

COMMONWEALTH OF MASSACHUSETTS  
BOARD OF BAR OVERSEERS  
OF THE SUPREME JUDICIAL COURT

_____	)	
BAR COUNSEL,	)	
Petitioner	)	
	)	
v.	)	BBO FILE Nos. C1-20-266380 &
	)	C1-20-266381
	)	
JOHN E. BRADLEY, JR., ESQ. and	)	
KAREN H. O’SULLIVAN, ESQ.,	)	
Respondents	)	
_____	)	

**RESPONDENT, JOHN BRADLEY’S PRO SE ANSWER TO PETITION FOR DISCIPLINE**

Respondent has been a prosecutor serving the public for his entire career- spanning over twenty-five years. During that time, he has always been mindful that the primary objective of a prosecutor is to serve the interest of justice. That meant not only protecting the public, but also making sure that the power vested in him was never abused, and that all criminal defendants were treated fairly. Respondent not only practiced this ethos, but also preached it constantly to those prosecutors he supervised.

During his career, Respondent has handled as many of his own appeals as time would allow. This extra work resulted in approximately 25 appearances before the full bench of the Supreme Judicial Court and many more before the Appeals Court. It also meant, significantly, that he had to answer, first hand, to any mistakes that he made during the trial. Respondent can

say, without hesitation, that as a consequence, he was much more circumspect than most prosecutors.

Respondent will prove in this Answer, and at the evidentiary hearing to follow, that the allegations contained in the Petition are false; they are the product of lies, recklessness, and corruption. And Respondent does not use those words lightly.

**In response to the Petition for Discipline filed on June 6, 2023, the Respondent, John E. Bradley Jr., answers as follows:**

1. This petition is brought pursuant to Rule 4:01, Section 8(3), of the Rules of the Supreme Judicial Court and Sections 3.13(a)(2) and 3.14 of the Rules of the Board of Bar Overseers.

**Requires no answer.**

2. The Respondent, John E. Bradley, Jr., Esq. (“Respondent Bradley”), is an attorney duly admitted to the Bar of the Commonwealth on June 18, 1992.

**Admitted**

3. The Respondent, Karen H. O’Sullivan, Esq. (“Respondent O’Sullivan”) (together with Respondent Bradley, “Respondents”), is an attorney duly admitted to the Bar of the Commonwealth on December 17, 1997.

**Admitted as far as I know.**

### **INTRODUCTION**

4. In the early morning hours of April 17, 2003, a fire broke out in a home located at 102 Belair Street in Brockton. Mr. Yiu “Jimmy” Choy (“Mr. Choy”) and Mrs. Nu Trinh “Anne” Choy (“Mrs. Choy”), a married couple, died as a result of the fire and smoke.

**Admitted. To supplement, Mr. and Mrs. Choy were murdered.**

5. The fire department was able to safely extract Mr. Sung Ching “Kenneth” Choy (“Kenneth” or “Kenny”) from the home. Kenneth was Mr. Choy’s grandson resulting from a prior relationship. Kenneth’s mother had sent him from Hong Kong, China to live with Mr. Choy in 2000 because she could no longer support Kenneth financially.

**Admitted.**

6. Mr. and Mrs. Choy’s seventeen-year-old daughter, Frances Choy (“Frances”) was also rescued from the fire.

**Admitted.**

7. Frances and Kenneth were both charged with the murders of Mr. and Mrs. Choy. Frances was also charged with arson.

**Admitted. To supplement, Kenneth Choy was not indicted for arson because the Superior Court had no jurisdiction over the offense given his status as a juvenile.**

8. Frances was indicted, tried three times and eventually convicted of two counts of murder and one count of arson in the Plymouth County Superior Court. She was sentenced to life in prison. Kenneth was tried and acquitted.

**Admitted.**

9. On September 17, 2020, the Honorable Linda Giles (“Judge Giles”) of the Plymouth Superior Court entered an Order vacating Frances’s criminal convictions after concluding that “justice may not have been done.”

**Admitted. To supplement, the Court’s decision was the product of an agreement between defendant and the Plymouth County District Attorney’s Office (PCDAO). Importantly, there was no evidentiary hearing- no system of checks and balances. And thus,**

**Respondent was not afforded the opportunity to defend himself. This agreement greatly benefited the Defendant and District Attorney Cruz (DA Cruz), who weaponized the agreement as part of thus-far successful plan to ruin Respondent's career because Respondent had successfully sued DA Cruz in Federal Court and then, in 2018, Respondent became his political opponent.**

10. The court's decision to vacate the convictions was based in large part on prosecutorial misconduct. Respondents were the trial prosecutors.

**Admitted in part and denied in part. Admitted that the Court's decision references instances of putative prosecutorial misconduct. But Respondent steadfastly denies any and all allegations and findings of such misconduct. The Court's decision relied in substantial part on the sworn statement of a proven liar- Attorney Joseph Krowski, Sr. (Attorney Krowski). The Court's decision, as has already been shown, and will continue to be proven, was riddled with inaccuracies and so flawed as to be deeply troubling.**

11. On September 29, 2020, the Plymouth County District Attorney's Office ("PCDAO") entered a nolle prosequi effectively ending the prosecution of Frances.

**Admitted.**

12. At the time of her release at the age of thirty-four, Frances had spent nearly half of her life in prison.

**Admitted.**

**RESPONDENTS' MISCONDUCT DURING THE PROSECUTION OF  
FRANCES CHOY**

***Background***

13. Respondent Bradley was first hired by the PCDAO in or about October 1991.

**Admitted.**

14. In or about October 2001, Respondent Bradley left the PCDAO and served as a prosecutor in the Major Crimes Unit of the United States Attorney's Office for the District of Massachusetts.

**Admitted.**

15. Respondent Bradley returned to the PCDAO in or about April 2003.

**Admitted.**

16. Throughout the 2003 to 2012 time period, Respondent Bradley served as the Deputy First Assistant District Attorney for the PCDAO. He also supervised the assistant district attorneys in the District Courts.

**Admitted.**

17. Respondent O'Sullivan was hired by the PCDAO as an assistant district attorney in or about September 1997. She was promoted to a Superior Court position in or about November 2003.

**Admitted.**

18. With respect to the fire that resulted in the deaths of Mr. and Mrs. Choy, investigators quickly concluded that it had been intentionally set. Inside Kenneth's bedroom, investigators recovered two notes written in Kenneth's handwriting on Kenneth's stationery with only Kenneth's fingerprints found on them that detailed a step-by-step plan for setting the fire.

**Admitted. To supplement, Assistant Bar Counsel's (ABC) brief recitation of evidence focuses solely on Kenneth Choy (Kenneth). ABC ignores that a jury found Defendant guilty of murder and arson, and that the SJC found the evidence against her to be legally sufficient. *Choy v. Commonwealth* 456 Mass 146 (2010). In fact, the SJC has**

recently cited its decision in Choy with approval. *Commonwealth v. Pfeiffer* Mass\_ (July 23, 2023)

19. When the police interrogated Kenneth on the evening of the fire, he denied having any knowledge of its origin. When the police confronted Kenneth with the handwritten notes, he admitted writing them, but stated that a fellow student had told him to write the notes to prevent bad luck. When he was unable to name the student and the police told him that his story was not credible, Kenneth implicated Frances as the mastermind of the plan to set the house on fire.

