

TO: The Honorable Senate and House of Representatives
in General Court Convened

FROM: Dorothy Lafortune
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DATE: November 21, 2011

SUBJECT: Grievance Committee Petition
State Attorney General, local (Farmington) and county (Strafford) law enforcement's and
DHHS' breach of fiduciary duties, violations of their own procedures, rules, regulations and protocols,
state/federal statutes and N.H. Constitution

Whereas, the New Hampshire Bill of Rights at Article 2, Part First of the New Hampshire Constitution provides that all men have certain natural, essential, and inherent rights - among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property, and

Whereas, the New Hampshire Bill of Rights at Article 8, Part First of the New Hampshire Constitution provides that all power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive, and

Whereas, the New Hampshire Bill of Rights at Article 14, Part First of the New Hampshire Constitution provides that every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws, and

Whereas, the New Hampshire Bill of Rights at Article 31, Part First of the New Hampshire Constitution provides that the legislature shall assemble for the redress of public grievances and for making such laws as the public good may require, and

Whereas, the New Hampshire Bill of Rights at Article 32, Part First of the New Hampshire Constitution provides that the people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer; and

Whereas, the New Hampshire Bill of Rights at Article 33, Part First of the New Hampshire Constitution provides that no excessive fines or bail can be imposed. Nor can cruel or unusual punishment be inflicted, and

Whereas, the New Hampshire Bill of Rights at Article 35, Part First of the New Hampshire Constitution provides that it is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice, and

Whereas, **RSA 640:2II(a)** "Public servant" means any officer or employee of the state or any political subdivision thereof, including judges, legislators, consultants, jurors, and persons otherwise performing a governmental function. A person is considered a public servant upon his election, appointment or other designation as such. A public servant, as defined in **RSA 640:2II(a)** is guilty of a misdemeanor if, with a purpose to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office; or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office, **643:1 Official Oppression**, and

Whereas, **Title I 7:6 Powers and Duties as State's Attorney.** – The attorney general shall have and exercise general supervision of the criminal cases pending before the supreme and superior courts of the state, and with the aid of the county attorneys, the attorney general shall enforce the criminal laws of the state; **7:8 Advice to Departments; Supervision.** – He shall, when requested, advise any state board, commission, agent or officer as to questions of law relating to the performance of their official duties, and he shall, under the direction of the governor and council, exercise a general supervision over the state departments, commissions, boards, bureaus, and officers, to the end that they perform their duties according to law; **7:8-a Division of Public Protection.** – I. There is hereby established within the office of the attorney general a division of public protection; **7:42 Definitions.** – As used in this subdivision: III. "Domestic violence" means an act as defined in RSA 173-B and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers, and

Whereas, **21-M:2 Establishment; General Functions.** – II.(b) The department of justice, through its officials, shall have all the powers and duties enumerated by statute and implied from the common law and shall be responsible for the following general functions: Supervising and conducting criminal investigations and prosecutions; **21-M:5 Duties of the Attorney General.** – In addition to the powers, duties and functions otherwise vested by law, including RSA 7, in the attorney general, he shall:
I. Represent the public interest in the administration of the department of justice and be responsible to the governor, the general court, and the public for such administration; **21-M:8 Criminal Justice Bureau.** – I. There is hereby established within the division of public protection a criminal justice bureau, II. The duties of the bureau shall include, but not be limited to, the following: (a) Investigating and prosecuting major crimes as directed by the attorney general, (c) Investigating and prosecuting such other criminal matters as the attorney general shall determine, and

Whereas, the mission of the Attorney General's Office is to serve the people of New Hampshire with diligence, independence and integrity by performing the constitutional, statutory and common law duties of the Attorney General as the State's chief legal officer and chief law enforcement officer, to seek to do justice in all prosecutions, to provide the State with legal representation and counsel of the highest quality, to protect the State's environment and the rights of its consumers, and to provide supervision and leadership of New Hampshire law enforcement, and

Whereas, law enforcement officers have breached the tenants of their sworn oaths of office, their actions undermine the overall image of all law enforcement officers in the State of N.H., in addition to violating the Citizens Protection Act of 1998 and the American With Disabilities Act, and

Whereas, Adult Protection Statute, RSA 161-F:42-57 mandates the reporting of elder abuse and the Division of Elderly and Adult Services (DEAS) was charged with the responsibility to carry out the requirements of the law, and

Whereas, Title VII **106-J:1 Definitions.** – IV. Who falls within one of the following categories:
(b) The circumstances indicate that the person's physical safety may be in danger; and

Whereas, Title XII **161-F:5 Federal Funds.** – The Department of Health and Human Services shall be the single state agency responsible to administer in New Hampshire the Older Americans Act of 1965 and subsequent legislation pursuant to that act and to receive all federal funds under Title III of said act, and,

