

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT**

SUFFOLK, SS

SUPERIOR COURT
DOCKET NO.
1984CV02998B

AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, INC.,)	
)	
Plaintiff,)	
)	
v.)	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
CITY OF BOSTON,)	
)	
Defendant.)	
)	
)	
)	

INTRODUCTION

1. Pursuant to G.L. c. 66, § 10A, the Massachusetts Public Records Law (“PRL”), the American Civil Liberties Union of Massachusetts (“ACLUM”) files this complaint against the City of Boston (“City”) for its failure to comply with its legal obligations in response to ACLUM’s public records request related to “Operation Clean Sweep.”

2. ACLUM’s public records request relates to the City’s actions in the area of Massachusetts Avenue, Melnea Cass Avenue and Southampton Street undertaken under the self-appointed title “Operation Clean Sweep.” According to media reports, the Boston Police Department’s own website and the few records produced by the City thus far, this “Sweep” commenced on August 1, 2019, just hours after a Suffolk County correctional officer got into a physical confrontation with approximately five individuals in the area. A few hours later hordes of police officers descended on the area, forced individuals to identify themselves, arrested several on outstanding warrants and a few others for drug related activity, and drove many others

who were not engaged in any alleged criminal activity out of the area, particularly the vicinity of Atkinson Street where many individuals experiencing homelessness congregate for mutual safety. The “Sweep” continued on August 2 and several subsequent nights, during which police apparently directed individuals back to Atkinson Street from other locations. During the “Sweep,” personal property of those on the streets was confiscated and thrown into garbage trucks, including wheelchairs used by persons with disabilities.

3. ACLUM submitted a public records request to the City on August 12, 2019, seeking records related to this “Sweep” to be able to analyze the City’s actions and to evaluate whether civil rights or civil liberties were improperly invaded. The request covered among other things documents that would show who ordered the action (and when and why), the planning or coordination between the various departments and agencies involved in the “Sweep,” who was arrested for what and why, inventories of seized property, and after-action reports and any other records related to the “Sweep.” The request also asked for documents from a U.S. Conference of Mayors meeting in which strategies to combat homelessness were discussed.

4. On August 26, 2019, the City purported to give itself more time to respond to the request without complying with statutory preconditions. Thereafter, the City kept promising dates for production that were not met. Then, on September 17, 2019, well after the ten-business-day deadline provided by the PRL, the City purported to fulfill the request, yet provided only a few cryptic email communications dated after the first day of the “Sweep.” In addition, the City provided a spreadsheet listing arrests made on August 1 and 2 but not later days, which does not indicate on what charges the arrests were made and redacts all names and addresses of those arrested even though arrest logs are mandated by statute to be public. No pre-operation planning documents or orders were provided. No communications between the Boston Police Department

and other city, county or state agencies that were involved were provided. No police reports concerning the “Operation” were produced. No documents explaining the purpose of the “Operation Clean Sweep” were included. And no post-action assessments were provided.

5. Because the City has not complied with its obligation to search for and produce records responsive to ACLUM’s request, ACLUM now files this action to obtain the missing records and to seek declaratory relief as to the City’s obligations under the Public Records Law.

PARTIES

6. Plaintiff American Civil Liberties Union of Massachusetts is a non-profit membership organization with a principal place of business in Boston dedicated to the protection of civil rights and civil liberties, including the right to free speech and the attendant right to request charity in public. To advance the interests of open government, ACLUM works to shed light on law enforcement practices in order to preserve and extend constitutional rights.

7. Defendant the City of Boston is a municipal corporation that is subject to suit and the Massachusetts Public Records law.

JURISDICTION AND VENUE

8. Jurisdiction and venue are proper pursuant to G.L. c. 66, § 10A(c), G.L. c. 212, § 4, G.L. c. 214, § 1, and c. 231A, § 1.

FACTS

9. Beginning on or about August 1, 2019 and continuing over an unknown period thereafter, the City of Boston, including its Police Department and Public Works Department, organized and executed, in collaboration with the Massachusetts State Police and the Suffolk County Sheriff’s Office, what it self-described as “Operation Clean Sweep.” This “Operation” drove persons experiencing homelessness, substance abuse disorders and other challenges from

the areas near Massachusetts Avenue, Southampton Street, Melnea Cass Boulevard, and Atkinson Street in Boston. “Operation Clean Sweep” received substantial press coverage and engendered expressions of concern as to how the City treated those subject to the “Sweep” as well as their property, including wheelchairs that were thrown into garbage trucks and crushed.

