c. On the nineteenth line, the English “criminal clerk’s office” is translated as “la oficina del secretario criminal.” This means that the office in question is that of a clerk who is himself a violent felon.

15. These are not the only errors in the translation; these are the most serious errors.

16. Untrained persons should not be tasked with the translation of official legal documents. In recognition of this fact, the Trial Court hired a professional translator, Edgar Moros, Ph.D., who has been working to ensure that all documents currently in use in the Massachusetts trial courts are properly translated. In my opinion, he, or another competent legal translator, should have been consulted regarding this notice. The rough translation which is now part of the document in question should not have been used for any official purpose.

Sworn to, subject to the pains and penalties of perjury, this 20th day of September, 2016.



Dr. Michael O'Laughlin

Dr. Michael W. O'Laughlin

Expert Witness for Language and Cultural Issues
Director, Boston University Interpreter Program
Forensic Transcriber and Translator
Certified Court Interpreter
Certified Language Proficiency Tester

801 Maple St. Carlisle, MA 01741 mol@bu.edu www.drolaughlin.com (978) 371-1278

Education

Th.D. 1987 The Divinity School, **Harvard University**

M.A. 1986 Trinity College, **Oxford University**
(residence, 1979-81) *honours*

B.A. 1981 Trinity College, **Oxford University**
honours

B.A. 1977 **University of California at Santa Cruz**
cum laude

Special Diplomas and Training

Diploma Superior de Español

1994 **Ministry for Education and the Sciences**, Madrid, Spain

BEST Plus Test Administrator Training

2007 **Center for Applied Linguistics**, Washington, DC

Forensic Transcription and Translation (FTT) Techniques

2012 **National Association of Judicial Interpreters and Translators**, Boston

International Summer School in Forensic Linguistic Analysis

2012 **Universitat Pompeu Fabra**, Barcelona, Spain

OPI Proficiency Assessment Training

2013 **American Council on the Teaching of Foreign Languages**, Orlando, FL

Certification

Qualification as Court Interpreter, Municipal Court of California,
County of Monterey, Salinas Judicial District, October 13, 1978

Certification as Interpreter, Administrative Hearing Interpreter Program
California State Personnel Board, July 1, 1979

Certification as Court Interpreter, The Trial Court
Commonwealth of Massachusetts, November 1, 1989

Certification as an Oral Proficiency Tester,
American Council on the Teaching of Foreign Languages, December 1, 2014

Language Abilities:

English and Spanish—Complete fluency, native or near native proficiency
French, Portuguese and Italian—Conversational proficiency and reading knowledge
German—Basic proficiency in speaking and reading
Latin, Greek, Syriac and Hebrew—Reading knowledge

Distinctions and Recognition at a Glance:

- The federal Court Interpreter Act was signed in 1978. That same year I was hired as a full-time court interpreter in Santa Cruz, CA, one of the first full-time interpreters to be hired anywhere in the United States.
- Qualified or accepted as an expert in the Administrative, District, Juvenile, and Superior Courts of Massachusetts. Have testified in over 120 cases and have been hired and consulted on over 180.
- Included on the CPCS list of qualified experts as the only approved expert in the fields of language and cultural issues in 2005. Likewise, was the first to be listed in the new expert category of Forensic Translation and Transcription in 2012.
- Published author whose books and articles have been translated into Chinese, Dutch, Filipino, Finnish, French, German, Indonesian, Italian, Japanese, Korean, Polish, Romanian and Spanish.
- Certified court interpreter with 40 years experience.
- Certified language proficiency tester.
- The only court interpreter in Massachusetts to be recognized for making a special contribution to interpreter affairs in a state-wide memo issued by the Office of Court Interpreter Services.
- The only court interpreter in Massachusetts to be summoned before Judge Robert Mulligan, former Chief Justice for Administration and Management, to advise him and the Committee for the Administration of Interpreters.

- The only court interpreter in Massachusetts to address Chief Justice Margaret Marshall and other high-ranking justices regarding interpreter matters.
- Chosen to interpret for depositions in the Big Dig ceiling collapse case, the most high-profile recent case requiring an interpreter in the courts of Massachusetts.
- Director of the Boston University Interpreter Training Program, the most prestigious interpreter training program in New England, attracting students from the New England region, other states, and abroad.
- Invited to speak or teach by a number of different institutions, including Anna Maria College, the Archdiocese of Boston, the Archdiocese of Providence, Bar Advocates of Worcester County, Bentley College, Boston College, Boston University, Brown University, Catholic Charities, the Committee for Public Counsel Services, Children and Family Law Division, the Concord Continuing Legal Education Forum, the Disability Law Center, the Essex County Bar Association Advocates, the Greater Lowell Bar Association, Harvard University, the Henri Nouwen Society, the International Medical Interpreter Association, the Lviv Theological Academy (Ukraine), the Massachusetts Bar Association, Massachusetts Continuing Legal Education (MCLE), the Massachusetts Court Interpreter Association, the Massachusetts Law Reform Institute, the New England Translators Association, the Suffolk Lawyers for Justice, the Trial Court of Massachusetts, Tufts University, the University of Texas-Pan American, the University of Toronto, the Volunteer Lawyer Project, WCRB.
- Recipient of two writing grants. Contributed to a new translation of the Bible and published other translations.
- Subject or primary source for several front-page media articles,

