



The Commonwealth of Massachusetts

OFFICE OF THE DISTRICT ATTORNEY
FOR THE NORFOLK DISTRICT

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October 12, 2023

Joshua S. Levy
First Assistant United States Attorney
United States Attorney Office
District of Massachusetts
1 Courthouse Way, Suite 9200
Boston, MA 02210

Dear First Assistant Levy:

This is to follow up on our previous communication dated May 9, 2023 and your June 12, 2023 response. On September 15, 2023, the Norfolk Superior Court set a trial date of March 12, 2024 in Commonwealth v. Karen Read, No. 2282CR00117, on the indictments for second-degree murder, manslaughter while operating under the influence, and leaving the scene of personal injury and death.

Under the Massachusetts Rules of Criminal Procedure, mandatory discovery includes items and information within the Commonwealth's possession, custody or control relevant to the case including: statements by the defendant Karen Read; statements of persons who testified before a grand jury and grand jury minutes; facts of an exculpatory matter; material and relevant police reports, photographs, tangible objects, reports of physical examinations of any person, and scientific tests and experiments, and statements of persons intended to be called as witnesses; and disclosure of promises, rewards or inducements made to witnesses the party intends to present at trial. See Mass. R. Crim. P. 14(a)(1)(A)(i)-(iii), (vii) & (ix). The Commonwealth also has the duty to notify the defendant of items under Rule 14(a)(1)(A)(i)-(viii) that are known to exist but are not within its care, custody, or control, and to provide all information known as to the item's location and the identity of the persons possessing that item. See Mass. R. Crim. P. 14(a)(1)(E)(i); *Commonwealth v. Mitchell*, 444 Mass. 786, 796 n.16 (2005).¹

To effectuate our discovery obligations, we are requesting statements to investigators and grand jury minutes of witnesses in your investigation, as well as, to the extent they may exist,

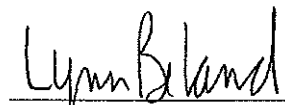
¹ Under Mass. R. Crim. P. 14(a)(1)(E)(ii), a party to the state criminal proceeding may move for an order for any individual, agency, or other entity in possession, custody, or control of items relating to the state criminal case, to preserve such items for a specified time.

any of the other above described items or materials. Given the impending trial date, prompt disclosure is critically important. If there is need for limited disclosure of such items, please include such a request. We are willing, with the appropriate foundation, to file a motion for a protective order under Mass. R. Crim. P. 14(a)(6) to request limitation of the disclosure of the information to defense counsel only; any decision of such request, of course, is solely within the authority of the Norfolk Superior Court judge. Similarly, we are willing to facilitate the process or to a request under Fed. R. Crim. P. 6(e)(3)(E) for authorization from a federal district court judge for production of the grand jury minutes and related material, if any, and to discuss, per that rule, under what conditions that material may be released for use in the state judicial proceeding.

Additionally, this Office has constitutional and state obligations to provide exculpatory information of which we are aware in all cases, including exculpatory information relating to all witnesses and or members of the prosecution. *Committee for Public Counsel Services v. Attorney General*, 480 Mass. 700, 730-733 (2018); *Commonwealth v. McFarlane*, 102 Mass. App. Ct. 264 (2023), *petitions for further appellate review pending*. This would include any investigations into misconduct related to professional duties. *Id.* at 275 & n.16. If any such information exists, it is imperative that we learn of it in a timely manner.

It is imperative that at the earliest opportunity we are able to provide discovery to the defendant. If the investigation remains ongoing, we request notice of that status and information as to when the investigation may be concluded, in particular whether the investigation is anticipated to conclude prior to the March 2024 trial date.

Sincerely,



Lynn Beland

First Assistant District Attorney