**Admitted. To supplement, Kenneth testified at trial that Frances was angry at her parents – her father in particular- because they did not like her boyfriend and refused to allow her to live away from home when she planned to attend Suffolk University in the fall. Kenneth testified further, that Defendant told him that she was a beneficiary on her parents’ life insurance policy, and that she promised him \$10,000 for his help in setting the fire.**

20. On June 13, 2003, Frances was indicted on two counts of murder and one count of arson of a dwelling house, while Kenneth was separately indicted on two counts of murder.

**Admitted. To supplement, see answer to number 7 above.**

21. Respondents were the co-prosecutors in Frances’s and Kenneth’s criminal cases.

**Admitted. To supplement, Respondent was the lead prosecutor and responsible for answering discovery and making all major decisions during the pendency of the Choy cases.**

22. Frances’s criminal case was tried separately from Kenneth’s criminal case.

**Admitted. To supplement, Defendant successfully moved for severance of her case for trial, over Respondent’s objection.**

23. On January 14, 2008, the first criminal trial against Frances commenced. After the jury was unable to reach a verdict, the first trial ended in a mistrial on January 24, 2008.

**Admitted.**

24. On January 28, 2008, the first criminal trial against Kenneth commenced. On February 1, 2008, the jury acquitted Kenneth. Attorney Robert Galibois (“Galibois”) was Kenneth’s defense counsel.

**Admitted**

25. On April 8, 2008, Kenneth was granted immunity to testify against Frances.

**Admitted. To supplement, Kenneth was granted immunity by the Court following Respondent’s petition.**

26. Respondents recognized that Kenneth was their single most important witness against Frances.

**Denied. There was not a “single most important witness” for the Commonwealth. Kenneth’s testimony was helpful, to be sure, because he provided a narrative, which was lacking in the first of three trials, and he also corroborated evidence of motive. But Defendant’s actions and words during the investigation, along with the fact that gasoline residue was found on the sweatpants she was wearing, were likely more compelling evidence than Kenneth’s testimony.**

27. Respondents recognized that Kenneth’s credibility and motives were important issues in the case against Frances.

**Admitted in part and denied in part. Respondent admits that Kenneth’s credibility, like that of every other witness for the Commonwealth, was an important issue. It is unclear what ABC means when referencing Kenneth’s “motives”. Is he referencing**

**Kenneth's motives for testifying, or his alleged motives for ostensibly committing the crimes he was found not guilty of committing?**

**The Defendant's motives for committing the crimes she was convicted of by a jury were well established at trial. This was true not just through Kenneth's testimony, but also through her admissions to the investigators. She wanted to live away from home while attending college and her parents would not let her; her parents disapproved of her boyfriend and forbade her from having him inside their home as a guest; she described her mother as "meek and weak" and offered that she wanted better parents; and she was the beneficiary of their life insurance policy.**

28. On January 25, 2011, the second criminal trial against Frances commenced. Kenneth testified against Frances. After the jury was unable to reach a verdict, the second trial ended in a mistrial on February 11, 2011.

**Admitted.**

29. On Friday, April 29, 2011, Kenneth, who was facing unrelated criminal charges, fled to Hong Kong, China.

**Admitted that on April 29, 2011 Kenneth fled to Hong Kong, China. To supplement, Respondent believes the primary reason that Kenneth fled was related to testifying against the defendant a second time. Prior to the second trial, Kenneth told the Respondent that several of Frances' relatives had contacted him and engaged in subtle intimidation in an effort to get him to agree not to cooperate. Their subtle intimidation consisted of reminding Kenneth what a good friend and mentor the defendant had been for him following his immigration.**



30. On Monday, May 2, 2011, the third criminal trial against Frances commenced. Judge Giles presided over the trial.

**Admitted.**

31. On May 16, 2011, Frances was found guilty of two counts of murder and one count of arson. She was then sentenced to life in prison without the possibility of parole.

**Admitted.**

32. Attorney Joseph Krowski, Sr. ("Krowski") was Frances's defense counsel throughout her three criminal trials.

**Admitted.**

**RESPONDENTS' FAILURE TO DISCLOSE POTENTIALLY EXCULPATORY EVIDENCE**

33. On or about January 9, 2003, Kenneth ran away from home after Mr. Choy learned that Kenneth was selling illegal drugs.

**Admitted in part and denied in part. Admitted that Kenneth ran away- for 24 hours or less. Denied that he ran away because Mr. Choy learned that he was selling illegal drugs. The only information suggesting this was the reason stemmed from a self-serving statement of Mr. Choy to the Brockton Police. Common sense dictates that Mr. Choy would be unlikely to inform the police that Kenneth ran away because he- Mr. Choy- had been physically abusive to Kenneth. On the other hand, there was copious evidence that Mr. Choy was in fact physically abusive to Kenneth. Kenneth admitted as much in his trial testimony. Kenneth acknowledged that he ran away because Mr. Choy had hit him "more than a few times." *Commonwealth v. Frances Choy*, Trial 3, 5/5/2011, at 146-147, 153-155) (Exhibit A) Further, Nan Huynh, a cousin of the defendant, testified that she saw Mr. Choy**

**hit Kenneth because he didn't take out the garbage, causing him to run away from home.**  
**(Trial 3; 5/10/11 at 194) (Exhibit B)**

34. On or about January 11, 2003, Mr. Choy contacted the Brockton Police Department and informed the police that Kenneth was selling illegal drugs and had run away from home.

**Admitted**

35. The Brockton Police Department created a Missing Person Report dated January 11, 2003 ("the Missing Person Report"), which evidenced that Mr. Choy had informed the police that Kenneth was selling illegal drugs and refused to come back home.

**Admitted. The report speaks for itself.**

36. A computer-aided dispatch or "CAD" system report dated January 11, 2003 ("the CAD Report") also evidenced that Mr. Choy had informed the police that Kenneth was selling illegal drugs and had run away from home.

**Admitted. To supplement, the above referenced CAD report was simply the missing person's report in a different form. They contained identical information.**

37. The Missing Person Report and the CAD Report constituted potentially exculpatory evidence in Frances's criminal case.

**Admitted.**

38. Respondents knew about and were in possession of the Missing Person Report and the CAD Report prior to Frances's first criminal trial in January 2008.

**Admitted in part and denied in part. Respondent recalls being in possession of a single report, believed to be the Missing Person Report, which he received from Brockton Detective Eric Clark and subsequently provided to Attorney Krowski. Respondent was not**

**aware of a second report, presumably the CAD report, which he has since learned contained the exact same information as the Missing Person Report.**

39. Respondents had an obligation to disclose the Missing Person Report and the CAD Report to Krowski, Frances's defense counsel.