Rhode Island Lawyer's Weekly, 2-4-2010

BU Today, 1-27-2011 (<http://www.bu.edu/today/node/12198>).

The Lowell Sun, 8-26-2015

In addition, I gave critical testimony in a successful motion for a new trial, freeing a man wrongfully imprisoned for murder after 17 years in jail. This news item appeared on the front page of the *Boston Globe*, 6-18-2015. I was not mentioned in the article.

- Member of the International Association of Forensic Linguists, the American Council on the Teaching of Foreign Languages, and the National Association of Judicial Interpreters and Translators
- Named to the *Accreditation Advisory Board* of the International Medical Interpreters Association, 2011
- Elected to the *Board of Directors* of the Massachusetts Association of Court Interpreters, 2014

- Extensive work in Forensic Translation and Transcription begun in 2012 and continuing to the present for the Suffolk County District Attorney and for other attorneys and entities.

Training and Experience Regarding Foreign Languages, Relevant to Proficiency Testing and Translation Issues

- **More than 1,300 classroom hours studying languages, textual analysis and translation issues**
University of California at Santa Cruz, Oxford University, Harvard University,
1973-1987
- **More than 1,300 classroom hours teaching languages and language-related issues**
Harvard University, Bentley University, Boston University
1983-2014
- **More than 1,200 contact hours testing language proficiency in English, Spanish and Portuguese**
Boston University, 2003-2014
- **Professional Conferences and Trainings regularly attended:** International Association of Forensic Linguists, International Association of Medical Interpreters, New England Translator's Association, Office of Court Interpreter Services of the Trial Court

Chronology of Relevant Experience

- **Full-time Interpreter and Clerk,**
Santa Cruz Municipal Court, Santa Cruz, CA 1978-9
- **Official Spanish Translator,**
Santa Cruz County Elections Department, Santa Cruz, CA and Santa Cruz City Manager, Santa Cruz, CA 1978-9
- **Approved Court Interpreter,**
Judicial Language Center, Suffolk Superior Court, Boston, MA 1982-9
- **On-Call Spanish Interpreter,**
Cambridge Hospital, Cambridge, MA 1984-6
- **Teaching Fellow, Elementary Greek,**
Harvard Divinity School, 1984

- **Master Teacher of Ethics,**
Harvard College, 1984-9
One of two planners and administrators of Moral Reasoning 30, one of the largest and most popular classes in the history of Harvard University. This was Prof. Harvey Cox's "Jesus and the Moral Life," in which I supervised 15 graduate fellows and the teaching of over 2,000 undergraduates. I did this as a teaching fellow and later, after graduation, Harvard College asked me to continue administering this course. This celebrated class has now been chronicled in Harvey Cox, *When Jesus Came to Harvard: Making Moral Choices Today* (Boston and New York: Houghton Mifflin, 2004)
- **Wiretap Transcriber and Translator,**
Office of the Massachusetts Attorney General, 1990
- **Instructor,** Theological Spanish,
Harvard Divinity School, 1990 and 1991
- **Certified Interpreter and Translator,**
The Trial Court of the Commonwealth of Massachusetts, 1990-present
- **Certified Interpreter,**
Certified Interpreter Service, Cambridge, MA, 1995-2000
- **Expert Witness for Linguistic and Cultural Issues,**
The District, Juvenile and Superior Courts of Massachusetts, 1992-present
- **Personal Document Translator,** 1990-present
Specializing in the translation and authentication of certificates, diplomas, licenses, and other personal documents written in Spanish, French, Italian, German, Latin, Portuguese and English
- **Instructor,** *The Western Spiritual Tradition*, 1995 to 1997
Led a group of professional and academic inquirers in exploring the major themes of Western philosophy and religion. Beginning with the preSocratics and the Hebrew prophets and continuing to late Antiquity, the basic themes of Western spirituality were presented through an examination of their formative period.
- **Spanish Translator,** International Finance Materials,
Harvard Institute for International Development, 1997
- **Lecturer,** Harvard Seminar on Environmental Values, *Harvard University*, October 28, 1997
Invited, along with paleontologist Mark McMenamin, to give the initial lecture of the permanent Seminar on the Environment at Harvard University. Ours was the first offering in a year-long series entitled, "Water - Substance and Symbol of Life: Steps to a New Water Ethic." Addressed an audience of Harvard and MIT faculty and graduate students on the issue of communications between religion and science.

