Circuit Court for Baltimore City
Misc. No. 1064

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3463

September Term, 2018

IN RE: SPECIAL INVESTIGATION
MISC. 1064

Friedman,
Shaw Geter,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: April 20, 2020

Grand juries in Maryland have broad inquisitorial power to investigate whether a crime has been committed. *In re Special Investigation No. 244*, 296 Md. 80, 90 (1983); *In re Special Investigation No. 281*, 299 Md. 181, 191 (1984). The Supreme Court has noted that "society's interest is best served by a thorough and extensive investigation[,]" *Branzburg v. Hayes*, 408 U.S. 665, 701 (1972) (Citation and quotation marks omitted), and that the scope of a grand jury's inquiry "is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime." *United States v. Calandra*, 414 U.S. 338, 343 (1974) (Citation and quotation marks omitted).

In the case before us,[1] the Circuit Court for Baltimore City quashed a grand jury's subpoena *duces tecum* to the Baltimore City Fire Department for records of emergency service calls made by (or on behalf of) opioid overdose victims. In the circuit court, as well as before this Court, the State intimated (against the secretive backdrop of grand jury proceedings) that it was investigating drug trafficking networks in Baltimore City.[2] We

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[1] Due to the secretive nature of grand jury proceedings, this opinion is being filed under seal, pursuant to an order from this Court.

[2] Baltimore City has the "highest per capita rate of heroin use in the country," and its residents were recently "six times more likely to die from an opioid overdose than the national average." Beth Macy, *Dopesick* 154 (2018). In his lauded history of the opioid epidemic, journalist Sam Quinones notes that, in Baltimore, "the DEA and the city's health department estimat[e] that roughly 10 percent of the city's residents are addicted." *Dreamland: The True Tale of America's Opiate Epidemic* 191 (2016). In the country at large, the CDC reports that, on average, 130 Americans die every day from an opioid overdose. CDC, *America's Drug Overdose Epidemic: Data to Action*, available at: https://www.cdc.gov/injury/features/prescription-drug-overdose/index.html (last visited April 17, 2020).

believe that the circuit court erred by quashing the subpoena on the basis that it was overly broad and that the investigation should have been more tailored or targeted. By doing so, the circuit court misconstrued the acceptable contours of a grand jury investigation. We therefore reverse.[3] Additionally, although it was not a basis for the circuit court's decision, we reject the City's alternative argument that a 2018 statute enacted by the General Assembly bars the subpoena.

BACKGROUND AND PROCEDURAL HISTORY

At the request of the State's Attorney, on June 27, 2018 a Baltimore City grand jury issued a subpoena *duces tecum* to the Baltimore City Fire Department ("the Fire Department" or "the City"). The subpoena sought records related to calls for service for opioid-related overdoses, over an 18-month period (January 1, 2017 to June 1, 2018). Specifically, the subpoena requested the date and location of the incident; the patient's name, date of birth, and gender, as well as the phone number tied to the call for service;

[3] Though the term of the particular grand jury that issued the subpoena has expired, the City does not take issue with the State's position that review is merited here because the State would seek an identical subpoena from a future grand jury. *See In re Special Investigation No. 249*, 296 Md. 201, 203 (1983) ("[T]he term of the grand jury has expired. No effort was made to have the grand jury continued beyond its term. Similar subpoenas have been issued by a subsequent grand jury, whose term has been extended . . . there is likely to be a recurrence of the issues here presented and upon the recurrence the same difficulty which prevented these issues from being heard in time is likely to again prevent a resolution. Hence . . . we shall discuss the questions presented.").

whether (and how much of) an opioid antagonist was administered; and the responding unit identifier and report number.[4]

The City filed a motion to quash the subpoena. The City's arguments included: that the subpoena was nothing more than a fishing expedition; that the investigation either had no specific target individual in mind (given that the prosecutor did not know the identity of the persons involved), or would be targeting someone who could not be prosecuted (on account of calling for medical attention) under the State's "Good Samaritan" law;[5] that the subpoena was contrary to public policy because people would be reluctant to call 911 for an overdose if they knew that their information would be referred to a criminal investigation; and that the subpoena was burdensome because the Fire Department's records do not include the pertinent phone numbers. Additionally, the City argued that § 13-3602 of the Health-General Article, enacted by the General Assembly in 2018, prohibited using the subpoenaed information for a criminal investigation or prosecution.

