



The Commonwealth of Massachusetts

OFFICE OF THE DISTRICT ATTORNEY FOR THE NORFOLK DISTRICT

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Office of Professional Responsibility
U. S. Department of Justice
950 Pennsylvania Ave., N.W., Suite 3266
Washington, DC 20530-0001

Re: Investigation by the Office of the United States Attorney for the District of Massachusetts

Dear Sir or Madam:

I write to formally request that an ongoing investigation being conducted by the United States Attorney's Office for the District of Massachusetts be examined by the Office of Professional Responsibility and, should the investigation continue, that it be transferred to another office without history of conflict, bias, and abuse of prosecutorial discretion as outlined below.

The Norfolk District Attorney's office has undertaken an extensive investigation into the facts and circumstances of the death of John O'Keefe in Canton, Massachusetts on January 29, 2022.

The facts and evidence gathered, including more than 40 individuals testifying before the Norfolk County grand jury, led to the second-degree murder indictment of Karen Read. Read was the operator of the vehicle that, the evidence demonstrates, struck her boyfriend, Boston Police Officer John O'Keefe. O'Keefe was then left to die in the snow on the side of Fairview Road, Canton, during the evening of January 29, 2022. The case has been systematically making its way through Norfolk Superior Court with ongoing discovery still active and open, including motions under advisement and motions not yet heard.

The defendant, through counsel, has been raising specious issues of a third party culprit and complaints of witness and police misconduct as they attempt to confuse by offering not *different* interpretations of Commonwealth statements, evidence, and positions, but *inventing* them out of whole cloth. No actual substantiated evidence supporting police misconduct or any federal violations have been identified by the defendant, the District Attorney's Office, or the Massachusetts Superior Court during the ongoing discovery process. (See exhibit A: Defendant filings and Commonwealth's response.)

Approximately three weeks ago, multiple state witnesses who have been brought before the state grand jury notified the Norfolk District Attorney's office that they were contacted by the FBI and

subsequently received subpoenas to appear before a Federal Grand Jury. Shortly after those notifications to the Norfolk District Attorney's office, Joshua Levy, First Assistant in the Boston office of the United States Attorney's Office contacted Norfolk First Assistant District Attorney Lynn Beland to suggest that they were conducting an investigation that may involve a number of witnesses in the Commonwealth v. Read murder case. At that time, Attorney Beland expressed some concerns about both the jurisdiction and the timing of any actions being taken by the United States Attorney's Office, as they could imprudently impact the ongoing murder prosecution of Karen Read.

Based on the collective experience of several of my colleague Massachusetts District Attorneys and a former federal prosecutor, it appears to be unprecedented for the federal government to step into the middle of an ongoing state murder prosecution prompted only by inflammatory and ethically dubious defense strategy.

In the conversation with First Assistant Norfolk District Attorney Lynn Beland, Assistant United States Attorney Joshua Levy declined to identify what jurisdiction the federal government had in this murder case. In what appears to be a highly unusual and possibly abusive exercise of power, Attorney Levy indicated that the U.S. Attorney's Office was still proceeding ahead with an investigation that would involve individuals who were active participants in events and/or witnesses in the state case. Attorney Beland reminded AUSA Joshua Levy that any statements and or testimony taken in such an investigation that pertain to any of the witnesses in the ongoing state murder trial may create an ongoing obligation for state prosecutors to provide defense with access to all information and statements gathered or recorded as a result of the federal investigation. The United States Attorney's Office offered the opinion that, "you can't turn over information that you don't have." This position leaves state authorities potentially unable to meet the Constitutional mandate expressed in Brady v. Maryland and corresponding Massachusetts State Rules.

Since that call concluded, we have confirmed that witnesses have testified before the Grand Jury. Rule 6 of the Federal Rules of Criminal Procedure allows that under certain compelling circumstances, information may be provided to all counsel, including those not before the federal grand jury (See exhibit B - letter). Recent court filings and statements by defense counsel in the Read matter suggest that defense attorneys were the source of the initial complaint and allegations prompting this action by the U.S. Attorney's Office (See exhibit C: Report in the Boston Herald); Read's defense counsel's recent court filings raise – out of thin air and apparently purposeful misstatement of fact – unsupported claims of a cover-up by investigators and witnesses including municipal, state, and federal law enforcement. As shown in attached documents, many or all of these unsupported allegations can be vetted and reviewed by the judges of the Massachusetts Superior Court during the discovery and motion sessions or available appellate review.

I am unaware and strongly doubt any prosecutor or State Police misconduct in Commonwealth v. Karen Read. The only allegations to that effect have been in unsupported news claims or defense

filings that had not even been answered at the time AUSA Levy confirmed the existence of a federal grand jury.

It raises the question why the apparatus of the DOJ would intervene – even as such issues are still being assessed by a justice of the Massachusetts Superior Court – without some additional impetus on the part of the United States Attorney's Office.