- **Instructor**, New Testament Studies, *Lviv Theological Academy and Rudno Seminary of the Holy Spirit, Ukraine*, Winter, 1997
Following the collapse of the Soviet Union, religious education was quickly reinstituted all over the Eastern bloc, despite adversity and very difficult conditions. Due to the severe persecution of the large Uniate Church in Ukraine, there were almost no Ukrainian scholars able to teach the flood of seminarians and theology students that suddenly materialized seeking instruction in that faith. Therefore several scholars from Europe and the United States went to Ukraine to teach them. I was asked to go to Lviv and teach what would be the first academically-respectable courses on the New Testament to be offered anywhere in Ukraine in fifty years. While there I lived in a crowded, startup seminary of the Greek Catholic Church along with 300 seminarians. I taught there and in the hastily-reopened Lviv Theological Academy, an institution which had been closed by the Nazis.
- **Instructor**, “Legal Interpretation,”
Taught a 36-hour course on interpreting in a variety of legal settings, emphasizing professional ethics, technique and basic legal concepts
Interpreter Certificate Program, Bentley College, Waltham, MA, 1996-2002
- **Speaker**, “How to Work Effectively with Interpreters”
Continuing Legal Education Program, Massachusetts Bar Association, May 28, 1998
- **Speaker**, “Ethical Issues for Interpreters,”
Catholic Charities, March 3, 1999
- **Speaker**, “Working with Non-English Speaking Clients Through an Interpreter,”
Representing the Whole Client 2001, a training presented by the Legal Services Training Consortium of New England and the Massachusetts Law Reform Institute, January 30, 2001
- **Trainer**, “Serving the Disabled Population and Using an Interpreter”
Disability Law Center, 2002
- **Director**, Interpreter Training Program, *Boston University*, 2002 to present
After having taught a course in Legal Interpreting at Bentley College for many years, was named as director when the interpreter training program migrated to Boston University. There I reconstituted the Portuguese language program with a complete change of faculty, oversaw a difficult transition period, and created a Chinese program. Continued to teach the class on Legal Interpreting and expanded the program into several new areas, including Community Interpreting. One of my primary responsibilities is the testing of candidates for the program. I designed the entrance exams and I supervise the testing of roughly 100 candidates per year in English proficiency, foreign language proficiency, reading comprehension, linguistic awareness and innate skills in interpreting and translation. This is the most respected and thorough interpreter training program in New England.

- **Speaker**, “Cultural Commentary: The Parameters and Pitfalls of Providing Explanations,” Massachusetts Medical Interpreter Association Conference on the Role of Culture in Medical Interpreting, October 18, 2003
- **Speaker**, “A Discussion on Interpreter Training,” and “Special Topics in Interpreter Ethics: Making Changes in Order to Make Sense” Tenth Annual Conference of the New England Translators Association, May 6, 2006
- **Speaker**, “Constructing a Cultural or Language-Based Defense,” Concord Continuing Legal Education Forum, May 21, 2009 and Suffolk Lawyers for Justice, June 2, 2009
- **Speaker**, “From Greeks to Gringos: Encounters with Incomprehensible Speech in the Western Tradition,” Thirteenth Annual Conference of the New England Translators Association, May 30, 2009
- **Speaker**, “Immigrants and Bilingualism,” Presentation for the Faculty of the Boston University Interpreter Training Program, October 27, 2009
- **Conference Interpreter**, *No Alcanza: Voices from Guatemala’s Enduring Search for Peace*, Institute for Global Leadership, Tufts University, February 4-6, 2010
- **Speaker**, “Cultural and Language Issues in Criminal Defense and Civil Litigation,” Essex County Bar Association Advocates and Greater Lowell Bar Association, April 13 and 15, 2010
- **Speaker**, “Foreigner Parents and their Americanized Kids: Typical Tensions in Immigrant Families and their Legal Consequences,” Children and Family Law CLE, Cambridge, April 28, 2011, Lawrence, May 12, 2011
- **Panelist**, “Representing Immigrant Clients in the Juvenile Court,” 12th Annual Conference, Juvenile Delinquency & Child Welfare Law 2011, MCLE New England
- **Lead Panelist**, “Advocacy in Interpreting: Possibilities and Pitfalls,” 16th Annual Conference, New England Translators Association, 2012
- **Speaker**, “Barriers to Comprehension of the Miranda Warnings,” Annual Conference, National Association of Judiciary Interpreters and Translators,” 2012
- **Speaker**, “Barriers to Comprehension of the Miranda Warnings,” Criminal law CLE lecture presented to the Worcester Bar Advocates, May 30, 2012, The Suffolk Lawyers for Justice, Sept. 6, 2012, the Lowell Bar Advocates, Sept. 20, 2012, and the Concord Bar Advocates, Oct. 2, 2012.
- **Forensic Transcription and Translation**, After completing several trainings in 2012, began to work on large-scale transcription projects for both public defenders