In response, the State contended that the requested information was relevant, identified with particularity, and covered a reasonable time period (*i.e.*, that the request was not a fishing expedition). Though respectful of the secrecy surrounding a grand jury investigation, the State suggested that the subpoena sought information about drug

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[4] At the motion hearing, the parties acknowledged that the Fire Department had previously complied with similar subpoenas.

[5] Md. Code (Repl. Vol. 2018, Supp. 2019), Criminal Procedure Article, § 1-210. *See generally Noble v. State*, 238 Md. App. 153 (2018).

overdose victims who were thereby potential witnesses to heroin and fentanyl distribution. The State argued that the City's public policy concerns were generally not relevant to the matter of compliance with a subpoena and also took issue with the notion that individuals suffering a medical emergency might be reluctant to seek immediate medical attention due to fear of future legal obligations.[6] The State further countered that the Good Samaritan law would not immunize narcotics distributors or other violent criminals who would be targeted by the investigation. Additionally, the State argued that the General Assembly did not intend for § 13-3602 of the Health-General Article to limit the scope of a grand jury or circumvent the normal subpoena process.

The circuit court granted the motion to quash after a hearing on November 1, 2018. In announcing its decision to quash on the basis of reasonableness, the circuit court stated, in relevant part:

> The Court: [O]n the issue of reasonableness, the Subpoena is now too broad and too early in the investigations, which is not to say that if you came back with your investigation and said that such-and-such an organization was working in a certain spot . . . But you have to know where you're going before I would say the Grand Jury can do this intrusive of a procedure.
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> [The State]: Okay.
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> The Court: But it's too broad and too soon.

The State's appeal followed.

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[6] As the State put it at the motion hearing: "When people get shot, they still go to the hospital. We request medical records on a regular basis, EMT reports from shootings, from stabbings, from sexual assaults, that it's just unfounded. [Accepting the City's argument would mean] every walk-in shooting victim, every 911 call where someone gets shot or stabbed or otherwise injured in their home would be inapplicable as well[.]"

DISCUSSION

We review the decision to quash a subpoena for an abuse of discretion. "Abuse occurs when a trial judge exercises discretion in an arbitrary or capricious manner or when he or she acts beyond the letter or reason of the law." *Kusi v. State*, 438 Md. 362, 385 (2014) (Citation omitted). Moreover, "it is an abuse of discretion for a court to base a decision on an incorrect legal standard." *Rodriguez v. Cooper*, 458 Md. 425, 437 n. 9 (2018); *see also Wilson-X v. Dep't of Human Res.*, 403 Md. 667, 675 (2008) ("[T]rial judges do not have discretion to apply inappropriate legal standards, even when making decisions that are regarded as discretionary in nature."). A presumption of regularity attaches to a grand jury subpoena, and "the party objecting to enforcement has the burden of making some showing of irregularity." *In re Special Investigation No. 249*, 296 Md. 201, 205 (1983); *see also United States v. R. Enters., Inc.*, 498 U.S. 292, 300-301 (1991) ("[T]he law presumes, absent a strong showing to the contrary, that a grand jury acts within the legitimate scope of its authority . . . a grand jury subpoena issued through normal channels is presumed to be reasonable[.]").

