



GLENN A. CUNHA
INSPECTOR GENERAL

The Commonwealth of Massachusetts

Office of the Inspector General

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By Email and First-Class Mail

Marian Ryan
District Attorney
Middlesex County District Attorney's Office
15 Commonwealth Avenue
Woburn, MA 01801

Dear District Attorney Ryan:

While it is not my practice to engage in a battle of letters, you have chosen that course of action. Yesterday, I received your letter addressed to Governor Baker, Secretary Turco and me. My custom is to meet with agency heads to discuss concerns and reach an agreement or resolution, as I attempted to do when I called you over a year ago, on June 25, 2019, shortly after the litigation in *Sutton* had begun. I am surprised you took this approach as you have never reached out to me about Sonja Farak. In the years since Farak was arrested you have not asked my Office for an additional independent investigation of Farak's work at Hinton. Indeed, my Office has been working with your office for nearly two years on *Sutton* and related litigation, and in all that time your office did not make such a request.

My Office will prepare a fuller response to your letter, but in the meantime, I am compelled to correct certain of your misstatements and omissions of significant facts. First, my Office has stated repeatedly that other than Annie Dookhan, the Hinton Lab investigation did not find evidence that any other chemist committed any malfeasance with respect to evidence testing. These statements do not merely include Farak by negative implication; they are affirmative statements about the investigation's findings. The Hinton Lab investigation did not uncover any evidence to question Farak's productivity or to suspect her of misconduct. While you point to high testing numbers, as we have explained in detail in our court filings, high numbers alone are not evidence of malfeasance or misfeasance – or even of high productivity.

Furthermore, the legal community and public learned the extent of Farak's drug use well after the OIG's investigation was completed. In 2015, she testified under a grant of immunity to the grand jury that she began to use methamphetamine in late 2004 or early 2005; she left the

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Hinton Lab in August 2004. She also testified that due to protocols at the Hinton Lab, she did not have access to drug standards during her brief time there.

Second, you mischaracterize the court's finding in the *Sutton* case. Contrary to your assertion, the court did not vacate Sutton's conviction because the OIG's investigation did not focus on Farak's conduct at the Hinton Lab, but because the Commonwealth, through your office, had not fulfilled its discovery obligation. For that reason, the court allowed Sutton's motion. Your office did not rely on the Hinton Lab investigation, our responses to discovery requests, or the extensive and unprecedented access your office had to the OIG's investigatory file.

Third, for effect you claim that over nine-thousand convictions arising out of Farak's work at the Hinton Lab are at stake. Clearly, you are citing the number of samples that Farak tested, not convictions. I take seriously the significance of each conviction, but it serves no legitimate purpose to exaggerate these numbers in this manner.

Finally, as you mention in your letter, the underlying case involved .04 of a gram of drugs and the defendant, Eugene Sutton, did not face additional jail time. Nevertheless, when we spoke in June 2019, you were unequivocal in your intention to retry the case if the motion for a new trial was allowed. Now, over a year later, you state you intend to file a *nolle prosequi* while the facts of the underlying case remain unchanged and the court's rulings have had no effect on your ability to retry the case. The public resources that your office, my Office and the court have expended are significant, and Sutton has spent more than a year incarcerated without the opportunity to move for a sentence reduction as he has recently done.

Since our first report was released in March 2014, Farak pleaded guilty, the Attorney General released the Caldwell Report and the Supreme Judicial Court issued its opinion in *CPCS v. AGO* based on Judge Carey's findings in *Commonwealth v. Cotto*. During this same period, moreover, data and documents from the Hinton Lab have been widely available and carefully reviewed by the defense bar. And in all that time, no evidence of misfeasance or malfeasance has come to light about Farak at the Hinton Lab. Despite that reality, my Office will follow this letter with additional information regarding our investigation.

Sincerely,



Glenn A. Cunha
Inspector General

cc: Tara Maguire, Esq.,
Massachusetts District Attorney Association