and district attorneys. These transcriptions were primarily of police interrogations and jail phone calls. I was then able to qualify as an expert and was the first person to be listed as an expert in FTT by the Committee for Public Counsel Services.

- **Guest Speaker**, “Legal Spanish,” A lecture delivered via Skype for the Continuing Education Division of the University of Texas-Pan American in Edinburg, Texas, April 13, 2013.
- **Speaker**, “The Lawyer and the Language Barrier: Achieving Better Communication with Limited English Proficient Clients,” a lecture sponsored by the Volunteer Lawyers Project of the Boston Bar Association, June 16, 2014
- **Speaker**, “Defending Immigrants Charged with OUI,” Criminal law CLE lecture presented to the Suffolk Lawyers for Justice, November 13, 2014.
- **Lead Panelist**, “Paths for Bilingual Professionals in Interpretation and Translation,” Boston University International Education Week, 2014, November 18, 2014.
- **Researcher and Consultant**, Amicus curiae brief submitted regarding a Petition for a Writ of Certiorari, *Aifang Ye v. United States*, U.S. Supreme Court, March, 2016. This case concerned whether a defendant has a sixth-amendment right to confront the police interpreter used to interrogate him or her. I did extensive research and writing in support of the Amicus and it uses one of my cases as an example.
- **Speaker**, “Interpreting Here and Now,” a public lecture given at Boston University, June 15, 2016.

Published Translations

- Segundo Galilea, "Between India and New York," *Commonweal* (Feb. 8, 1985) 82-3 (translation from Spanish)
- "Evagrius Ponticus, *Antirrheticus* (Selections)," in Vincent Wimbush, ed., *Ascetic Behavior in Greco-Roman Antiquity: A Sourcebook* (Philadelphia: Fortress, 1990) 243-62 (translation from Syriac)
- Gospel of John Team, The Jesus Seminar 1990-2, published as Robert Funk et al., *The Five Gospels; The Search for the Authentic Words of Jesus* (New York: MacMillan, 1993) (translation from Greek)
- Jon Sobrino, SJ, “Monseñor Romero, a Salvadoran and a Christian,” *Spiritus* 1 (2001) 143-55. Reprinted in Jon Sobrino, *Witnesses to the Kingdom: The Martyrs of El Salvador and the Crucified Peoples* (Maryknoll, NY, 2003) 167-78 (translation from Spanish)

Additional Publications

- "Elements of Fourth-Century Origenism: The Anthropology of Evagrius Ponticus and its Sources," in C. Kannengiesser and William Petersen, eds., *Origen of Alexandria, His World and His Legacy* (Notre Dame, IN: Notre Dame University, 1988) 357-73
- "To Die in New Orleans, Reflections at Walker Percy's Grave," *Commonweal* (May 17, 1991) 321-3
- "New Questions concerning the Origenism of Evagrius," in Robert Daly, ed., *Origeniana Quinta* (Leuven, Peeters, 1992) 528-34
- "The Bible, the Demons and the Desert, Evaluating the *Antirrheticus* of Evagrius Ponticus," *Studia Monastica* (1992) 201-15
- "Saving the Soul from the Discard Pile," *Christian Spirituality Bulletin* 1 (1993) 16-7, a review of Thomas Moore, *Care of the Soul: A guide for Cultivating Depth and Sacredness in Everyday Life* (San Francisco: Harper, 1992)
- "Evagrius Ponticus in Spiritual Perspective," *Studia Patristica* 30 (1997) 224-30
- "Henri Nouwen in Life and in Death," *America* May 10, 1997 18-20, partially reprinted in Robert Durback, *Seeds of Hope: A Henri Nouwen Reader* (2nd ed.; New York: Image, 1997) 8-13
- "Closing the Gap Between Antony and Evagrius," in W.A. Bienert and U. Kühneweg *Origeniana Septima: Origenes in den Auseinandersetzungen des 4. Jahrhunderts* (Leuven: University Press, 1999) 345-54
- "Flying with the Dutchman: A Review of Two Recent Books About Henri Nouwen," *Christian Spirituality Review* 7:2 (1999) 21-5
This article was translated into Dutch as "Flying with the Dutchman: Boekenrubriek" *Henri Nouwen Stichting* 2/1 (Rotterdam, 2000) 6-10
- "Evagrie Ponticul intr-o perspectiva spirituala" in Gabriel Bunge, *Parintele duhovnicesc si gnoza crestina dupa avva Evagrie Ponticul* (Sibiu, Romania: Deisis, 2000) 247-67
Romanian translation of "Evagrius Ponticus in Spiritual Perspective" and "New Questions concerning the Origenism of Evagrius," placed as an afterword to longer works by Gabriel Bunge translated from German.
- Henri Nouwen, *Jesus: A Gospel* (Edited and Introduced by Michael O'Laughlin; Maryknoll, NY: Orbis, 2001)