I. The Circuit Court Erred By Quashing the Subpoena On "Reasonableness" Grounds.

A. The Subpoena Did Not Violate Constitutional Requirements.

In order to satisfy Fourth Amendment principles, "[a] subpoena duces tecum issued by a grand jury to a witness must be reasonable and relevant to the investigation."[7] *In re Special Investigation No. 281*, 299 Md. at 192. When determining whether a subpoena is reasonable, courts consider three requirements: "(1) that the subpoena command only the production of materials relevant to the investigation; (2) that the subpoena specify the materials to be produced with reasonable particularity; and (3) that the subpoena command production of materials covering only a reasonable period of time." *Id.* at 192-93 (quoting *United States v. Reno*, 522 F.2d 572, 575 (10th Cir. 1975)). The Court of Appeals has emphasized that its cases examining the permissible scope of a subpoena *duces tecum* "indicate that [the Court] recognize[s] and intend[s] to uphold the broad scope of authority granted to the grand jury to investigate violations of criminal law." *In re Special Investigation No. 281*, 299 Md. at 193. If the documents sought meet the three requirements just described, "a court will not consider the subpoena to be overbroad on the grounds that it is but a fishing expedition."[8] *Id.*

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[7] Neither side has raised whether the Fire Department is a bona fide "witness" to this investigation, or merely being asked to provide records that will lead to further witnesses. We discuss potential implications arising from this dynamic in Part B of this section.

[8] Indeed, the Court of Appeals also stated in *In re Special Investigation No. 281* that "[t]he permissible breadth of a *subpoena duces tecum* is to be measured by the scope of the problem under investigation and a subpoena which is not unreasonably broad when

(Continued...)

Taking the three requirements in reverse order, we begin by noting simply that in *In re Special Investigation No. 281* the Court of Appeals expressly stated that seeking three years' worth of patient records (in the context of a Medicaid fraud investigation) was a reasonable period of time. 299 Md. at 193. Here, the subpoena seeks records for just an 18-month period. Next, we believe that the materials were requested with reasonable particularity, in that there can be no question on the part of the Fire Department as to which materials the State is seeking, or any uncertainty as to what documents the Department should be looking for when complying with the subpoena.[9] *See, e.g., Northrop Corp. v. McDonnell Douglas Corp.*, 751 F.2d 395, 397-98, 403 (DC Cir. 1984) (A subpoena was not *per se* unreasonable when the State Department had claimed that "967 cubic feet of documents would have to be searched to comply with the

measured by that standard will be sustained." 299 Md. at 192 (Citation and quotation marks omitted). As noted above, in recent years an average of 130 Americans have died every day from an opioid overdose, and Baltimore City has an overdose rate six times greater than the national average.

[9] In its motion to quash, the City noted that, of all the information sought, its medics' records do not contain the phone number of the individual who called 911, and that the City would need "to match up medical records with the computer-aided dispatch (CAD) reports in order to provide the number requested." At the motion hearing, the State agreed that "[i]f the name and number are not kept, it's of course unreasonable for us to request – to have [the City] pour through every record and go through CAD [to give] a number." In its brief on appeal, the State has reiterated that "[o]f course . . . the subpoena can only request information in the fire department's custody. If the department does not have records containing a particular data point, it need not create a record in response to a subpoena." (Citations to the record omitted). As the Court of Appeals has put it, "[t]he grand jury may designate papers it wishes produced. It may query a witness or witnesses as to their knowledge of certain matters. It has no right, however, to request a witness to construct a document[.]" *In re Special Investigation No. 244*, 296 Md. 80, 97 (1983).

subpoena, and that such a search would involve hundreds of worker hours[,]" as well as "a declassification review [that] would involve yet additional hundreds of worker hours."); *Okla. Press Pub. Co. v. Walling*, 327 U.S. 186, 207 n. 40 (1946) (noting that in *Wheeler v. United States*, 226 U.S. 478 (1913), "a subpoena was enforced which called for copies of all letters and telegrams, all cash books, ledgers, journals and other account books of the corporation covering a period of fifteen months").[10] Indeed, at the motion hearing the City even acknowledged that the Fire Department has already complied with similar subpoenas in the past.