**Admitted.**

40. Respondents did not disclose the Missing Person Report or the CAD Report to Krowski, Frances's defense counsel.

**Denied. Respondent recalls being in possession of the Missing Person Report, which he received from Brockton Detective Eric Clark and subsequently provided to Attorney Krowski. Given this was over 15 years ago, Respondent doesn't recall whether he faxed the report to Attorney Krowski himself or asked one of the two PCDAO Superior Court secretaries to send Attorney Krowski a hard copy via US Mail. But Respondent knows he provided the report to defense counsel as he provided all other discovery. In finding that Respondent did not do so, both Judge Giles and ABC have necessarily relied upon the misrepresentations of Attorney Krowski and PCDAO. ABC has failed to mention that Respondent has already proven, despite very limited resources, that Attorney Krowski has perjured himself in connection with an identical issue in the original BBO Petition in this matter, and that PCDAO has suborned his perjury.**

**The original BBO Petition contained an allegation based on a finding, from Judge Giles, that Respondent had failed to disclose reports concerning subsequent fires set at the abandoned Choy residence. Attorney Krowski authored an affidavit in which he strongly disavowed any knowledge of the subsequent fires and professed to have been greatly prejudiced as a result. PCDAO conceded that Respondent had not disclosed the relevant**

**reports. Judge Giles found that there was “nothing in the record” to suggest Respondent had disclosed this allegedly exculpatory information.**

**Yet, the evidence that Respondent had done so was right in the trial record of the third trial as Judge Giles asked Attorney Krowski and the Prosecutors about a Motion for a View.**

**Here is the relevant passage:**

**The Court: Counsel, before we break, I didn’t see a motion for a view. Is there a request for a view here?**

**Mr. Bradley: I believe not. Incredibly, the residence has since burned down.**

**The Court: It burned down?**

**Mr. Bradley: There is nothing to see. (Trial 3; 5/2/2011 at 155) (Exhibit C)**

**Attorney Krowski did not say a word, proving his remonstrations in his affidavit to be patently false. The upshot is that this specious accusation, that Respondent failed to provide potentially exculpatory discovery, is predicated on the word of a proven liar, Attorney Krowski; a vindictive PCDAO; and unconscionably negligent judge. See Attorney Krowski’s Affidavit. (Exhibit D)**

**RESPONDENTS’ RACIALLY OFFENSIVE, DEROGATORY AND UNPROFESSIONAL EMAILS**

41. While actively prosecuting Frances for murders and arson, Respondents exchanged racially offensive, derogatory and unprofessional emails, as described more fully below.

**Denied. As will be shown in greater detail below, Respondent believes the emails in question were altered to make them appear to be racially offensive, derogatory, and unprofessional.**

42. The Respondents mocked and disparaged Kenneth by comparing him to the Asian male caricature “Long Duk Dong” from the 1980s movie *Sixteen Candles*.

**Admitted in part and denied in part. Respondent admits that he and Respondent O’Sullivan, compared Kenneth to the character “Long Duk Dong” from the 1984 movie *Sixteen Candles*. Denied that this was done to mock or disparage him. After Kenneth became a cooperating witness, Respondents got to know him fairly well. He was a unique individual. He was a young man who had recently emigrated from Hong Kong to the United States and was assimilating to American youth culture. He was funny. He reminded Respondents of the movie character because he was trying to assimilate, sometimes comically, to American youth culture. Far from mocking and/or disparaging Kenneth, Respondent liked him. The comparison was not intended to be mean-spirited.**

43. For example, at approximately 12:28 p.m., on Wednesday, June 25, 2008, Respondent O’Sullivan sent an email to Respondent Bradley concerning Kenneth in which she stated, “This is the image I am getting...” Attached to Respondent O’Sullivan’s email was a picture of the Long Duk Dong character with his head laying on the chest of a tall woman. A true and accurate copy of the email and its attachment are attached hereto as Exhibit 1.

**Denied. Respondent denies ABC’s Exhibit 1 is true and accurate. Respondent believes this email has been altered. As previously referenced, in 2003 Respondent successfully sued DA Cruz and during that lawsuit, Respondent requested that PCDAO provide all emails that Respondent either sent or received while working for the office. PCDAO averred that they provided all emails that were “To” and/or “From” Respondent. In comparing the copy referenced by ABC as Exhibit 1 (Ex 1), with subject line, “FW: Emaling:gedde%20watanabe.jpg” to the similar email Respondent received during the**

**lawsuit (lawsuit copy) (Exhibit E), Respondent has found the following irregularities calling into question its authenticity:**

- 1. In Ex 1, there is nothing above the top black line. In the lawsuit copy of the same email, the word “Message” is directly above the top line.**
- 2. In Ex 1, the email was “Sent” at 12:28 PM. In the lawsuit copy, the email was “Sent” at 4:27:43 PM. (Underline added for emphasis.)**
- 3. In Ex 1, the email was sent To: “Bradley, John (PLY)”. In the lawsuit copy, it was sent To: “Bradley, John (PLY) [John.Bradley@Mass.Mail.State.MA.US]”.**
- 4. In Ex 1, the date is written as “Wednesday, June 25, 2008”. In the lawsuit copy, the date is written as “6/25/2008”.**
- 5. In Ex 1, the email header (From, Sent, To, Subject, Attachments), is written in a larger font size than the email header of the lawsuit copy.**
- 6. In Ex 1, the email header (From, Sent, To, Subject, Attachments), is a different font style than in the lawsuit copy. This is most obvious with the letter g/g. In Ex 1, that letter is written in a font style, such as Arial, where the letter looks like “g” and in the lawsuit copy it is written in a font style, such as Times New Roman, where the letter looks like “g”.**
- 7. In Ex 1, identifying information in the email header (OSullivan, Karen (PLY), Wednesday, June 25, 2008 12:28 PM, Bradley, John (PLY) etc.) is indented 9 cm from the left edge of the paper. In the lawsuit copy, the information is only indented 5.5 cm from the left edge of the paper.**
- 8. In Ex 1, the top black line is thicker and longer (23.5 cm). In the lawsuit copy, it is a very thin line and is shorter (22 cm) in length.**
- 9. In Ex 1, there is a space (about .5 cm) between the top black line and the line reading “From”. In the lawsuit copy, there is NO space between the top black line and the line reading “From”.**
- 10. In Ex 1, there is more space between the last line of the email header (Attachments) and the message body as compared to the lawsuit copy.**
- 11. In Ex 1, the image is large, 21.5 cm x 16.5 cm, and is forward facing. In the lawsuit copy, the image is much smaller, 8 cm x 10.5 cm, and is turned clockwise.**

**12. Both Exhibit 1 and the lawsuit copy allege the first email in this chain was “Sent” from Karen OSullivan “To” Ryan O’Sullivan, with no explanation in the message section. As explained to ABC Petitioner, Ryan O’Sullivan is Karen’s daughter. In June 2008, Ryan was 7 years old. Not only did Ryan lack an email account, it makes no sense that Respondent O’Sullivan would in fact send this email to her seven year old daughter.**

44. At approximately 4:30 p.m. on Tuesday, July 8, 2008, Respondent O’Sullivan sent an email to Respondent Bradley stating, “clothing Kenny left in lockup...” Attached to Respondent O’Sullivan’s July 8, 2008 email was the image of a T-shirt with a picture of the Long Duk Dong character and the words “No more yankie my wankie!” A true and accurate copy of the email and its attachment are attached hereto as Exhibit 2.