This book won several 2002 Catholic Press Awards: First place for a hardback book on Spirituality and first place for Design. It has been translated into a number of languages, including Dutch, Italian, Japanese and Korean.

- "Beyond the Research Phase in Biblical and Patristic Studies," Garry Trompf and Gildas Hamel, eds. *The World of Religions: Essays on Historical and Contemporary Issues in Honour of Professor Noel Quinton King* (Contextual Theological Education Series 24; Delhi: ISPCK, 2002) 109-28
- "Henri Nouwen," in Michael Glazier, ed., *Modern Catholic Encyclopedia* (Revised Edition; Collegeville, MN: Liturgical Press, 2004) 586-7
- *God's Beloved: A Spiritual Biography of Henri Nouwen* (Maryknoll, NY: Orbis, 2004)
This book won an award from the Catholic Press Association and has been translated into many languages, including Dutch, German, Italian, Polish, and Spanish.
- Forward to Henri Nouwen, *In Memoriam* (Notre Dame, IN: Ave Maria, 2005) 7-9
- *Henri Nouwen: His Life and Vision* (Maryknoll, NY: Orbis, 2005)
This book won an award from the Catholic Press Association and has been translated into several languages.
- "A Spiritual Mentor's Lasting Influence," *Harvard Divinity Today* (Spring 2006, Vol. 2, No. 1) 11.
- "Henri the Teacher," in Gerald S. Twomey & Claude Pomerleau, eds., *Remembering Henri: The Life and legacy of Henri Nouwen* (Maryknoll, NY: Orbis, 2006) 1-10
- "Helmut Koester, Doctorvater," in James D. Smith & Philip Sellw, *The Fabric of Early Christianity: Reflections in Honor of Helmut Koester by Fifty years of Harvard Students* (Eugene, OR: Pickwick, 2006) 73-7
- "A New Model for Interpreting," *Massachusetts Legal Interpreter* (December, 2006) 11-15
- "From Greeks to Gringos: Encounters with Incomprehensible Speech in the Western Tradition," unpublished
- "Nouwen, Emerson, and the Emerging of the American Vision," in Jonathan Bengtson and Gabrielle Earnshaw, eds., *Turning the Wheel: Henri Nouwen and Our Search for God* (Maryknoll, NY: Orbis, 2007) 68-75
- "Spiritual Formation and Counsel," in George T. Kurian, ed., *The Encyclopedia of Christian Literature* (Lanham, MD, 2010)

- “Immigrants and Bilingualism,” *Proteus, the Newsletter of the National Association of Judicial Interpreters and Translators* 19 (Fall, 2010) 1, 8-10
- “Ask the Expert: The Importance of Language Testing in Standard Criminal Cases,” posted December 5, 2010 on *Extradition and Cross Border Criminal Defense News*, found at <http://obtainingforeignevidence.blogspot.com>.
- “How to Use an Interpreter: A Manual for the Legal, Medical, Business and Service Communities,” and “The Origins Interview: A Practical Approach to Improving Communication with Immigrant Clients,” in Amy Karp & Wendy Wolf, eds., *12th Annual Conference Volume, Juvenile Delinquency & Child Welfare Law 2011* (Boston: MCLE, 2011) 179-200
- “Critical Difference Between Transcription and Translation,” Letter to the Editor of *Massachusetts Lawyers Weekly*, commenting on Supreme Judicial Court’s decision on *Commonwealth v. Portillo*, 40 MLW 1799, June 18, 2012
- “The Case of the Missing Letters, Or, What to Do if the Source Document is Written in Code,” *Proteus, the Newsletter of the National Association of Judicial Interpreters and Translators* 21 (Fall, 2012) 4
- “Scalia was Careful Keeper of Confrontation Clause,” Letter to the Editor of *Massachusetts Lawyers Weekly*, commenting on *Crawford v. Washington*, *Melendez-Diaz v. Commonwealth* and *Aifang Ye v. United States*, Vol. 45, No. 13 MLW, p. 39 (March 28, 2016)
- “Addressing Linguistic and Cultural Issues in American Criminal Cases,” *Language and Law / Linguagem e Direito* (forthcoming)