Finally, it can hardly be claimed that the identities of overdose victims are somehow not relevant to an investigation into drug trafficking. *See R. Enters.*, 498 U.S. at 301 (When a subpoena is challenged on relevancy grounds, "the motion to quash must be denied unless the district court determines that there is no reasonable possibility that the category of materials the Government seeks will produce information relevant to the

[10] We also imagine that the Fire Department's relevant call records might be organized in a such a manner that complying with the subpoena would not be especially burdensome. *See Northrop Corp.*, 751 F.2d at 404 ("Certainly the volume of documents [the State Department] claims it must search is extraordinary, but volume alone is not determinative. State concedes that its files are organized topically and geographically, so there apparently exists some systematic way of conducting the search.") (Citations omitted); *see also* Note, *The Grand Jury as an Investigatory Body*, 74 Harv. L. Rev. 590, 593 (1961) (In 1948, the Northern District of Illinois allowed a subpoena for documents covering a 20-year period, "despite the fact that a previous grand jury subpoena of ten years' records had required twenty-six men two months to assemble and was so weighty that the courthouse floor had to be strengthened."). Indeed, the fact that the State simply sought the information for all overdose victims might even make it easier to compile (as an administrative matter) than had the State asked the City to curatorially winnow its records.

general subject of the grand jury's investigation."); Beth Macy, *Dopesick* 157 (2018) ("[T]o get the worst offenders off the streets, investigators typically need witnesses in the form of user-dealers."); *see also, e.g., Henderson v. State*, 255 Ga. 687, 689-90 (1986) (Given the defendant's theory that another individual had committed the charged crimes in order to prevent disclosure of that other individual's illegal drug activities, four years' worth of the other individual's bank records and income tax returns were relevant to the defendant's case, and thus a subpoena *duces tecum* should not have been quashed.).

Nevertheless, the circuit court based its decision to quash on a determination that the State's request was overly broad (by seeking information about all overdose victims, citywide, over the 18-month period), and that the investigation into drug trafficking should have been more targeted in scope. As quoted earlier, the circuit court stated when granting the motion to quash:

> [O]n the issue of reasonableness, the Subpoena is now too broad and too early in the investigations, which is not to say that if you came back with your investigation and said that such-and-such an organization was working in a certain spot . . . But you have to know where you're going before I would say the Grand Jury can do this intrusive of a procedure.

In effect, the circuit court appears to have transformed the requirements for relevance and particularity into a demand that a grand jury investigation be sufficiently tailored in scope, even at the outset of proceedings. We believe that by doing so the circuit court misconstrued the expansive contours afforded to grand jury investigations.

The Supreme Court has pointed out that grand juries enjoy a wide berth to investigate: "[t]he function of the grand jury is to inquire into *all information that might*

possibly bear on its investigation . . . the grand jury paints with a broad brush[] [and an] investigation is not fully carried out *until every available clue has been run down and all witnesses examined in every proper way* to find if a crime has been committed." *R. Enters.*, 498 U.S. at 297 (Quotation marks omitted) (Emphasis added). In this vein, the Court of Appeals has emphasized that "[n]o grand jury witness is entitled to set limits to the investigation that the grand jury may conduct." *In re Special Investigation No. 281*, 299 Md. at 192 (quoting *United States v. Dionisio*, 410 U.S. 1, 15 (1973)) (Citation and quotation marks omitted); *see In re Special Investigation No. 244*, 296 Md. at 92 (quoting *Samish v. Superior Court*, 28 Cal.App.2d 685, 688 (1938)) ("It is not necessary that formal charges of specific offenses shall first be made against particular named individuals to authorize a grand jury to institute an investigation thereof."). Indeed, because grand juries are afforded such a broad scope to investigate, it might be the case that "a sufficient basis for an indictment may only emerge at the end of the investigation when all the evidence has been received." *In re Special Investigation No. 244*, 296 Md. at 93 (quoting *Dionisio*, 410 U.S. at 15-16); *see also R. Enters.*, 498 U.S. at 300 ("In the grand jury context, the decision as to what offense will be charged is routinely not made until after the grand jury has concluded its investigation. One simply cannot know in advance whether information sought during the investigation will be relevant and admissible in a prosecution for a particular offense."). As the Supreme Court observed over one hundred years ago, because grand juries have such wide latitude, "the identity of the offender, and the precise nature of the offense, if there be one, normally are

developed at the conclusion of the grand jury's labors, not at the beginning." *Blair v. United States*, 250 U.S. 273, 282 (1919).