**Denied. Respondent denies this is a true and accurate email. Respondent believes the Exhibit 2 email was altered. Respondent also received a copy of this alleged email, subject line “Emailing: DSCF2758.jpg”, as part of discovery in his lawsuit. (Exhibit F) In comparing ABC’s Exhibit 2 to Respondent’s lawsuit copy, Respondent has found the following irregularities calling into question its authenticity:**

- 1. In Ex 2, there is nothing above the top black line. In the lawsuit copy of the same email, the word “Message” is directly above the top line.**
- 2. In Ex 2, the email was “Sent” at 4:30 PM. In the lawsuit copy, the email was “Sent” at 8:29:36 PM.**
- 3. In Ex 2, under the word “Attachments” there is a space (1 cm). Then it states, “Follow Up Flag: Follow Up” and below that line, “Flag Status: Flagged”.**

**In the lawsuit copy, under the word “Attachments” there is a space half the size (.5 cm). Then it only states, “Flag: Follow Up” which is different and there is NO line reading, “Flag Status: Flagged”.**

- 4. In Ex 2, the email is “From” “OSullivan, Karen (PLY)” and “To” “Bradley, John (PLY)”.**

**In the lawsuit copy, the email is “From” “OSullivan, Karen (PLY)  
[/O=COMMONWEALTH OF MASSACHUSETTS/OU=MASSMAIL-**

01/CN=RECIPIENTS/CN=USERS/CN=KOSULLIVAN]” and “To” “Bradley, John (PLY) [John.Bradley@MassMail.State.MA.US]”.

5. In Ex 2, the date is written as “Tuesday, July 8, 2008”. In the lawsuit copy, the date is written as “7/8/2008”.
6. In Ex 2, the email header, is written in a larger font size than the email header of the lawsuit copy.
7. In Ex 2, the email header, is a different font style than in the lawsuit copy as obvious with the letter g/g. In Ex 2, that letter is written in a font style such as Arial, where the letter looks like “g” but in the lawsuit copy it is written in a font style such as Times New Roman, where it looks like “g”.
8. In Ex 2, identifying information in the email header (OSullivan, Karen (PLY), Tuesday, July 8, 2009 4:340 PM, Bradley, John (PLY) etc.) is indented 9 cm from the left edge of the paper. In the lawsuit copy, the information is only indented 5.5 cm from the left edge of the paper.
9. In Ex 2, there is a space (.5 cm) between the top black line and the line reading “From”. In the lawsuit copy, there is NO space between the top black line and the line reading “From”.
10. In Ex 2, there is a space of 1.5 cm between the last line of the email header and the message body. In the lawsuit, there is only a space of 1 cm between the message header and the message body.
11. In Ex 2, the image of a t-shirt is in the far left corner, with the top of the t-shirt at the left edge of the paper. In the lawsuit copy, the image is larger, it’s in the middle of the page, and the top of the t-shirt is towards the right, the opposite side of the paper.

45. At approximately 3:36 p.m. on Monday, July 14, 2008, Respondent Bradley sent an email to Respondent O’Sullivan with the subject line, “Don’t know if you caught this.....” The text of Respondent Bradley’s email stated, “but Galibois was in the office earlier dressed like Johnny Cash.”

**Denied. Respondent denies this is a true and accurate email. Respondent never received a copy of the Exhibit 3 email in his lawsuit discovery, despite PCDAO’s representation that they had provided all of Respondent’s emails. In addition, a close**



**inspection of this email reveals the following irregularities calling into question its authenticity:**

- 1. There is no name or word, “Message” above the top black line of the email.**
- 2. The two blacklines in the email are 23.5 cm long whereas in emails provided by PCDAO in Respondent’s lawsuit as described previously, the black lines are just 22 cm long.**
- 3. An ellipsis with 10 dots (.....) in Subject line, a common trait (using a long ellipsis) found in a majority of Frank Middleton’s emails. (Frank Middleton was a defendant in Respondent’s lawsuit against PCDAO. Respondent worked with Mr. Middleton for almost 19 years and was very familiar with his writing style.)**
- 4. There is a space of 2 cm between the last line of the message header and the message body, much bigger than the 1.5 cm of space in the other exhibits.**

46. At approximately 3:52 p.m. on Monday, July 14, 2008, Respondent O’Sullivan responded to Respondent Bradley’s July 14, 2008 email by stating, “This will never get old to me...” Attached to Respondent O’Sullivan’s email was a picture of Johnny Cash and a picture of the Long Duk Dong character. True and accurate copies of Respondents’ July 14, 2008 emails and the attachments are attached hereto as Exhibit 3.

**Denied. Respondent denies this is a true and accurate email. Respondent never received a copy of this email in his lawsuit discovery, despite the representation of PCDAO that they had provide all of his emails. In addition, this email contains many irregularities (see #45 Answer), calling into question its authenticity.**

47. At approximately 11:13 a.m. on Monday, August 4, 2008, Respondent Bradley sent an email to Respondent O’Sullivan with the subject line, “Latest on Kenny”.

**Denied. Respondent never received a copy of this email in his lawsuit discovery, despite the representation of PCDAO that they provided him with all of his emails. In**

**addition, this email contains irregularities, detailed below, calling into question its authenticity.**

- 1. There is no name or identification such as, "Message", above the top black line of the email.**
- 2. The two blacklines in the email are 23.5 cm long whereas emails provided by PCDAO in Respondent's lawsuit as described above, the black lines are just 22 cm long. Furthermore, the top line itself of Ex 4 gets thicker at the 5.5 cm mark and there is odd shadowing marks at the end of the black line.**

48. The text of Respondent Bradley's August 4, 2008 email stated the following:

"Galibois informs me today that Kenny's latest idea is to defend democracy by joining the army. While I don't see how this is possible because: 1) he is not a citizen; and 2) he was charged with murder x2, Galibois insists that Kenny has cleared a hurdle or two in the application process. As coincidence would have it, I stumbled upon '16 Candles' on cable last night. After seeing it again, I came to two conclusions: 1) Long Duc Dong should be a role model for Kenny; and 2) Jake Ryan looked about 35 years old while supposedly in high school."

**Denied. Respondent denies this is a true and accurate email. This email, Exhibit 4, was never provided to Respondent in his lawsuit discovery, despite the representation of PCDAAP that all of his emails had been provided. In addition, this email contains irregularities (see response to #47), calling into question its authenticity.**

49. At approximately 4:53 p.m. on Monday, August 4, 2008, Respondent O'Sullivan responded to Respondent Bradley's August 4, 2008, email by stating the following:

"Too funny! Well if there is ever a sequel to 16 candles, Kenny should try out for the role of Long Duc Dong! You are clearly just jealous of how hunky Jake Ryan was in that film which is why you feel the need to disparage him...And admit it, you probably watched the whole movie!"

**Denied. Respondent denies this is a true and accurate email. This email was never provided to Respondent in his lawsuit discovery, despite the representation of PCDAO that all of his emails had been provided. In addition, this email contains irregularities, detailed in my response to #47, calling into question its authenticity.**

50. True and accurate copies of Respondents' August 4, 2008 emails are attached hereto as Exhibit 4.

**Denied. Respondent does not believe ABC's Exhibit 4 is a true and accurate copy for reasons explained above. Moreover, ABC has provided no basis for his assertion that Exhibit 4 is "true and accurate".**

51. At approximately 11:53 a.m. on Thursday, June 25, 2009, Respondent O'Sullivan sent an email to Respondent Bradley with the subject line, "More babies". The text of Respondent O'Sullivan's email stated the following:

"You will be happy to know that Kenny Choy is having a baby! No details yet, Galibois didn't know anything about it. Kenny told Eric Clark the other day when he was in court. Unfortunately there won't be anymore Kenny sightings this week, apparently someone in his new family is ill."

