

NORFOLK, SS.

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CLERK OF THE COURT
NORFOLK COUNTY

SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

COMMONWEALTH

v.

KAREN READ

**COMMONWEALTH’S MOTION IN LIMINE TO PROHIBIT REFERENCE TO ANY
PENDING INTERNAL AFFAIRS INVESTIGATIONS OR UNFOUNDED
ALLEGATIONS OF MISCONDUCT**

The Commonwealth moves in limine prohibiting disclosure or reference to any internal affairs investigations pending against any law enforcement witness. Internal affairs investigations are confidential and disclosure of any investigations that have not resulted in a sustained finding of misconduct would serve no purpose other than to risk materially prejudicing the proceedings or confuse the jury.

Moreover, the Commonwealth moves to prohibit reference to any civil lawsuits filed against Canton Police Sergeant Lank that relate to an incident that occurred nearly twenty years ago. In the federal lawsuit previously relied upon by the defendant, there were no adverse credibility determinations against Sergeant Lank or any findings of liability. The case was dismissed by agreement of the parties. See Commonwealth v. McFarlane, 493 Mass. 385 (2024) (“Until a finding of liability has been made, a pending civil lawsuit constitutes an unsubstantiated allegation of police misconduct that does not tend to negate the guilt of a defendant ... *findings* of civil liability made against prosecution team members in the performance of their official duties are subject to automatic disclosure and fall within the duty of inquiry.” (emphasis added)).

Pursuant to Graham v. Dist. Attorney for Hampden Dist., if a police officer's credibility is a critical issue at trial, the judge has the discretion, in the interest of justice, to admit evidence of specific instances of the officer's false statements in prior, unrelated matters. 493 Mass. 348, 375 (2024); Matter of a Grand Jury Investigation, 485 Mass. 641, 651-652 (2020). “[A] judge, in deciding whether to allow a police officer witness in the interest of justice to be impeached with prior misconduct, may consider the age of the prior misconduct, the strength of the evidence of the misconduct and the simplicity of establishing it, and whether the prior misconduct is probative of how the officer conducts police investigations.” Matter of a Grand Jury Investigation, 641 Mass. at 652. In instances where there have been no sustained findings of misconduct, the jury should not be permitted to consider any allegations of misconduct, whereas “disciplinary action is but one possible outcome; exoneration and protection of the officer and the department from unwarranted criticism is another.” Worcester Tel. & Gazette Corp. v. Chief of Police of Worcester, 58 Mass. App. Ct. 1, 8 (2003).

Further, the Commonwealth requests advanced notice and production of any reciprocal discovery related to any specific instances of prior misconduct or false statements that the defendant seeks to introduce or use to impeach any law enforcement witness.

Respectfully Submitted,
For the Commonwealth

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