Here, by requiring the State to artificially narrow its sights at the outset of the investigation, the circuit court improperly curtailed the grand jury's broad power to investigate. The subpoena *duces tecum* did not run afoul of the constitutional requirements described above, and so the grand jury should have been afforded its usual wide berth. The motion to quash should not have been granted on the basis of reasonableness.

B. The City's Policy Argument.

In raising its policy-oriented argument in the circuit court as well as before this Court—*i.e.*, that because the subpoena intrudes upon the privacy interests of overdose victims, future victims will become reluctant to call 911 if they know this sort of information could be shared with grand juries—the City appears, in effect, to be invoking the Fourth Amendment privacy rights of any (as yet unknown and unnamed) overdose victims.[11]

In its recent landmark Fourth Amendment decision concerning the third-party doctrine and the era of increasingly sophisticated cellphone technology, *Carpenter v. United States*, 138 S. Ct. 2206, 2222 (2018), the Supreme Court announced that "a warrant is required in the rare [subpoena] case where the suspect has a legitimate privacy

[11] For our purposes here, we shall leave aside whether the City is in a position to be making this argument on behalf of hypothetical overdose victims.

interest in records held by a third party." On the one hand, given the State's proffer that the grand jury was merely targeting upstream *distributors*, and not overdose victims, it does not appear that the overdose victims whose privacy rights are being invoked by the City are the sort of criminal "suspect[s]" whose Fourth Amendment rights fall within *Carpenter's* ambit. (Nor does there need to be any concern here for the victims' Fifth Amendment rights against self-incrimination, given that—as the parties acknowledge—overdose victims who call 911 cannot be prosecuted on account of the 911 call. *See Noble v. State*, 238 Md. App. 153 (2018)).

As to the victims' privacy rights in the context of serving as potential *witnesses* to a grand jury investigation, we do not believe that an individual who willingly called for government service via 911 would have a blanket privacy expectation in government records arising from that call; after all—the individual (or an associate) knowingly and proactively *called the government. See, e.g., State ex rel. Cincinnati Enquirer v. Hamilton County, Ohio*, 662 N.E.2d 334, 337 (Ohio 1996) ("There is no expectation of privacy when a person makes a 911 call. Instead, there is an expectation that the information provided will be recorded and disclosed to the public."); *State v. Cain*, 613 A.2d 804, 809 (Conn. 1992) (911 recordings are public records); *State v. Gray*, 741 S.W.2d 35, 38 (Mo. App. 1987) (same).[12]

[12] Needless to say, we do not believe that any drug dealer later targeted as a suspect in a criminal prosecution would have any reasonable expectation of privacy in a *victim's* call to 911.

As to the City's broader argument that overdose victims might become reluctant to call 911 if they realize their information was being shared with a grand jury, in *Branzburg v. Hayes* the Supreme Court expressly rejected the argument that journalists should be privileged from complying with grand jury subpoenas because otherwise confidential sources might become "chilled" from sharing confidential information with journalists in the future. In rejecting the argument, the Supreme Court added that such an argument about the inhibiting effects of subpoenas was "to a great extent speculative." 408 U.S. at 693-95. *See also Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 417-18 (2013) (Discussing, in the context of standing, *Laird v. Tatum*, 408 U.S. 1, 11 (1972): "[T]he Court declared that none of those cases involved a 'chilling effect aris[ing] merely from the individual's knowledge that a governmental agency was engaged in certain activities or from the individual's concomitant fear that, armed with the fruits of those activities, the agency might in the future take some *other* and additional action detrimental to that individual.'") (Emphasis in original). As the State aptly noted during the motion hearing, accepting the City's position would cut against the fact that victims of other crimes (such as shootings and stabbings, etc.) still go to the hospital for treatment, even though everyone understands a criminal investigation may follow. We are persuaded by the State's reasoning, and decline to extend a privilege that would shield overdose victims from compliance with a grand jury subpoena, on the basis of a 911 call.