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 Adriana Lafaille

I, Adriana Lafaille, state as follows:

1. I am a staff attorney at the American Civil Liberties Union Foundation of Massachusetts (ACLUM).

2. I am submitting this affidavit to provide information about the disparities between (1) the proposed notice that petitioners and intervener the Committee for Public Counsel Services (CPCS) submitted to the Single Justice in May 2016, and (2) the notice that the respondent District Attorneys (DAs) actually sent to Dookhan defendants in September 2016.

3. In an affidavit dated September 8, 2016, Assistant District Attorney Vincent J. DeMore stated that the September 2016 notice "contains language previously agreed upon by the parties." DeMore Aff. ¶8 (p. 30 of this Supplemental Record Appendix).

3. The notice proposed by the petitioners and CPCS on May 10, 2016, appears at pp. 43-44 of this Supplemental Record Appendix.

4. The draft notice submitted by the DAs on May 20, 2016, appears at p. 46 of this Supplemental Record Appendix.

5. The notice mailed by the DAs in September 2016 appears at p. 2 of this Supplemental Record Appendix.

6. I copied the text of each of these notices into Microsoft Word.

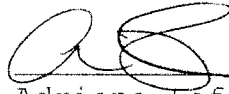
7. Using Microsoft Word's "compare" function, I compared the notice proposed by petitioners and CPCS on May 10, 2016 to that mailed by the DAs in September 2016. The resulting document is attached as Exhibit A.

8. The May 10, 2016 proposed notice and the notice mailed by the DAs have 52 words in common.

9. I also compared the draft notice submitted by the DAs on May 20, 2016 to that mailed by the DAs in September 2016. The resulting document is attached as Exhibit B.

10. The May 10, 2016 notice proposed by petitioners and CPCS has 433 words. The May 20, 2016 draft notice by the DAs has 376 words. The September 2016 notice mailed by the DAs has 241 words.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS
20TH DAY OF SEPTEMBER, 2016.

A handwritten signature in black ink, appearing to be 'AL', is written over a horizontal line.

Adriana Lafaille
BBO # 680210
Staff Attorney
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF MASSACHUSETTS
211 Congress Street
Boston, MA 02110
(617) 482-3170

IMPORTANT NOTICE REGARDING A CLOSED CRIMINAL CASE

Address 1 _____

Date _____

**You may have been wrongfully convicted
due to misconduct by Annie Dookhan at the Hinton State Drug Lab
in Boston, Massachusetts.**

Address 2 _____

Address 3 _____

Dear _____:

~~This letter is an official, According to court-ordered notice of your legal rights.~~ It is not an ad from a lawyer or a threat from a prosecutor. You can confirm the information in this letter by looking at the following court web site: _____.

~~A court has determined that~~ records, you ~~may have been wrongfully~~ were convicted of one or more drug ~~crimes due to misconduct by~~ offenses in Suffolk County between 2003 and 2011. It has been determined that chemist Annie Dookhan. From 2003 to 2012, ~~Ms.~~ Dookhan was a chemist at the Hinton State Drug Lab who tested samples involving people charged with drug crimes. Ms. Dookhan's work included the following ~~the~~ drugs in your case(s), _____ COURT, DOCKET NO. _____.

~~Ms.)~~ in which you were convicted:

• ~~[INSERT INFO HERE]~~

Dookhan admitted to misconduct in her work at the drug lab. Because Ms. Dookhan tested evidence in your case, you have certain rights:

• You have the right to challenge the drug conviction(s) listed in this notice ~~in court.~~ ~~Here are the rights that you will have~~

• ~~You will be entitled to a presumption that Annie Dookhan tested the drug sample in your case(s).~~

• ~~You will be entitled to a presumption that Ms. Dookhan committed serious misconduct in your case.~~

• ~~You will have the right to ask a court to undo your conviction. A prosecutor might or might not oppose your request. If your request is successful~~ challenge succeeds, your conviction(s) will be undone or "vacated." ~~A prosecutor might then agree to dismiss, and your case. If this happens, the conviction will be cleared from your criminal record~~ returned to active status.

