

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT DEPARTMENT  
DOCKET NO. 2483-CV-00692

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PAUL O'KEEFE, INDIVIDUALLY AND AS  
PERSONAL REPRESENTATIVE OF THE  
ESTATE OF JOHN JOSEPH O'KEEFE, III;  
MARGARET O'KEEFE, INDIVIDUALLY  
AND AS GRANDPARENT / GUARDIAN OF  
KAYLEY FURBUSH; and JOHN O'KEEFE, II,

Plaintiffs,

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S;  
G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S;  
WATERFALL BAR & GRILL, LTD d/b/a WATERFALL  
BAR & GRILL; and KAREN READ,

Defendants.

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**NORFOLK DISTRICT ATTORNEY'S OFFICE'S OPPOSITION TO  
DEFENDANT KAREN READ'S MOTION TO COMPEL PRODUCTION OF  
DATA AND ALTERNATIVELY REQUEST FOR STAY**

The Norfolk District Attorney's Office ("NDAO"), a non-party in this civil action, submits its Opposition to Defendant Karen Read's "Motion to Compel Norfolk District Attorney's Office to Produce Data in Response to Subpoena". Without waiving the objections asserted in the NDAO's August 1, 2025 Mass. R. Civ. P. 45(d)(1) letter, the NDAO is complying with the subpoena received for specified records associated with the prosecution in Commonwealth v. Karen Read, and upon entry of a protective order, the NDAO will produce responsive, non-privileged documents related to the resolved criminal

case that are within the NDAO's possession, custody, or control.<sup>1</sup> On November 7, 2025, however, defendant Karen Read moved to compel the NDAO to produce data associated with former Massachusetts State Trooper Michael Proctor's personal cell phone, newly acquired through judicial order in unrelated pending criminal cases. The defendant's subpoena requests: "all iCloud data...concerning or belonging to Michael Proctor" and "all documents, video or audio recordings, and communications to, from, or concerning Michael Proctor from January 28, 2022 to the present." (Subpoena dated 7.23.25 requests no. 4, 11). The defendant's motion to compel is specifically for "all data in its possession extracted from cell phones owned, controlled, or used by former State Police trooper Michael Proctor." (emphasis added). The NDAO objects as these requests are facially overbroad and unduly burdensome. See Mass. R. Civ. P. 26 (c); see also Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). As such, the defendant's motion should be denied.

The defendant's far-reaching requests are not reasonably calculated to lead to relevant evidence as the requests are not limited to defendant Karen Read nor the investigation of Mr. John O'Keefe's death. The defendant's motion and memorandum of law seek to correlate previously disclosed and widely publicized text-messages sent by the former trooper with an assumption that the acquired data contains additional communications about the defendant or the investigation into Mr. O'Keefe's death. However, the requests are not confined to communications nor communications sent by

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<sup>1</sup> The NDAO's extensive record production consists of a hard drive containing approximately 2.5 terabytes of data. Within this data, the NDAO is producing material associated with the former trooper's work-cell phone that was previously deemed discoverable in the criminal case.

the former trooper, and the defendant has information readily available about the former trooper's unprofessional and biased conduct and has directly sought access to this data through a subpoena issued to Michael Proctor, who as the record holder can directly address issues of privilege. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues).

The data from the former trooper's work cell phone and personal cell phone include text-chats, audio files, pictures, and videos that span many years and, in some instances, predate the former trooper's employment as a law enforcement officer. The data includes an abundance of privileged communications between spouses and attorneys as well as highly sensitive and personal information unrelated to any criminal or civil matters. The defendant's request for unfettered access to the entirety of this data would result in the production of privileged and non-relevant material, far exceeding the bounds of relevance surrounding the liability for Mr. O'Keefe's death.

Further, the Commonwealth objects as the defendant's requests are unduly burdensome to the NDAO and its limited resources. The NDAO's possession of certain data extracted from former Trooper Michael Proctor's personal cell phone is pursuant to and restricted by a Norfolk Superior Court order. On June 17, 2025, the Norfolk Superior Court (Michael P. Doolin, J.) allowed in specific cases,<sup>2</sup> defense motions for discovery of

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<sup>2</sup> See e.g., Commonwealth v. Myles King, 2182CR00320 (Paper 103); Commonwealth v. Shawn Johnson, 2282CR00268 (Paper No. 88); Commonwealth v. Bianca N. Chionchio, 2282CR00265 (Paper 29); Commonwealth v. Jovani Delossantos, 2282CR00267 (Paper 40).