II. Section 13-3602 of the Health-General Article Does Not Preclude the Subpoena.

Alternatively, the City argues that § 13-3602 of the Health-General Article[13] statutorily required quashing the subpoena. This issue was raised but not decided in the circuit court. However, because the issue would likely be raised again in the circuit court, in the interests of judicial economy, we will entertain the question here. Because we are addressing a matter of statutory interpretation, we review the claim *de novo*. *Harrison-Solomon v. State*, 442 Md. 254, 265 (2015). We disagree with the City.

Among its other provisions, the overdose reporting statute, enacted unanimously by the General Assembly in 2018, authorizes emergency medical service providers to share information pertaining to overdose calls with a specific regional overdose mapping program (the Washington/Baltimore High Intensity Drug Trafficking Area mapping program, or "HIDTA").[14] Md. Code (1993, 2019 Repl. Vol.), Health-General Article, § 13-3602(a). In addition to authorizing the medical service providers to report such information to HIDTA, § 13-3602(a) authorizes those providers to report the same information to "any other program operated by . . . a unit of . . . local government." In turn, § 13-3602(e) sets forth that any such overdose information reported by medical

[13] Laws of 2018, Chapter 149.

[14] The HIDTA mapping program has been developed to provide local governments with real-time information regarding overdose spikes, to better help them allocate resources and overdose response efforts.

service providers under the statute "may not be used for a criminal investigation or prosecution."[15]

The City argues that because the statute does not define or limit what constitutes "any other program operated by . . . a unit of. . . local government," that phrase is expansive enough to include the Fire Department's own internal records—*i.e.*, because the Fire Department's records are plainly a program operated by a local government agency. We reject the City's argument, which ignores the context of this language and would result in such an expansive reading of the statute that would lead to absurd results. *Kilmon v. State*, 394 Md. 168, 177 (2006) (We presume the General Assembly acts "in pursuit of sensible public policy[,]" and we "avoid construing a statute in a manner that would produce farfetched, absurd, or illogical results which would not likely have been intended by the enacting body.").

[15] Given our conclusion regarding the "any other program . . ." provision, we need not resolve the City's other statutory claim: that the separate language in § 13-3602(e) regarding investigations and prosecution—*i.e.*, that overdose information "may not be used for a criminal investigation or prosecution"—was intended to constitute a blanket restriction against *any* criminal investigation or prosecution. We note, however, that the House Health and Government Operations Committee's hearing on the legislation at issue strongly suggests that the bill's drafters and advocates were primarily concerned with protecting drug *users* and overdose *victims* from prosecution, in accord with the State's Good Samaritan law. *See Hearing on H.B. 359 before the H. Health & Govt. Ops. Comm., 2018 Reg. Sess. (Feb. 13, 2018),* available at *http://mgahouse.maryland.gov/mga/play/906555b8-b029-4174-9946-ca51186f5f85/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=104000.* To that end, we are skeptical that a unanimous General Assembly (not to mention the Governor's office, which designed the administration bill) was trying to make it harder to prosecute upstream drug *traffickers*.

