

April 3, 2023

Detective Meredith Lobur
Provincetown Police Department.
26 Shank Painter Road
Provincetown, 02657

BY Email Only:
MLobur@provincetown-ma.gov

RE: Lady of the Dunes Investigation

Dear Detective Meredith Lobur,

[REDACTED]
[REDACTED]

[REDACTED] this office has reviewed reports authored by Massachusetts State Police Detectives assigned to the Cape and Islands District Attorney's Office.

Said reports reveal that on or about May 6, 2013, in your capacity as a detective for the Provincetown Police Department, proceed with an exhumation of the victim known as the Lady in the Dunes without lawful authority to do so.

It further appears that you engaged in the aforementioned conduct without notifying the Massachusetts State Police Detectives assigned to the Cape and Islands District Attorney's Office.

Additionally, several requests were made of you to produce the entirety of your files over several years and you failed to so provide u [REDACTED] [REDACTED]
[REDACTED]

In light of the materials examined, this Office is reviewing your conduct and our professional obligations pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and its progeny.

Indeed, our Office has a legal and ethical obligation to disclose conduct that

qualifies as "exculpatory" under the governing case law, Rules of Criminal Procedure, and the Rules of Criminal Procedure and the Rules of Professional Conduct. See *Brady v. Maryland*, 373 U.S. 83, 87-88 (1963); Mass. R. Crim. P. 14(a)(1)(A)(iii); Mass. R. Prof. C. 3.8(d); Mass. R. Prof. C. 3.8 (i).

Relevant portions of our Office's Brady Policy (attached as a separate document) include the following:

"Any evidence "tending to impeach the credibility of a key prosecution witness is clearly exculpatory," regardless of whether the underlying conduct implicates truthfulness. *Matter of a Grand Jury Investigation*, 485 Mass. 641, 647 (2020), quoting *Commonwealth v. Hill*, 432 Mass. 704, 715 (2000). "In the event that a prosecutor is uncertain whether information is exculpatory, the prosecutor should err on the side of caution, and disclose it. See *Commonwealth v. St. Germain*, 381 Mass. 256, 262 n.10 (1980) (emphasis added), quoting Commentary to A.B.A. Standards for Criminal Justice, Standards Relating to Discovery and Procedure Before Trial 2.1(d) (Approved Draft 1970) ("We reiterate that 'prosecuting attorneys [should] become accustomed to disclosing all material which is even possibly exculpatory, as a prophylactic against reversible error and in order to save court time arguing about it'"). Prosecutors do not have discretion to withhold material once it has been deemed exculpatory. This material may include, but is not limited to, information that:

- (a) An officer is charged with a crime, has admitted to sufficient facts, or has been convicted of a crime, whether a felony or a misdemeanor;
- (b) A finding of untruthfulness in connection with an internal administrative process, such as an internal affairs (IA) investigation or a proceeding before a Hearing Officer or arbitrator or other administrative body or appeal;
- (c) A judicial finding that an officer knowingly provided false testimony or lied in an affidavit in support of a search warrant (*Franks* hearing)

(d) A finding that an officer engaged in conduct, whether criminal or not, that shows a lack of truthfulness or adversely impacts his/her credibility. Specific examples of this category (which encompasses a broad array of conduct), include:

a. On-duty conduct or lack thereof which suggests failure to follow police protocols, where such conduct adversely impacts an officer's credibility as a witness (including, but not limited to: not working or working a detail while also being on duty; improper reporting/manipulation of overtime; improperly changing a police report; conducting personal or union business while on the clock; and failure to supervise);"

Consistent with our Brady Policy, you are hereby notified that you have 5 business days hereafter to either file written submissions for this Office's review or request a hearing with members of our Office to review this matter prior to a determination.

Please note that should you request a hearing it is advised that you be accompanied by legal counsel. Prosecutors from our Office will be joined by members of the Massachusetts State Police Detectives assigned to the Cape and Islands District Attorney's Office for such a hearing. Said hearing may be recorded at your request.

Written submissions and /or request for a hearing should be made to Second Assistant District Attorney E. Russ Eonas at:
Russ.Eonas@Mass.gov.

Thank you for your attention to this matter.

As always, I remain,

Very truly yours,

Robert J. Galibois

Cc: Chief James Golden via JGolden@Provincetown-ma.gov