• ~~If a court vacates your conviction, a prosecutor may choose to re-prosecute your case. If this happens, you will not have to face any charges in addition to those of which you were already convicted.~~

• ~~If you are re-prosecuted and are later convicted, you will not have to~~ • The District Attorney's office may decide to try you again on the vacated drug charge(s), but if you are tried and

convicted again, you will not face any punishment ~~in addition to~~ greater than what you already received. In other words, you ~~will not be penalized for exercising your rights under this notice.~~

~~If you choose to challenge the conviction(s) identified in this notice, you will have the right to have a lawyer advise you about your case, and to represent you in court. If you cannot afford a lawyer, a lawyer will be appointed to represent you free of charge.~~ be additionally punished for choosing to challenge your conviction(s).

~~To learn how to exercise your rights, you can make a confidential call to the toll-free Dookhan Case Hotline, which has been created by court order and is operated by defense attorneys with the Committee for Public Counsel Services, the Massachusetts public defender agency. The number is: _____~~

~~The Hotline is open _____. You may also request legal advice by returning the enclosed self-addressed, stamped envelope to the Committee for Public Counsel Services. If you have any questions, please contact your original lawyer on your case(s). You may also choose to speak to a new lawyer. If you do not know how to contact your original lawyer, you may get that information at the criminal clerk's office at the court where your case was handled. Addresses for all of the District and Superior courts can be found at:~~

~~<http://www.mass.gov/courts/court-info/courthouses/courthouses-by-county-gen.html>~~

~~For more information, you may contact the Suffolk County District Attorney's Office at (617) 619-4348~~

IMPORTANT NOTICE REGARDING A CLOSED CRIMINAL CASE

NOTICE: You may have been wrongfully convicted based on misconduct by Annie Dookhan, a drug tester at the Hinton Lab

Address 1
Address 2
Address 3

_____Date

Dear _____:

~~According to~~ This letter is a court records, ordered notice of your legal rights in drug case(s) if Annie Dookhan tested the drugs. You can confirm that the court ordered you ~~were convicted of one~~ be notified by going on-line at www. _____

You are receiving this notice because some ~~or more drug offenses in Suffolk County between 2003 and 2011.~~ It has been determined that all of the drug evidence in your criminal case(s), INSERT DOCKET NO. 1234CR005678 was tested at the Hinton State Drug Lab by chemist Annie Dookhan. Ms. tested the drugs in your case(s), _____ COURT, DOCKET NO. _____.

~~Ms. Dookhan admitted to~~ was convicted for her misconduct in her work at the drug lab. ~~Because Ms. The~~ Massachusetts Supreme Judicial Court decided in *Commonwealth v. Scott*, 467 Mass. 336 (2014) and *Bridgeman, et al. v. District Atty. for Suffolk Distr., et al.*, 471 Mass. 465 (2015), that as a "Dookhan ~~tested evidence in your case, defendant~~" you have certain rights:

- You have the right to challenge the drug conviction(s) that are listed in this notice: without more proof that Ms. Dookhan was involved in testing drugs in your case than this letter.

- If you want to challenge succeeds, your any of the "Dookhan" drug conviction(s) listed in this letter, you have the right to a lawyer to advise you about your case, and to represent you in court. If you cannot afford a lawyer, a lawyer will be appointed to represent you free of charge.

- If you win your challenge(s) in court, your "Dookhan" drug conviction(s) will be undone or "vacated," and your case will be returned to active status.

- "The District Attorney's district attorney's office may decide to try you again on the vacated drug charge(s), but if BUT you are tried and convicted again, you will do not face any punishment greater more than what you already received. In other words, you cannot will not be additionally punished penalized for choosing asking to challenge your conviction(s).

~~If you have any questions, please contact your original lawyer on your case(s). You may also choose to speak to a new lawyer. If you do not know how to contact your original lawyer, you may get that information at the criminal clerk's office at the court where your case was handled.~~ Addresses for all of the District and Superior courts can be found at: "Dookhan" drug conviction(s) or otherwise exercising your rights.

<http://www.mass.gov/courts/court-info/courthouses/courthouses-by-county-gen.html>

For more information, you may contact the Suffolk County District Attorney's Office at (617) 619-4348 To learn how to exercise your rights, call the confidential toll-free "Dookhan Case Hotline" operated by defense attorneys with the Committee for Public Counsel Services ("CPCS") at (XXX) XXX-XXXX.

The Hotline Is open . You may also ask for legal advice by mailing the enclosed self-addressed, stamped envelope to CPCS at 44 Bromfield Street, Boston, MA 02110.

To help us protect your rights, please let us know you received this letter by calling the Hotline at CPCS or by returning the enclosed envelope.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPREME JUDICIAL COURT
NO. SJC-12157

KEVIN BRIDGEMAN,
& others

v.