True, the statute in question does not explicitly define what it means by "any other program operated by . . . a unit of . . . local government." However, the same exact phrase notably re-appears in § 13-3602(d) of the statute. Section 13-3602(d) *requires* the Maryland Institute for Emergency Medical Services Systems ("MIEMSS") to report any overdose information it receives via a patient care report to an appropriate technology platform, including HIDTA, or to "any other program operated by . . . a unit of . . . local government." If the City's interpretation were correct, and the "any other program . . ." language was intended to be broad enough to cover the Baltimore City Fire Department's internal records, the City's interpretation would effectively require MIEMSS to report any (statewide) overdose information it receives to the Baltimore City Fire Department. Surely, the General Assembly could not have intended such an absurd result. *Kilmon*, 394 Md. at 177. Indeed, the City's interpretation would effectively require MIEMSS to report any overdose information it receives to every county fire department. Simply put, we do not believe the General Assembly intended such a result.[16] Furthermore, we do not believe that the General Assembly meant for this ambiguous provision to abrogate a grand jury's broad common law investigatory power, by making it impossible to subpoena relevant overdose information that might be possessed by *any* state or local

[16] Notwithstanding the inclusion of the "any other program . . ." language, the House Health and Government Operations Committee's February 13, 2018 hearing on the legislation, *supra*, also indicates that the bill's primary focus was to encourage medical service providers to report to HIDTA, specifically. As even the City put it at the motion hearing: "Now to be sure, th[e] statute relates to voluntary disclosures by EMTs and other medical responders to an electronic database."

government agency. *See, e.g., WSC/2005 LLC v. Trio Ventures Assocs.*, 460 Md. 244, 258 (2018) ("Although the Legislature may abrogate the common law through statutory enactments, we have also required a strong pronouncement from the Legislature as evidence of an intention to do so. For abrogation to occur, the statutory language must indicate an express abrogation or an abrogation by implication by adoption of a statutory scheme that is so clearly contrary to the common law right that the two cannot occupy the same space.") (Citation and quotation marks omitted); *Dep't of Human Res. v. Cosby*, 200 Md. App. 54, 70 (2011) ("Statutes that derogate common law doctrines are to be strictly construed, and it is not to be presumed that the legislature . . . intended to make any alteration in the common law other than what has been specified and plainly pronounced.") (Citation and quotation marks omitted). In short, we reject the City's statutory claim.

CONCLUSION

In conclusion: the subpoena did not violate constitutional requirements concerning reasonableness; we are not persuaded by the City's broader policy argument; and § 13-3602 of the Health-General Article does not prohibit the subpoena. The circuit court erred by granting the motion to quash.[17]

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY REVERSED. COSTS TO BE PAID BY THE MAYOR AND CITY COUNCIL OF BALTIMORE. PARTIES TO PROMPTLY NOTIFY THIS COURT OF THE CONCLUSION OF THE GRAND JURY PROCEEDINGS.

[17] Our mandate reverses without remanding because given that "the term of the grand jury has expired . . . there is now no one to whom the subpoenas originally issued in this proceeding are returnable." *In re Special Investigation No. 249*, 296 Md. at 203. We reiterate that our review has been undertaken in light of the State's position that "the State's Attorney has indicated that an identical subpoena will be requested from a subsequent grand jury."

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IN RE: SPECIAL INVESTIGAITON MISC. 1064	*	COURT OF SPECIAL APPEALS
	*	OF MARYLAND
	*	No. 3463, September Term, 2018
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ORDER

In our prior order, we granted the appellant's motion to seal the argument and the opinion of the Court for one year from October 3, 2019. After the opinion was filed the Court of Appeals granted a writ of certiorari and sealed its proceedings and its opinion for one year from May 2021. Because of the Court of Appeals' seal, we did not disturb our seal on this appeal. The Court of Appeals has now unsealed its case and its opinion.

Accordingly, it is this 20th day of May 2022, by the Court of Special Appeals, on its own motion,

ORDERED that seal imposed on the argument and the opinion of this appeal is now lifted. The Clerk will now post our opinion on the Court's webpage.

FOR A PANEL OF THE COURT
(consisting of Friedman, Shaw, Zarnoch, Robert A., Senior Judge, Specially Assigned, JJ.)

Judge's signature appears on original order.

Melanie M. Shaw, Judge