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NORFOLK, SS.

CLERK OF THE COURT
NORFOLK COUNTY

SUPERIOR COURT DEPARTMENT
NORFOLK SUPERIOR COURT
DOCKET NO. 2282CR0117

COMMONWEALTH

v.

KAREN READ

**COMMONWEALTH'S MOTION IN LIMINE FOR APPOINTMENT OF COURT
STENOGRAPHER, ONGOING ORDER TO IMPOUND ALL SIDEBAR
CONFERENCES, AND IMPOUNDMENT OF JUROR NAMES DURING TRIAL**

The Commonwealth requests that the Court appoint a stenographer for the trial and deem impounded the names of all jurors, all sidebar discussions, including sidebar discussions during pretrial proceedings, and that sidebar discussions and juror names be unavailable to the public until a verdict is returned.

Norfolk Superior Court uses traditional courtroom stenographers and For the Record (FTR) equipment to record courtroom proceedings. FTR recordings may be available less than 24 hours after the courtroom event without any opportunity for a party to have notice or an opportunity to object, or for a judge to consider a request for access to a sidebar discussion. It appears that anyone can create an account and a request for access to a particular recording which will be reviewed by a clerk, who authorizes access unless there is an order of impoundment or other judicial process prohibiting access. The absence of an order of impoundment of all sidebar discussions could result in those discussions being publicly disseminated during trial and potentially prejudicing the parties.

A showing of good cause may overcome the public's right of access to judicial records. Commonwealth v. Fujita, 470 Mass. 484, 489 (2015). In determining whether good cause has

been shown, a judge must balance the rights of the parties based on the facts of the case. Id. The Supreme Judicial Court has stated that good cause is readily apparent in circumstances including: (1) the impoundment of the names and addresses of seated jurors during the course of a highly visible trial where the risks of inappropriate juror contact would jeopardize a party's right to a fair trial; and (2) the impoundment of the responses of jurors to highly invasive or personal questions posed during individual voir dire. Id. at 490 n. 17.

The defendant, law enforcement officers, and potential witnesses have been the subject of intense media interest and scrutiny. Members of the public have engaged in notable activities in conjunction with the prosecution of this case, including private citizens protesting at the courthouse and private citizens engaging in relentless harassment and acts to intimidate witnesses from testifying at trial.

Security is a significant concern. The publication of security concerns or security measures discussed at sidebar would undermine the ability of the Court to maintain order and could jeopardize the proceedings.

The publication of matters discussed at sidebar, including juror names, information and potentially sensitive responses to inquiry, while trial is ongoing could prejudice the parties and expose jurors to extraneous matters.

The Commonwealth anticipates that after a verdict is returned the potential prejudice to the parties will be greatly lessened and that all parts of the record except any that the Court specifically finds subject to further impoundment for good cause would then be made available to the public.

Respectfully Submitted,
For the Commonwealth
By: */s/ Adam Lally*
Assistant District Attorney