DISTRICT ATTORNEY FOR THE SUFFOLK DISTRICT,
and others

AFFIDAVIT OF NANCY J. CAPLAN

I, Nancy J. Caplan, state upon information and belief that:

1. I am the Attorney in Charge of CPCS's Drug Crisis Litigation Unit (DLCLU), located in Roxbury, MA.

2. On or about Monday, September 12, 2016, DLCLU began receiving inquiries from individuals who had apparently received Dookhan defendant notice letters issued by the District Attorneys.

3. On September 12, 2016, at our request, one individual who had received such a letter (referencing a 2008 Framingham District Court case) provided us with a copy of that letter.

4. A redacted copy of that letter is attached.


5. On September 15, 2016, at our request, another individual who had received such a letter (referencing

a 2006 Barnstable Superior Court case) sent us a photograph of the envelope that had contained that letter.

6. A copy of the photograph she sent us is attached.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

THIS 21st DAY OF SEPTEMBER, 2016.



Nancy J. Caplan
BBO# 072750
COMMITTEE FOR PUBLIC COUNSEL SERVICES
Drug Lab Crisis Litigation Unit
7 Palmer Street, Suite 302
Roxbury, MA 02119
(617) 445-7581
ncaplan@publiccounsel.net

IMPORTANT NOTICE REGARDING A CLOSED CRIMINAL CASE

September 9, 2016

D [REDACTED]
[REDACTED] Street
[REDACTED], MA [REDACTED]
[REDACTED]

Dear [REDACTED]: [First Name]

According to court records, you were convicted of one or more drug offenses in Middlesex County between 2003 and 2011. It has been determined that chemist Annie Dookhan tested the drugs in your case(s): Framingham District, Docket No. 0849CR [REDACTED].

Ms. Dookhan admitted to misconduct in her work at the drug lab. Because Ms. Dookhan tested evidence in your case, you have certain rights:

- You have the right to challenge the drug conviction(s) listed in this notice. If your challenge succeeds, your conviction(s) will be undone or "vacated," and your case will be returned to active status.
- The District Attorney's office may decide to try you again on the vacated drug charge(s), but if you are tried and convicted again, you will not face any punishment greater than what you already received. In other words, you cannot be additionally punished for choosing to challenge your conviction(s).

If you have any questions, please contact your original lawyer on your case(s). You may also choose to speak to a new lawyer. If you do not know how to contact your original lawyer, you may get that information at the criminal clerk's office at the court where your case was handled. Addresses for all of the District and Superior courts can be found at:

<http://www.mass.gov/courts/court-info/courthouses/courthouses-by-county-gen.html>

For more information, you may contact the Middlesex County District Attorney's Office at (781) 897-6677.

De acuerdo con los documentos de corte, usted ha sido condenado por uno o más delitos de drogas en el Condado de Middlesex entre 2003 y 2011. Se ha determinado que la científica química Annie Dookhan examinó las drogas en su caso(s): Framingham District, Docket No. 0849CR [REDACTED].

La Sra. Dookhan admitió a mala conducta de trabajo en el laboratorio de drogas. Debido a que la Sra. Dookhan examinó las drogas en su caso, usted tiene ciertos derechos:

- Usted tiene el derecho a impugnar la condena de drogas que figuran en esta notificación. Si usted tiene éxito, su condena(s) se puede deshacer o "desocupar" y su caso será devuelto a estado activo.
- La Oficina del Fiscal de Distrito puede optar en proceder con cargos criminales por los cargos de drogas que sean desasido. Pero, si usted es juzgado y condenado de nuevo, no enfrentará un castigo mayor de lo que ya había recibido por esos cargos. En otras palabras, usted no puede ser castigado adicionalmente por su elección de impugnar su condena(s).

Si usted tiene alguna pregunta, por favor póngase en contacto con el abogado original en su caso. Usted también puede elegir en hablar con un abogado nuevo. Si usted no sabe cómo comunicarse con su primer abogado, puede obtener esa información en la oficina del secretario criminal en el tribunal donde se trató su caso. Las direcciones de todos los tribunales de distrito y superior se pueden encontrar en:

<http://www.mass.gov/courts/court-info/courthouses/courthouses-by-county-gen.html>

Para más información, usted puede contactar la oficina del fiscal del condado de Middlesex al (781) 897-6677.

RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479

IMPORTANT LEGAL NOTICE FROM THE COMMONWEALTH OF MASSACHUSETTS

PRESORTED
FIRST CLASS
U.S. POSTAGE
SOUTHAMPTON
18966
PERMIT NO.

-SRA 80-