Without dismissing the important role of the DOJ in investigating allegations of police misconduct and federal violations, we bring to your attention what appears to be additional concerns concerning motive, conflict or appearance of conflict, and potential bias by the Office of the United States Attorney for Massachusetts – which might explain these unprecedented proceedings.

I predicate the following information with the fact that it has been the policy of the Norfolk District Attorney's Office during my 12-year tenure as District Attorney to maintain a close working relationship with the United States Attorney for Massachusetts. Notable in that relationship was the cooperation of the Norfolk District Attorney's office in the prosecution of a 35-year old murder case that was committed in Sharon, Mass, which involved the Whitey Bulger gang in United States v. Flemmi.

The Norfolk District Attorney's Office had statutory jurisdiction to pursue the case, but in the interest of cooperation acceded to the request of the United States Attorney at the time to allow federal prosecutors to proceed with the case. As a result of that agreement, the Norfolk District Attorney's Office and Massachusetts State Police assigned to the Norfolk District Attorney's office worked closely with the US Attorney's Office on the case. During this period, AUSA Dustin Chao, without nexus to that prosecution, asked a Massachusetts State Police detective involved in the matter if he had any kind of damaging information on the district attorney, first assistant, or the Norfolk District Attorney's Office.

This sua sponte question was not without context. Laura G. Chao, Dustin's wife, had been an employee of the Norfolk District Attorney's Office prior to the case mentioned above. Not long into her tenure, it became apparent to her supervisors that she required more seasoning and legal experience if she was to succeed in a superior court role. She was offered the chance to gain more trial experience in the district court without any loss of compensation. Instead, she resigned and filed an ethics violation complaint with the Mass. Board of Bar Overseers against the First Assistant in the Norfolk District Attorney's Office. The complaint before the Board was summarily dismissed in short order. Laura G. Chao was, instead, cited for a violation of her ethical obligation to provide accurate address information for her practice – long after separation, she was misrepresenting her address as the Norfolk DA's Office. (See exhibit D.)

I began composing this letter well before the May 17, 2023 publication of the DOJ Office of the Inspector General report 23-071, which has apparently prompted the resignation of the current United States Attorney of the District of Massachusetts. My attention is drawn to several portions of Section II, particularly as they pertain to the weaponization of the US Attorney's Office for

personal, political, and retributive purposes. (P. 46 "Hayden 'Will regret the day he did this to you. Watch.'"; P. 66 "We asked Rollins whether her disclosure ...was retribution for the wrongs she believed Hayden had committed...."; P. 69 "Additionally, we determined that days after Hayden prevailed in the September 6 primary election, Rollins sought to damage Hayden's reputation."; P. 70 "The evidence demonstrated...she used her position as U.S. Attorney...in an ultimately unsuccessful effort to create the impression publicly...that DOJ was or would be investigating Hayden for public corruption.")

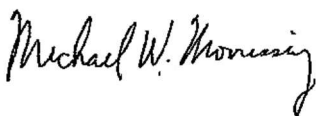
These DOJ findings and questions reinforce my belief that the United States Attorney's Office for the District of Massachusetts must be removed from whatever investigation is being conducted into the Read matter. I believe that a reasonable person could conclude that the same type of tactics are being employed against the Norfolk District Attorney's Office in the Read investigation. The outgoing United States Attorney has made no secret of her personal animosity toward me, including repeated crude, outlandish personal and professional attacks against me in the media during her time as Suffolk District Attorney. (See exhibit E.) The head of the public corruption unit has raised the specter of personal retaliation for his wife's departure from the Norfolk District Attorney's Office. The public has the right to a US Attorney's Office that is fair and unbiased as it executes its responsibilities.

Weaponizing the United States Attorney's Office to conduct an unprecedented intervention into an open state murder case appears to raise the same concerns outlined in the DOJ's report.

I submit that the pattern of using the USAO for personal purposes established in Report 23-071, coupled with the obvious conflict of AUSA Chao, make it impossible to conclude that a fair evaluation of the unprecedented Read intervention can be conducted by any party within the Massachusetts office. It is impossible to determine how far the tentacles of bias have spread out from the Chief of the relevant unit and the titular head of the office.

I formally request that an impartial federal official unaffiliated with the US Attorney's Office for Massachusetts review and investigate the steps and actions that are being taken by current members of the Massachusetts office, exploring this apparent bias and whether it predisposed them to abuse their prosecutorial discretion in this matter. In the unlikely case that an impartial review finds that a DOJ investigation into the Karen Read matter is appropriate – even before the issues at hand have been vetted by the Norfolk Superior Court Judge hearing the case – I request that the investigation be re-assigned from parties with clearly stated and documented bias against members of the Norfolk District Attorney's Office to attorneys entirely outside the office of the United States Attorney for Massachusetts.

Sincerely,



Michael W. Morrissey
District Attorney for the Norfolk District