**Denied. Respondent denies this email is true and accurate. ABC's Exhibit 5 was never provided to Respondent in his lawsuit discovery, despite the representation of PCDAO that they had provided all of his emails. In addition, this email contains numerous irregularities, detailed below, calling into question its authenticity.**

- 1. There is no name or identification such as, "Message", above the top black line of the email.**
- 2. In the first email of this chain allegedly sent at 11:53:47, the order of "From, Sent, To, Subject" is OUT OF ORDER.**

**The email reads:**

**From:**

**To:**

**Sent:**

**Subject:**

**"To" appears in the second line.**

**In authentic PCDAO emails, "To" is the third line:**

**From:**

**Sent:**  
**To:**  
**Subject:**

3. **The first email of the chain was allegedly sent: “Thu Jun 25 11:53:47 2009”.**
  - a. **The year, “2009”, is out of place. It does not come next to the month and day, but instead, the time is in the middle of this line, and then the year appears.**
  - b. **The month “Jun” is missing the “e”**
  - c. **Thursday is shortened to “Thu” though in no other email is the day shortened.**
4. **In the first email of this chain there is NO space between “Subject” line and the first sentence of the message, unlike all other emails.**
5. **The first and third email are allegedly both from the Respondent O’Sullivan, however, the font differs between the two emails.**
6. **Respondent’s son was born June 18, 2009. He was out of the office for just a week, until June 26, 2009, consumed with a newborn.**

52. At approximately 2:13 p.m. on Thursday, June 25, 2009, Respondent Bradley responded to Respondent O’Sullivan’s June 25, 2009, email by asking her, “Any word on who the lucky mom is?”

**Denied. Respondent denies this email is true and accurate. ABC’S Exhibit 5 was never provided to Respondent in his lawsuit discovery, despite the representation of PCDAO that they had provided all of his emails. In addition, this email contains numerous irregularities, detailed in his response to #51, calling into question its authenticity.**

53. At approximately 3:00 p.m. on Thursday, June 25, 2009, Respondent O’Sullivan responded to Respondent Bradley’s June 25, 2009, reply email by stating, “Frances”.

**Denied. Respondent denies this email is true and accurate. ABC’S Exhibit 5 was not provided to Respondent in his lawsuit discovery, despite the representation of PCDAO that they had provided all of his emails. In addition, this email contains numerous irregularities, detailed in my response to #51, calling into question its authenticity.**

54. True and accurate copies of Respondents' June 25, 2009, emails are attached hereto as Exhibit 5.

**Denied. For the reasons explained in #51 - 53, Respondent does not believe ABC's Exhibit 5 is a "true and accurate" copy. Moreover, ABC has provided no basis for his contention to the contrary.**

55. At approximately 12:31 p.m. on Wednesday, September 9, 2009, Respondent Bradley sent an email to Respondent O'Sullivan with the subject line, "Choy". The text of Respondent Bradley's email stated, "just got a call from Jane Lewis at SJC...my first thought was that she was going to say that we were off the list, but instead she told me that we have been bumped up to #1...we'll see if Krowski is on time. Can you text Galibois and let him know?"

**Respondent Bradley is without sufficient information to either admit or deny. This email was not provided to him in his lawsuit discovery, despite the representation of PCDAO that they had provided all of his emails.**

56. At approximately 4:47 p.m. on September 9, 2009, Respondent O'Sullivan responded to Respondent Bradley's September 9, 2009, email by stating the following:

"You will be happy to know that me and Galibois are back on! We talked today for the first time in weeks (he is still a very creepy dude). We had a case on today, and of course the ice breaker was Kenny Choy. I think he is feeling nervous that you won't use Kenny after all and he will be out of the lime light. I haven't looked to see what # my case is on in the Appeals court, I hope they are not at the same time. I will show up tomorrow wearing a cheongsam and will be the one doing origami in the back of the court room. My guess is that there is no way Krowski will make it there for case #1."

**Denied. Respondent denies this email is true and accurate. This email, ABC's Exhibit 6, was not provided to Respondent in his lawsuit discovery, despite the representation of PCDAO that they had provided all of his emails. Furthermore, this email is riddled with irregularities, calling into question its authenticity.**

1. **There is NO black line, or any type of header, at the top of the page.**
2. **There is no Bates stamp in the upper right corner of this Exhibit.**
3. **There is no “name” or identification such as “Message” which should appear above a top black line on emails.**
4. **The sentence, “I will show up tomorrow wearing a cheongsam and will be the one doing origami in the back of the court room,” is completely out of place among the rest of the email. To move from stating, “I hope they are not at the same time,” to asserting “I will show up...” defies common sense writing.**

57. True and accurate copies of Respondents’ September 9, 2009, emails are attached hereto as Exhibit 6.

**Denied. For the reasons explained in responses #55-56, Respondent does not believe ABC’s copy of Exhibit 5 is “true and accurate”. Moreover, ABC has not revealed the basis for his assertion that the copy depicted in ABC’s Exhibit 6 is “true and accurate”.**

58. At approximately 11:58 a.m. on Wednesday, September 30, 2009, Respondent O’Sullivan sent an email to Respondent Bradley with a picture of Frances superimposed on a photograph of a burning house with the text, “GIRL SCOUTS Maybe next time you’ll buy the fucking cookies.”

**Denied. Respondent denies this email is true and accurate. This email was not sent to Respondent in his lawsuit discovery, despite the representation of PCDAO that all of his emails were provided. In addition, this email riddled with irregularities, detailed below, calling into question its authenticity.**

1. **One page of the exhibit, has three email messages on it, with the earliest allegedly sent by Respondent O’Sullivan to Respondent Bradley on September 30, 2009 at 11:58 AM, with “From, Sent, To, and Subject”. This message does not contain any attachment nor any images. It is blank. Yet, the reply at 12:03 PM, states, “Wow....that could be Frances, looks just like her.” A commonsense review, indicates this alleged reply would be responding to an image.**

2. **A second page of this exhibit, was allegedly sent on September 30, 2009 at the exact time, 11:58 AM. The header includes, “From, Sent, To, and Attachments”.**

**There is NO line labeled “Subject” in this alleged email. The word, “Subject”, should appear below the word “To” yet it is missing.**

3. **The font of the first email allegedly sent by Respondent O’Sullivan at 11:58 AM, is different than the font in her alleged reply at 12:04 PM, just 6 minutes later.**
4. **Respondent never saw this image until the post-conviction material became public.**

59. At approximately 12:03 p.m. on Wednesday, September 30, 2009, Respondent Bradley responded to Respondent O’Sullivan’s September 30, 2009, email by stating, “Wow...that could be Frances, looks just like her.”

**Denied. Respondent denies this email is true and accurate. This email was not sent to Respondent in his lawsuit discovery, despite the representation of PCDAO that all of his emails were provided. In addition, this email is riddled with irregularities detailed in the answer to #58, calling into question its authenticity.**

60. At approximately 12:04 p.m. on Wednesday, September 30, 2009, Respondent O’Sullivan responded to Respondent Bradley’s September 30, 2009, reply email by stating, “are you joking? That is frances... a little cut and paste.”

**Denied. Respondent denies this email is true and accurate. This email was not sent to Respondent in his lawsuit discovery, despite the representation of PCDAO that all of his emails were provided. In addition, this email is riddled with irregularities detailed in the answer to #58, calling into question its authenticity.**

61. True and accurate copies of Respondents’ September 30, 2009, emails and the attachment are attached hereto as Exhibit 7.

