

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

United States of America,

v.

Evan Cossette,

Defendant.

Civil No. 3:12cr232 (JBA)

April 30, 2013

ORDER ON PRE-TRIAL MOTIONS

For the reasons set forth at the pre-trial conference held in open court on April 29, 2013, the following is ordered:

1. Defendant's Motion to Dismiss the Indictment [Doc. # 25] is DENIED.
2. The Government's Motion to "preclude use of 'independent' investigation and to require disclosure of Defendant's intended use of *Garrity* material [Doc. # 26] is GRANTED on agreement. Both parties agree that the conclusions reached by Attorney Daily in his investigative report are inadmissible. As to the Government's request for disclosure of claimed *Garrity* or derivative-*Garrity* material, the following schedule has been agreed to:
 - By May 7, 2013, Defendant will identify all statements in the Internal Affairs report and Daily report that he claims are protected by the *Garrity* privilege to the Government's "Filter" or "Taint" Team.
 - The Filter Team will file any responsive motions by May 10, 2013.
3. Defendant's Motions in Limine to Preclude Videotape [Doc. # 22] and to Preclude Testimony re: Videotape [Doc. # 23] are DENIED.
 - The issues of adequacy of authentication under Fed. R. Evid. 901(a) of the videotapes will be addressed at trial.

- Defendant's motion to preclude witness testimony as to the videotape is denied without prejudice to renew at trial.
4. Defendant's Motion in Limine to preclude evidence of Uncharged Misconduct and Character Evidence [Doc. # 24] is GRANTED on consent.
 5. The Government's Motion to preclude the Defendant from Arguing for Jury Nullification [Doc. # 27] is DENIED as MOOT in light of Defendant's representations that he will not make such arguments.
 6. The Government's Motion to Limit the Use of Arrest Scene Testimony [Doc. # 27] is DENIED. Evidence of Temich's actions at the arrest scene preceding the alleged use of excessive force is relevant and admissible. However, evidence of Temich's behavior occurring in the ambulance, after the alleged use of excessive force, is precluded as irrelevant.
 7. The Government will provide Defendant with a witness list by May 7, 2013, and will produce its witnesses' Grand Jury testimony by May 14, 2013. The Government will provide an exhibit list by May 14, 2013.
 8. Defendant will provide a witness list by May 14, 2013.

IT IS SO ORDERED.

/s/
Janet Bond Arterton, U.S.D.J.

Dated at New Haven, Connecticut this 30th day of April, 2013.