Whereas, the Governor's Commission on Elder Abuse: Domestic Violence Protocol June 1999 stipulates that **all individuals** are required to report, as follows:

“Any person, including but not limited to, physicians, other health care professionals, social workers, clergy, and law enforcement officials, having reason to believe that any incapacitated adult under the provisions of this subdivision has been subjected to physical abuse, neglect, or exploitation, or is living in hazardous conditions, shall report or cause a report to be made...” (161-F:46). *“The purpose of this subdivision is to provide protection for incapacitated adults who are abused, neglected, or exploited.”* (161-F:42), and

Whereas, in accordance with the Adult Protective Services Statute (RSA 161-F:42-57), DEAS receives and investigates reports of alleged abuse, neglect, self-neglect, or exploitation of adults who are elderly and/or incapacitated, and

Whereas, In accordance with RSA 161-F:46, information which is known by any person regarding the suspected abuse, neglect, self-neglect or exploitation of an incapacitated adult is not confidential, and must be reported to the Division of Elderly and Adult Services. The Law states:

“Any person, including but not limited to, physicians, other health care professionals, social workers, clergy, and law enforcement officials, having reason to believe that any incapacitated adult under the provisions of this subdivision has been subjected to physical abuse, neglect, or exploitation, or is living in hazardous conditions, shall report or cause a report to be made...”

Failure to comply with this law is a misdemeanor offense under RSA 161-F:50, and

Whereas, the Governor's Commission on Elder Abuse: Domestic Violence Protocol June 1999, **APPENDIX V 173-B:1 Definitions. As used in this chapter:**

I. “Abuse” means the occurrence of one or more of the following acts between family or household members or current or former sexual or intimate partners:

- (a) Attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon under any of the circumstances outlined in RSA 631:1, 631:2, or 631:2-a;
- (b) Placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other, as outlined in RSA 631:4;
- (d) Attempting to or committing kidnapping, criminal restraint or false imprisonment under any of the circumstances outlined in RSA 633:1 to 633:3, and

Whereas, the Governor's Commission on Elder Abuse: Domestic Violence Protocol June 1999,

173-B:9 Protection by Peace Officers.

Whenever any peace officer has reason to believe that a person has been subject to abuse as defined in RSA 173-B:1,I, that officer shall use all means within reason to prevent further abuse. Pursuant to RSA 594:10 an arrest for abuse may be made without a warrant upon probable cause whether or not the

abuse is committed in the presence of the peace officer. When the peace officer has probable cause to believe that the persons are committing or have committed abuse against each other, the officer need not arrest both persons, but should arrest the person whom the officer believes to be the primary physical aggressor. In determining who is the primary physical aggressor, an officer shall consider the intent of this chapter to protect victims of domestic violence, the relative degree of injury or fear inflicted on the persons involved and any history of domestic abuse between these persons, if that history can reasonably be ascertained by the officer.

Now, Therefore, your Petitioner, hereinafter presents the particulars of her grievances against the Attorney General, local and county law enforcement agencies and DHHS, whose acts or omissions are result of gross negligence or willful misconduct and invoke the constitutional authority and duty of the Honorable General Court pursuant to said Articles 31 and 32 to bring about their redress:

- 1) Breach of fiduciary duties, public trust and other violations of law, rules, regulations which resulted in, but not limited to, elder abuse, manipulation, financial exploitation, criminal restraint, false imprisonment, bodily injury, death.
- 2) Violations of Adult Protective Services Statute (RSA 161-F:42-57) by public servants and the Department of Human Services, Division of Elderly and Adult Services
- 3) Violations of the Governor's Commission on Elder Abuse: Domestic Violence Protocol June 1999
- 4) Misuse of Federal Funding
- 5) Violations of the American With Disabilities Act
- 6) The concerted actions between the courts, local and county law enforcement agencies, the Attorney General's Office and DHS are just cause for investigation into the violations of State and Federal Law, constitutional rights, civil liberties, failure to investigate, or the intentional cover-up of criminal activity.
- 7) Petitioner's witnesses will include a licensed Private Investigator who is certified as an expert witness in state and federal courts.

Wherefore, Petitioners pray that the General Court:

A. Accept the within Petition for Redress of Grievance for enrollment and by vote of the General Court appoint a committee to hold public hearings and examine into the circumstances hereof; and following such hearings and examination, recommend to the full General Court that it:

B. Initiate address proceedings against the Department of Human Services, Town of Farmington Police Department, Strafford County Prosecutors, and agents within the Attorney General's Office.

C. Grant relief, and closure, to the Petitioner.

Respectfully submitted,

Dorothy Lafortune