**Denied. For the reasons explained in answers #58 - 60, Respondent does not believe ABC's Exhibit 7 is "true and accurate". Moreover, ABC has not provided a basis for his assertion that Exhibit 7 is "true and accurate".**

62. Respondents sent and received all of the emails referenced above during their work hours as assistant district attorneys.

**Denied. Respondent denies the emails are authentic. To highlight just two points related to the time emails were sent and received, (1) ABC's Exhibit 2 and Respondent's lawsuit copy of the same alleged email, Exhibit F, contain different "Sent" times, with the former allegedly "Sent" at 4:30 PM and the latter at 8:29:36 PM and (2) ABC's Exhibit 5 was ostensibly sent and received while Respondent was on parenting leave. For these and all of the previously stated reasons, the emails in question are simply not authentic, true, or accurate. Consequently, there is no basis to conclude that Respondents sent and/or received these in general, or specifically during work hours.**

63. Respondents used their work computers that the Commonwealth issued to them as assistant district attorneys to send and receive all of the emails referenced above.

**Denied. For all the above stated reasons, the email exchanges referenced above are not authentic, true, or accurate. Accordingly, there is no legitimate basis to conclude that they were sent and/or received from respondents' work computers.**

64. Respondents used their work email addresses that the Commonwealth issued to them as assistant district attorneys to send and receive all of the emails referenced above.

**Denied. For all the above stated reasons, Respondent does not believe any of the email exchanges in question are authentic, true, or accurate. Accordingly, there is no basis to conclude that the Respondent used a work email address to send and receive them.**



### MISSTATING EVIDENCE

65. On July 30, 2009, after he had been granted immunity to testify against Frances and before Frances's second criminal trial, Kenneth was arrested and charged with the distribution of heroin in a school zone. See Commonwealth v. Kenneth Choy, No. 0915-CR-005017 (Brockton Dist. Ct.).

**Admitted.**

66. Respondent Bradley was the supervisor of the assistant district attorney who was prosecuting the drug and school zone case against Kenneth.

**Admitted.**

67. On April 30, 2010, Respondent Bradley emailed his subordinate and asked about the status of the drug and school zone case against Kenneth.

**Admitted.**

68. On May 3, 2010, Respondent Bradley's subordinate responded and informed him that, inter alia, defense counsel would be filing a motion to dismiss the school zone charge.

**Admitted.**

69. On or about November 24, 2010, the Brockton District Court dismissed the school zone charge against Kenneth. The Commonwealth did not file an opposition to defense counsel's motion to dismiss.

**Admitted in part. Admitted that the school zone charge was dismissed by the Court. Respondent does not recall whether the Commonwealth filed an opposition. Denied to the extent that, if the Commonwealth did not do so, ABC is implying that this was a reward or inducement to Kenneth in exchange for his cooperation. If no opposition was filed, it would have been because there was no legal basis to do so.**

70. Prior to Frances's second criminal trial in 2011, Respondent Bradley knew that the court had dismissed the school zone charge against Kenneth.

**Admitted.**

71. On May 12, 2011, during his closing argument to the jury in Frances's third criminal trial, Respondent Bradley stated as follows:

"Now, you heard, ladies and gentlemen, that Kenny Choy testified pursuant to a grant of immunity. You heard that he has a pending criminal charge of distribution of heroin in a school zone. Those are things you are absolutely entitled to consider in evaluating his credibility. And by all means, you should put his testimony under a microscope. But also consider this. Kenny Choy wasn't given a free pass in exchange for his testimony in this case."

**Admitted. To supplement, and for purposes of providing proper context, the rest of this part of Respondent's closing argument pertaining to Kenneth's credibility went as follows:**

**But also consider this. Kenny Choy wasn't given a free pass in exchange for his testimony in this case. You have heard evidence that Kenny Choy was prosecuted for crimes as a result of the fire that was set on April 17 of 2003. You also heard Kenny Choy knew that he could get in trouble, further trouble, if he violated his immunity agreement by lying under oath.**

**So consider those things as well when you evaluate his credibility." (Trial 3; 5/12/2011 at 46) (Exhibit G)**

**THE EFFECTS OF RESPONDENTS' MISCONDUCT ON THE ADMINISTRATION OF JUSTICE**

72. Respondents' prosecutorial misconduct, as described above, was prejudicial to the administration of justice in Frances's criminal case.

**Denied. Contrary to the findings of the trial Judge and the assertions in ABC's petition, there was no prosecutorial misconduct.**

73. Respondents' prosecutorial misconduct caused the court to vacate Frances's criminal convictions.

**Admitted in part and denied in part. The findings and rulings speak for themselves. Respondent asserts that the findings are erroneous from top to bottom. There was no opportunity for checks and balances- Respondent had no opportunity to defend himself against these meritless claims. Because the parties agreed to any and all issues raising prosecutorial misconduct, the Court naively accepted their representations as gospel.**

74. In January 2020, Frances filed with the Plymouth County Superior Court a Motion for Post-Conviction Relief and a Superseding Motion for Post-Conviction Relief.

**Admitted.**

75. On September 17, 2020, Judge Giles set forth her ruling on Frances's post-conviction motion. *See Commonwealth v. Frances Choy*, No. 0383-CR-00300, *Memorandum of Decision and Order on Defendant Frances Choy's Motion for Postconviction Relief*, dated September 17, 2020 ("Memo and Order") (Plymouth Sup. Ct.).

**Admitted. Judge Giles issued her lengthy Memorandum of Decision and Order, over forty pages with a voluminous appendix, a mere seven business days after the PCDAO filed their response to Defendant's Motion for Post-Conviction relief. This timeframe strongly implies that the result in the matter was pre-ordained before PCDAO filed their "Response".**

76. Respondents' racially offensive, derogatory and unprofessional emails, as described above, formed a basis for the court's decision to vacate Frances's criminal convictions.

**Admitted in part and denied in part. Admitted that the emails were a factor in the Court's error-filled decision. Respondent denies, for reasons previously explained, that the emails in question were true, accurate, or authentic.**

77. In vacating Frances's criminal convictions, the court held that, "[b]ased upon the full trial proceedings, and the nature and content of the trial prosecutors' emails, the Court agrees with the parties that justice may not have been done and the convictions must be vacated."

Memo and Order, pp. 16-17.

**Admitted in part and denied in part. Admitted that the quote from the Court's decision, at pp. 16-17, is accurate. Denied that the emails were authentic, for reasons previously explained. To supplement, there wasn't a thorough system of checks and balances in place as Respondents were not afforded an opportunity to defend against any of the claims. Instead the Court simply accepted the agreed upon representations of the parties.**

78. In vacating Frances's criminal convictions, the court opined as follows:

"If this Court were aware of the trial prosecutors' emails and images demonstrating their anti-Asian bias against the Defendant, her family, and all Asian-Americans, this Court would have declared a mistrial and directed that those Assistant District Attorneys be removed from the case and that District Attorney Cruz be made aware of their racially and sexually degrading emails."

Memo and Order, pg. 16.

