



*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
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PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

GURBIR S. GREWAL  
*Attorney General*

THOMAS J. EICHER  
*Director, OPIA*

November 27, 2018

Hon. Stephen M. Sweeney  
President of the Senate  
935 Kings Highway, Suite 400  
West Deptford, New Jersey 08086

Hon. Craig J. Coughlin  
Speaker of the Assembly  
569 Rahway Avenue  
Woodbridge, New Jersey 07095

Dear Senate President Sweeney and Speaker Coughlin:

Please be advised that the Office of Public Integrity & Accountability (“OPIA”) has completed its review of Hudson County Prosecutor Esther Suarez’s involvement in the 2017 investigation of the certain allegations of sexual assault made against a government official who was a member of the Governor’s transition team. In particular, OPIA reviewed whether the Prosecutor improperly influenced the resolution of the investigation due to a conflict of interest or otherwise. It should be understood that OPIA’s review did not include the substantive decision about whether criminal charges should or should not be brought for the underlying conduct at issue, given that the Middlesex County Prosecutor’s Office is conducting that evaluation.

Generally speaking, Internal Affairs investigations conducted by the Attorney General’s Office are confidential and the findings of such investigations are not made public. However, Senate Concurrent Resolution No. 148, which established the New Jersey Legislative Select Oversight Committee, expressly postponed any committee review of “the appropriateness of the Hudson County Prosecutor’s actions to oversee the handling of the certain allegations of sexual assault by the Government Official” until “the completion of the Attorney General’s review, but not later than January 5, 2019.” In this rare instance, I have determined that it is appropriate to share the findings of OPIA’s investigation. My decision to do so is based not only on the Legislature’s willingness to defer to my Office on this investigation – an issue I addressed in my November 7, 2018 letter to you – but also on the Hudson County Prosecutor’s explicit request that my Office conduct a review and make its findings public.

As part of its review, OPIA examined the complete investigative file of the HCPO for this matter, as well as other documents, including emails related to the investigation. OPIA also interviewed the investigating detective and her supervisors, the assistant prosecutor and her supervisors, and Prosecutor Suarez and her executive staff. In conducting its review, OPIA was given full access to all individuals and information as requested.



Based on this review, OPIA found no evidence that Prosecutor Suarez acted improperly in any respect regarding this investigation. According to all of those interviewed, the Prosecutor had no involvement in the manner in which the investigation was conducted, or in the decision about whether to bring charges. OPIA's review revealed that those decisions were made by career investigators and prosecutors who exercised their independent judgments, free from any interference by the Prosecutor.

As I stated in my November 7 letter, I have great confidence in the thoroughness and objectivity of OPIA's work, and I believe this review obviates the need for further legislative inquiry on this matter.

Thank you for your consideration.

Respectfully submitted,



Gurbir S. Grewal  
Attorney General

c: Hon. Thomas H. Kean, Jr., Senate Minority Leader  
Hon. Jon M. Bramnick, Assembly Minority Leader  
Hon. Loretta Weinberg, Co-Chair, New Jersey Legislative Select Oversight Committee  
Hon. Eliana Pintor Marin, Co-Chair, New Jersey Legislative Select Oversight Committee  
Hon. Kristin Corrado, Co-Vice Chair, New Jersey Legislative Select Oversight Committee  
Hon. Nancy Muñoz, Co-Vice Chair, New Jersey Legislative Select Oversight Committee



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November 7, 2018

Hon. Stephen M. Sweeney  
President of the Senate  
935 Kings Highway, Suite 400  
West Deptford, New Jersey 08086

Hon. Craig J. Coughlin  
Speaker of the Assembly  
569 Rahway Avenue  
Woodbridge, New Jersey 07095

Dear Senate President Sweeney and Speaker Coughlin:

On October 29, 2018, the Legislature passed Senate Concurrent Resolution No. 148, which establishes the New Jersey Legislative Select Oversight Committee ("Committee") and charges it with investigating: (a) "the appropriateness of the Hudson County Prosecutor's actions to oversee the handling of the certain allegations of sexual assault by the Government Official," and (b) "all aspects of the policies and procedures regarding the screening of prospective employees and continued employment in the public sector of persons with questionable backgrounds, including any operations or practices concerning the handling of claims of sexual assault, abuse, or harassment." S.C.R. 148 §§ 2(a) and (b). Although it is within the Legislature's prerogative to establish such legislative committees as it sees fit, the Committee's first charge raises serious constitutional concerns and I request that you defer to this Office in handling any matters involving the Hudson County Prosecutor's Office.

As a constitutional officer, the Attorney General is responsible for supervising all law enforcement operations in this State, including the operations of all 21 County Prosecutors' Offices. Accordingly, whenever a County Prosecutor faces allegations of improper conduct in the performance of his or her official duties, it is the Attorney General's responsibility to conduct an internal investigation and, if applicable, determine sanctions. A legislative inquiry into the "appropriateness" of a County Prosecutor's handling of a criminal investigation – as is contemplated by Resolution 148 – infringes on the Attorney General's responsibility to perform this function, and raises concerns about the separation of power between the Legislative and Executive Branches. *See* Art. III, para. 1 ("No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution.").

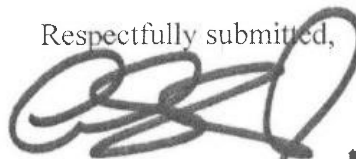


As you know, my office takes all allegations of impropriety seriously and investigates them thoroughly. At the same time, I understand that investigations of public officials raise special concerns for victims and witnesses, as well as for their subjects. That is one reason that I established the Office of Public Integrity & Accountability (“OPIA”) earlier this year; OPIA is a confidential unit with a streamlined chain of command. It is staffed with experienced prosecutors and detectives, who are exclusively charged with conducting the most sensitive investigations, ranging from public corruption inquiries to overseeing internal affairs investigations of County Prosecutors. I have complete confidence in the thoroughness and objectivity of OPIA’s work and have directed OPIA to conduct a complete review of the Hudson County Prosecutor’s handling of the allegations addressed in Resolution 148. OPIA will report its findings directly to me and I will take whatever corrective actions I deem warranted. To the extent permissible and appropriate, I will make the results of OPIA’s review available to the Governor, the Legislature, and the public.

Finally, I am aware that the Legislature amended Resolution 148 prior to its passage to delay the Committee’s review of the above matters until “the completion of the Attorney General’s review, but not later than January 5, 2019.” Although I appreciate the Legislature’s inclination to defer to my Office, I believe that this amendment does not cure the constitutional infirmities I have raised and ask that the Legislature narrow the scope of the Committee’s authority accordingly. I am fully confident that OPIA’s review will obviate the need for any legislative inquiry.

Thank you for your consideration.

Respectfully submitted,



Gurbir S. Grewal  
Attorney General

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