

2016 JUN 13 P 4: 18

CRIMINAL DIVISION

STATE OF MARYLAND \* IN THE  
\*  
\* CIRCUIT COURT  
\*  
v. \* FOR  
\*  
LT. BRIAN RICE \* BALTIMORE CITY  
\*  
\* Case No.: 115141035

\* \* \* \* \*

**MOTION IN LIMINE TO EXCLUDE REFERENCE TO OR ADMISSION OF THE  
SEATBELT AUDIT REPORTS OR DEPARTMENTAL CORRESPONDENCE  
REGARDING SEATBELT AUDIT REPORTS**

Defendant, Lt. Brian Rice, by undersigned counsel, files this Motion in Limine to order the exclusion of reference to or admission of any and all of the seatbelt audit reports or departmental correspondence regarding seatbelt audit reports conducted by the Baltimore Police Department. In support, Defendant states the following:

I. Introduction

On October 13, 2015, the State disclosed as part of discovery in this matter Prisoner Transport Vehicle Seat Belt Inspections conducted by the Baltimore Police Department's Professional Standards and Accountability Bureau. These inspections, which occurred in 2012, 2014, and 2015 were spot checks of 9 to 15 arrestee transports of the approximately 40,000 prisoner transports to Central Booking Intake Facility that occur every year. These inspections looked into whether wagon drivers assured both the driver and the arrestee were seatbelted. The State does not contend that it can prove that Lt. Rice was aware of any of these inspections, nor can it argue that these inspections evaluated the actions of any officer other than transport wagon drivers. The State,

however, intends to introduce these Inspections as evidence of the risk associated with failing to seatbelt an arrestee. Lt. Rice moves to preclude reference to or admission of any and all of the seatbelt audit reports or departmental correspondence regarding seatbelt audit reports because there is no evidence that he was aware that these audits took place, because he did not operate a wagon, because he was not the subject of the inspection, and because the audits lack the indicia of reliability necessary to have the probative value to overcome the clearly prejudicial effect.

## II. Applicable Standard

MD. RULE 5-402 states that “evidence that is not relevant is not admissible.” MD. RULE 5-401 defines relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” “Even reliable evidence is admissible only if it is relevant in the particular case, i.e., if it has a tendency to make the existence of a fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” *State v. Smullen*, 380 Md. 233, 268 (2004). Moreover, MD. RULE 5-403 states that “[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”

## III. There is No Evidence that Lt. Rice Was Aware of the Audits or Findings of the Audits

The State may seek to introduce evidence of the seatbelt audits reports or departmental correspondence regarding seat belt audit reports conducted in the time between 2012 and April 12, 2015. There is no evidence that Lt. Rice was aware of the audits, nor the findings of any of the