**Admitted in part and denied in part. Admitted that ABC has accurately quoted the relevant part of the Court's decision. Denied that the emails and images in question were authentic for reasons previously explained. Denied Respondent has an "anti-Asian bias against the Defendant, her family, and all Asian-Americans."**

79. Respondents' failure to disclose potentially exculpatory evidence, as described above, formed a basis for the court's decision to vacate Frances's criminal convictions.

**Admitted in part and denied in part. Admitted that the Court's decision was based, in part, on a finding of failure to disclose potentially exculpatory evidence. Denied because the Court's finding is clearly erroneous. While the Court was understandably reluctant to reveal the basis for the finding, it was obviously bottomed on the affidavit of Attorney Krowski and the representations of PCDAO. But the Trial record reveals that Attorney Krowski has committed perjury on the same issue, and that the representations of PCDAO, which agreed with Attorney Krowski that Respondent had failed to turn over relevant reports, were patently false. Moreover, the Court was reckless in failing to check the very record which it cited for support on this identical discovery issue.**

80. In vacating Frances's criminal convictions, the court reasoned as follows:

"These documents [i.e., the Missing Person Report and the CAD Report] indicating that Kenneth Choy ran away from home over a dispute with his grandfather over Kenneth's drug dealing and that Jimmy Choy reported Kenneth's drug dealing to the Brockton Police are exculpatory evidence that could have been used to show Kenneth Choy had a motive to commit the crimes and to impeach a key Commonwealth witness."

Memo and Order, pg. 37.

**Admitted in part and denied in part. Admitted that ABC has accurately quoted from the Court's opinion. Denied as the Missing Person Report was in fact provided to Attorney Krowski, who has been proven to have committed perjury in this matter on an issue identical to this one. Moreover, the trial record confirms that Attorney Krowski knew that Kenneth had run away from home; he cross-examined Kenneth on this point and called a witness to corroborate the point. The reason Kenneth ran away- for less than 24 hours- was that Jimmy Choy had been physically abusive toward him. This provided the**

**defense with a more compelling motive as Attorney Krowski recognized, than Jimmy Choy's self-serving and ambiguous explanation that Kenneth had run away because he was "dealing drugs." Furthermore, Respondent's memory is that the Report said Kenneth ran away because he was dealing drugs; it did not say anything about Kenneth and Jimmy Choy having a dispute about this issue.**

81. In vacating Frances's criminal convictions, the court found that "[n]either of the prosecuting attorneys provided this discovery to defense counsel." Memo and Order, pg. 38.

**Admitted in part and denied in part. Admitted that ABC accurately quotes the Court's decision at pg. 38. Denied because the Court's finding is erroneous. The Missing Person Report was provided to Attorney Krowski, who subsequently and falsely claimed otherwise. It is worth noting, at this point, that notwithstanding Attorney Krowski's position in this matter, it is astounding that the Court would credit him on this most serious issue. Just before the start of the defendant's third trial, at a hearing on Attorney Krowski's Motion to Continue, Judge Giles specifically found that she did not credit much of what Attorney Krowski was representing to be true. Specifically, this is what the Judge said at that time,**

**"Mr. Krowski, I can't put a finer point on this. I don't credit your experts and I don't credit much of what you're telling me." (Trial 3; 4/25/11 at 15) (Exhibit H)**

82. In vacating Frances's criminal convictions, the court reasoned that the "failure to disclose exculpatory evidence further supports the Court's conclusion that justice may not have been done." *Id.* at 38-39.

**Admitted in part and denied in part. Admitted that ABC accurately quotes the relevant part of the Court's decision. Denied that any exculpatory evidence in any form was withheld, for all of the reasons discussed at length above.**

83. Respondent Bradley's misstatement of evidence during his closing argument, as described above, formed a basis for the court's decision to vacate Frances's criminal convictions.

**Admitted in part and denied in part. Admitted that the Court cited an alleged misstatement of evidence in Respondent's closing argument as one reason factoring into the decision to vacate defendant's convictions. Denied because the mistake was, if anything, to the detriment of the prosecution, not the defendant. To explain, on cross examination Attorney Krowski questioned Kenneth about a pending drug case in a school zone; Kenneth testified, truthfully, that the school zone component of the drug charge had been dismissed. (Trial 3; 5/5/11 at 125-126) (Exhibit I)**

**Later, in closing argument, Attorney Krowski launched an attack on Kenneth's credibility. In doing so, he referenced the pending drug case:**

**"This is the same guy who at some point...was charged with selling heroin in a school zone. He's got all kinds of baggage."  
(Trial 3; 5/12/2011 at 13) (Exhibit J)**

**So, while Kenneth's school zone charge had been dismissed prior to trial, a piece of information that had been relayed to me several months earlier, my mistake was minor, unintentional, and attributed a more- not less- serious pending charge to a prosecution witness.**

84. In vacating Frances's criminal convictions, the court found that "ADA Bradley also argued in closing that the jury should credit Kenneth's immunized testimony because he still

had charges pending against him for possessing a Class A substance in a school zone, a factual assertion that ADA Bradley knew or should have known to be false.” Memo and Order, pg. 40.

**Admitted in part and denied in part. Admitted that ABC accurately quotes from the Court’s Memo and Order pg. 40. Denied because Respondent clearly was not arguing that the jury should credit Kenneth’s testimony because he had a pending school zone case. This is disingenuous and nonsensical. This conclusion turns the meaning of Respondent’s words upside down. By acknowledging – albeit mistakenly as to the school zone component- that Kenneth had a pending criminal drug charge and was testifying pursuant to a grant of immunity, Respondent was admitting to the jury that Kenneth was an imperfect witness- that he had some flaws. Respondent even invited the jury to put his testimony under a microscope, before arguing that other evidence in the case corroborated his testimony. In short, the plain meaning of Respondent’s words was the exact opposite of the meaning that the Judge ascribed to them.**

85. The court held that Respondent Bradley’s misstatement of evidence was a contributing factor that convinced the court that justice may not have been done in Frances’s criminal case. See Memo and Order, pp. 44-45.

**Admitted in part and denied in part. Admitted that the Court’s finding that Respondent Bradley misstated the evidence in his summation contributed to the finding that justice may not have been done in the defendant’s third trial. Denied because the Court blatantly twisted the plain meaning of Respondent’s words around. The misstatement was unintentional. If anything, to the extent that an average juror would make a nuanced decision that a drug case in a school zone is much more serious than a drug charge standing alone, the Respondent would have impugned an important witness**



**for the Commonwealth. Finally, as further evidence that Respondent's slight misstatement did not hurt the defendant's case, Attorney Krowski, who objected unsuccessfully no less than eight times during Respondent's closing, did not object here. (Trial 3; 5/12/2011 at 44-45, 51-52, 62-63, 69-70) His silence speaks volumes.**

**THE EFFECT OF RESPONDENTS' MISCONDUCT ON THE PUBLIC PERCEPTION  
OF THE BAR AND OUR LEGAL SYSTEM**

86. Respondents' prosecutorial misconduct, as described above, became the subject of widespread and intense notoriety.

**Admitted in part and denied in part. Admitted the allegations became the subject of notoriety. Denied because the narrative that unethical, racist prosecutors railroaded an innocent young woman in a murder case, and caused her to wrongfully serve seventeen years in prison, was completely false.**

87. News of Respondents' prosecutorial misconduct was reported locally, nationally and internationally. See, e.g., Deborah Becker, *After Discovery of Prosecutors' Racist Emails, Plymouth DA Will Not Seek New Trial For Woman Over Parents Death*, WBUR (Sept. 29, 2020); Michael Levenson, *Judge Overturns Murder Conviction, Citing 'Racial Animus' In Prosecutors' Emails*, New York Times (Oct. 4, 2020); Harriet Sokmensuer, *Asian-American Woman Jailed For Parents' Deaths Freed After Discovery of Prosecutors' Racist Emails*, People Magazine (Sept. 30, 2020); Leah Simpson, *Woman, 34, Who Spent 17 Years In Prison After Being Wrongfully Convicted Of Murdering Her Parents In A House Fire, Is First Woman of Color Exonerated In Massachusetts After Prosecutors' Racist Emails Are Revealed*, Daily Mail (Sept. 30, 2020).