former Massachusetts State Police Trooper Michael Proctor's personal cell phone. The order included that the Commonwealth produce communications from the dates of the charged offenses to the dates that indictments issued in those cases and produce "any other data from Proctor's personal cell phone that constitutes investigative materials or is favorable to the defense within the meaning of Mass. R. Crim. P. 14." On August 13, 2025, the Norfolk Superior Court (Peter B. Krupp, J.), modified the order, clarifying that: "[t]he obligation to produce 'any other data that constitutes investigative materials or is favorable to the defense' is not limited to a particular date range;" and that the former trooper had a legitimate interest in protecting attorney-client or spousal communications. The Norfolk Superior Court issued further orders about delivery and extraction of the phone, the opportunity for the former trooper's counsel to submit a privilege log, a timeline for the Commonwealth to produce discoverable materials, and notably restricted the possession of any responsive material.<sup>3</sup> The defendant's overbroad requests contravene court orders as to the permitted scope of review in pending criminal cases and contravenes orders on privileged information.

Moreover, the requests for any data from the phones, in whole, or in part, are unduly burdensome given the NDAO's current discovery obligations. Guided by the confines of the Order, the NDAO is actively reviewing the voluminous cell phone data and diligently producing discoverable material, subject to stringent protective orders, to the appropriate criminal defendants.<sup>4</sup> See Mass. R. Civ. P. 26 (f) (2) – (4) (additional burdens of

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<sup>3</sup> Commonwealth v. King, 2182CR00320 (Paper 139); Commonwealth v. Johnson, 2282CR00268 (Paper 105); Commonwealth v. Chionchio, 2282CR00265 (Paper 38); Commonwealth v. Delossantos, 228200267 (Paper 61).

<sup>4</sup> The relevant data extracted from the former trooper's work cell phone is also being produced to criminal defendants subject to stringent protective orders.

producing electronically stored data). The District Attorney is the elected advocate of the people and chief law enforcement officer from the Norfolk District. See G.L. c. 12, §§12, 13; In re: Subpoena Duces Tecum, 445 Mass. 685, 687 n. 5 (2006); District Attorney for the Norfolk District v. Flatley, 419 Mass. 507, 509 n. 3 (1995). The prosecutors serve at his behest and “[a] prosecutor's obligation to disclose exculpatory material is just that — an obligation, not a decision.” Graham v. Dist. Attorney for Hampden Dist., 493 Mass. 348, 364 (2024); G.L. 12, §16. The NDAO’s limited resources and obligations, at this time, are to review the data for compliance with Mass. Crim. P. 14 in pending criminal matters.

Similarly, as a non-party record holder, the burden and cost to review the personal cell phone data of a non-party<sup>5</sup>, for a variety of unknown and evolving theories of liability, is unduly burdensome to the NDAO and any potential benefit is outweighed by the NDAO’s significant burden, particularly where a subpoena has issued to Michael Proctor and there have been substantial findings and sworn testimonies about the former trooper’s involvement in the investigation.

### CONCLUSION

For the reasons stated above, the NDAO respectfully requests that this Honorable Court deny the defendant’s motion to compel, as the request is overboard, unduly burdensome, and harassing to the NDAO as a non-party record holder. Alternatively, the NDAO requests that this Honorable Court stay the defendant’s motion to compel until the NDAO has completed its review for discoverable material in pending criminal prosecutions; and in consideration of the defendant submitting a narrowly tailored, date

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<sup>5</sup> On November 18, 2025 the defendant filed a civil suit against Michael Proctor. As of filing, this claim has not been consolidated with nor part of this pending civil action.

restricted request for a specific category of data or communication that is relevant to the defendant and/or Mr. O'Keefe's death, which may alleviate some of the undue burdens upon the NDAO.

Respectfully Submitted,

/s/ *Laura A. McLaughlin*

Laura A. McLaughlin  
Assistant District Attorney  
Norfolk District Attorney's Office

Date: November 19, 2025

**Certificate of Service**

I, Laura McLaughlin, certify that on November 19, 2025, I served a copy of the above opposition on counsels for the defendant Karen Read, Damon Seligson at dseligson@sheehan.com; Charles M. Waters at cwaters@sheehan.com; and Aaron D. Rosenberg at arosenberg@sheehan.com; and counsels for the plaintiffs, Marc Diller at marc@dillerlaw.com; and Daniel Buck at dbuck@dillerlaw.com.

/s/ *Laura A. McLaughlin*

Laura A. McLaughlin  
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Norfolk District Attorney's Office