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## FORMER OFFICER RECANTS CHARGE AGAINST WALSH

*Louise Taylor, Herald-Leader Staff Writer*

The former police officer who swore last month that retired Lexington Police Chief Larry Walsh had forced her to have sex with him in 1991 is unwilling to pursue a criminal investigation against him and says she "cannot say with any certainty what occurred."

The letter, written by Anna Rathke Phillips to Commonwealth's Attorney Ray Larson, effectively thwarts any inquiry into the alleged assault, which officially came to light after her deposition was filed in court on Feb. 25.

The letter, filed this week in a civil lawsuit that accused Walsh and the city of sexually discriminating against retired police Capt. Melinda Massarone, is short and to the point:

"Chief Walsh's actions were grossly inappropriate," Phillips wrote to Larson. "I resent being placed in such vulnerable circumstances. I felt under duress due to his position and his aggressive behaviors towards me. I lacked adequate skills to respond effectively for my interest and safety. However, I am struggling emotionally with my perception of events and Chief Walsh's intentions. I am unclear, and therefore cannot say with any certainty what happened.

"I regret having initially provided any information to Ms. Massarone and her attorney. ... I do not wish to pursue an investigation of this matter and look forward to closure."

In light of Phillips' letter dated March 6, which he says amounts to a "retraction" of a rape allegation, attorney Keith Moorman, who is representing Walsh and the city, is asking that her deposition be barred when the Massarone suit goes to trial in two weeks.

If Chief Fayette Circuit Judge Gary Payne sticks by his previous decision to allow a tape of the deposition to be played, Moorman is asking that he allow the letter to be read because it "acts as a repudiation or retraction by Phillips of her deposition testimony, or, at the very least, casts serious doubt on her testimony and the plaintiff's (Massarone's) characterization of the testimony as proof of 'rape.'"

The Massarone lawsuit is one of two alleging sexual or racial discrimination pending against the city and Walsh, who retired in 2001.

Massarone claims that after she was promoted to captain, Walsh "buried" her in the communications division, where Assistant Chief Sandra Devers made Massarone so miserable that she developed emotional problems and had to retire on disability after 20 years on the force.

Massarone claims Walsh harbored a grudge against her from the beginning of her police career, when she says he tried to kiss her and she rejected the advance.

Walsh, through Moorman, has denied assaulting Phillips from the outset and says that their relationship was consensual.

While office dating may be inadvisable, Moorman pointed out in court 11/2 weeks ago, it is not illegal.

Moorman has also repeatedly said Massarone is basing her case on incidents unrelated to her claim, and that her claim is baseless because she received every promotion for which she passed exams -- and was the police force's second female to attain the rank of captain.

"The letter is consistent with our view that it was not a 'rape' and, at worst, was that Chief Walsh and Anna Phillips had different views of the relationship," Moorman said.

Phillips, who was a police officer for about two years, has not been subpoenaed to appear at the trial because under Kentucky law witnesses in civil cases cannot be forced to cross state lines to testify. As a resident of North Carolina, she would only appear if she did so voluntarily.

If, after a hearing Friday, Payne doesn't grant the city's motion to allow the letter, Moorman is asking that the trial be delayed so he can locate, subpoena and depose Phillips again "so that her apparent retraction ... can be fully explored and presented to the jury."

Massarone's attorney, **Robert Abell**, said he would file a response today.

"She was emphatic in her deposition. She was a teary-eyed but composed witness," he said. As to her letter, Abell said, "What her motivations are, I don't know."

Larson said yesterday that he has replied to Phillips' letter making sure she is unwilling to pursue any criminal case. "I advised her that based on her letter, neither the County Attorney nor the Commonwealth's Attorney will initiate any investigation," Larson said.

In addition to the Phillips deposition, Massarone has won Payne's approval to allow testimony about perceived racism within the department during Walsh's 11 years at the helm.

Payne also ruled that testimony about another incident involving Walsh goosing another female officer in the buttocks will be allowed at trial.

Walsh could not be reached, although Moorman said he would try to get a message to him from a reporter.

Reach Louise Taylor at (859) 231-3205, 1-800-950-6397 ext. 3205, or by e-mail, ltaylor@herald-leader.com.