**Admitted in part and denied in part. Admitted that the erroneous narrative was included in the four publications ABC lists. Denied because Respondent did not commit prosecutorial misconduct.**

88. News of Respondents' prosecutorial misconduct was the subject of law review articles. *See, e.g.,* Caitlin Ramiro, Comment, *After Atlanta: Revisiting the Legal System's Deadly Stereotypes of Asian American Women*, 29 Asian Am. L. J. 90, 116 (2022) ("As public officers, the prosecutors here projected stereotypical images onto Choy, which resulted in an unjust conviction. Choy's case represents the devastating consequences of the Dragon Lady stereotype on Asian American women who are criminal defendants.")

**Respondent has no knowledge of the law review articles referenced by ABC. Respondent denies that he committed prosecutorial misconduct.**

89. News of Respondents' prosecutorial misconduct was also discussed in books. *See, e.g.,* Valena Beety, *Manifesting Justice, Wrongly Convicted Women Reclaim Their Rights*, pp. 51-52, 82 & 279 (2022).

**Respondent has no knowledge of the book referenced by ABC. Respondent denies committing any prosecutorial misconduct.**

#### **RESPONDENTS' VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT**

90. By failing to disclose to Frances Choy's defense counsel potentially exculpatory evidence known to them, Respondent Bradley and Respondent O'Sullivan violated Mass. R. Prof. C. 1.1, 1.3, 3.4(a), 3.4(c), 3.8(d), 8.4(c), 8.4(d) and 8.4(h).

**Denied. Respondent Bradley did not fail to disclose to Frances Choy's defense counsel potentially exculpatory evidence. None of the rules cited by ABC were violated**

**because no potentially exculpatory evidence was withheld. On an identical issue in this matter (alleged withholding of exculpatory reports), despite limited resources, Respondent has proven that Attorney Krowski committed perjury which was suborned by PCDAO. The basis for the Judge's finding was necessarily predicated on the credibility of Attorney Krowski and PCDAO. Respondent has also proven, on this identical issue, that the Judge falsely claimed to have reviewed the trial record before finding prosecutorial misconduct. Finally, Respondent has a specific memory of the Missing Person Report and knows he provided it to Attorney Krowski.**

**Respondent did not violate Mass. R. Prof. C. 1.1, 1.3, 3.4(a), 3.4(c), 3.8(d), 8.4(c), 8.4(d) and 8.4(h).**

91. By using their state-issued work computers and state-issued work email addresses as assistant district attorneys to exchange racially offensive, derogatory and unprofessional emails during work hours in the course of prosecuting an Asian-American defendant, Respondent Bradley and Respondent O'Sullivan violated Mass. R. Prof. C. 8.4(d) and 8.4(h).

**Denied. Given that every email exchange in question is riddled with irregularities, it is impossible to accept they are true and accurate emails authored, sent, and/or received by Respondent. Denied that Respondent exchanged racially offensive, derogatory and unprofessional emails during work hours in the course of prosecuting an Asian-American defendant. Consequently, there was no violation of Mass R. Prof. C. 8.4(d) and 8.4(h).**

92. By misstating the evidence in his closing argument to the jury, Respondent Bradley violated Mass. R. Prof. C. 3.4(e) and 8.4(d).

**Denied. The misstatement in Respondent's closing, which drew no objection from defense counsel, was unintentional. Moreover, if anything and as discussed above,**

**Respondent's mistake hurt the Commonwealth's case by ascribing a more serious pending criminal charge to a prosecution witness. This mistake does not come remotely close to "engaging in conduct that is prejudicial to the administration of justice". Consequently, Respondent did not violate Mass R. Prof. C. 3.4(e) and 8.4(d).**

### **DISCIPLINARY RULES**

93. The Rules of Professional Conduct applicable to the Respondents' conduct provide as follows:

**Denied. Respondent has comported with the Rule of Professional Conduct his entire career, including while prosecuting the Choy case. Respondent has taken great pride in doing so.**

#### **Rule 1.1. Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

**The Respondent provided more than competent representation for the Commonwealth at all times and denies any violation of Rule 1.1.**

#### **Rule 1.3. Diligence**

A lawyer shall act with reasonable diligence and promptness in representing a client. The lawyer should represent a client zealously within the bounds of the law.

**The Respondent acted with diligence and promptness at all times while representing the Commonwealth. The Respondent represented the Commonwealth zealously within the bounds of the law and all ethical rules. He denies violating any part of Rule 1.3.**

#### **Rule 3.4. Fairness To Opposing Party and Counsel**

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused;

**Respondent denies obstructing another party's access to evidence or concealing a document or other material having potential evidentiary value; Respondent further denies counseling or assisting another person in doing such acts; Respondent denies unknowingly disobeying an obligation under the rules of a tribunal; Respondent denies violating any part of Rule 3.4.**

### **Rule 3.8. Special Responsibilities of a Prosecutor**

The prosecutor in a criminal case shall:

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

**The Respondent denies that he violated any part of Rule 3.8. Respondent did not fail to make timely disclosures of any and all information known to him tending to negate the guilt of the accused.**

### **Rule 8.4. MISCONDUCT**

It is professional misconduct for a lawyer to:

- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (h) engage in any other conduct that adversely reflects on his or her fitness to practice law.

**The Respondent denies having engaged in any conduct involving dishonesty, fraud, deceit or misrepresentation; the Respondent further denies engaging in any conduct prejudicial to the administration of justice or any conduct adversely reflecting on his fitness to practice law.**

### MITIGATION

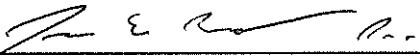
**At the outset, the Respondent believes and asserts that the Petition should be dismissed outright. But in the event that the Board should conclude otherwise, the Respondent asserts the following.**

**Respondent has served the public his entire legal career, spanning over twenty-five years. Respondent has worked as a state prosecutor in Plymouth and Worcester Counties, and as a federal prosecutor assigned to the US Attorney's Office in Boston. For approximately the last dozen years of his career, Respondent investigated and tried homicide cases. In addition, Respondent supervised and mentored dozens of less experienced prosecutors. Respondent also handled most of his own appeals and was responsible for several ground-breaking SJC decisions.**

**Up until these allegations in Choy, Respondent had a stellar reputation among the bar and the judiciary. Respondent has never been sanctioned by the Board of Bar Overseers.**

**WHEREFORE, the Respondent requests that this matter be dismissed with prejudice.**

THE RESPONDENT

  
\_\_\_\_\_  
John E. Bradley, Jr. (BBO # 560389)

August 11, 2023