10. On August 12, 2019, ACLUM submitted a public records request to the City seeking records related to “Operation Clean Sweep” and follow-up police actions in the area where the initial “Sweep” occurred. A copy of the request is attached as Exhibit A. It was part of a communication to the Mayor of Boston expressing initial concerns about the actions taken. Items 1-3 of the request sought documents about “Operation Clean Sweep” not only from the Boston Police Department but from any and all employees or departments of the City that were involved, or possess records. Item 4 sought documents related to the U.S. Conference of Mayors recent annual meeting in Hawaii in which tactics for addressing issues of persons experiencing homelessness and who live or spend time on the streets were discussed. The request was acknowledged by the City’s Public Records Officer that same day.

The City failed to timely respond to ACLUM’s request

11. On August 26, 2016, the 10th business day after the request was received, the City’s Public Records officer sent ACLUM a letter, a copy of which is attached as Exhibit B, saying the City needed more time to respond and asserting:

The public records law permits a response time of up to twenty-five (25) business days from the business day a written request is received, so long as an explanation is provided. G. L. c. 66, § 10(b)(vi); 950 CMR 32.06(2)(i). I will provide a written follow up to this letter in ten (10) business days.

12. On September 6, 2019, ACLUM communicated with the City’s Public Records Officer that his assertion of freedom to ignore the 10 business day deadline based solely on

providing “an explanation” – as opposed to fully complying with all the requirements of G.L. c. 66, § 10(b) – was flawed, and asked for prompt production of the records.

13. That same day, the City’s Public Records Officer responded and said he had “the intention of providing a substantive response to you as early as Monday and no later than Tuesday” – specifically, either September 9 or 10.

14. Having still received no substantive response as of the night of September 11, 2019, ACLUM wrote again to the City’s Public Records Officer asking for yet another update. That same evening, the Public Records Officer responded and apologized and said that he “intend[ed] to provide a response to you no later than Friday of this week,” which would have been September 13.

15. Near midnight on September 13, the Records Officer wrote again and submitted that a “program I use to perform the final review of the responsive records became unresponsive” and therefore he “intend[ed] to provide a response to you on Monday, September 16.”

16. On Monday, September 16, the Records Officer wrote again saying he had just received records responsive to one of the requests so, instead of sending the records he already had collected, he would instead “send the full response to you tomorrow, September 17.”

17. On September 17, but not until after 9:00 p.m., the Records Officer sent a substantive response for the first time. *See Exhibit C.*

The City’s response improperly omitted records

18. With regard to the first three requests concerning “Operation Clean Sweep” and related follow-up actions, the response includes almost exclusively only a few after-the-fact email exchanges within the Boston Police Department and/or with the Massachusetts State

Police containing cryptic and brief summaries of actions taken on certain nights in August. No pre-operation planning or coordination documents, no actual police reports, no arrest logs, no property seizure logs or records, no communications between the Boston Police and City Hall or the other departments or agencies engaged in the “Sweep,” and no documents from the Department of Public Works or the Mayor’s office are included with regard to the requests specifically related to “Operation Clean Sweep.”

19. The produced emails include none sent or received during the first night of the “Sweep” on August 1, but do include some from August 2, the “second night of operation clean sweep” from Captain Jack Danilecki, who was apparently in charge. In this email thread, Captain Danilecki reported: “Atkinson was clean We hit surrounding area We have 9 under arrest so far Between uniform and drug control 9 arrests One female who was pregnant and overdosed in front of us was taken by H&H We checked blackstone park and Worcester sq Not a lot out We are continuing” and “Drug control made some more” to which the Commissioner of the Boston Police Department responded “TY great job.” No records were produced explaining what was meant by “hit[ting]” the surrounding area, revealing for what conduct arrests were made, or explaining the underlying purposes of “operation clean sweep.”

20. Another email thread from August 5 is also instructive and makes clear that other records have not been produced. At 9:12 p.m., Captain Danilecki reported: “Sir/Ma’m We conducted scaled down version of operation clean sweep tonight We had service unit from D-4, C-6, B-2 and State and Sheriff ride around mass, Cass and southampton st and we moved the homeless and a drug abusers and had them go back to Atkinson st Atkinson st was a ghost town And there was not a lot of people in the neighborhoods nor on street Found some under Xway ramp at mass and large group on Cass All cooperated and went to Atkinson st.” The only

response to this produced by the City was from Major Richard Ball of the Massachusetts State Police saying: “Outstanding! Thank you.” Yet no records were produced containing after-action reports by the service units or others involved, any pre-action communications with the State Police or the Sheriff’s office, any explanation as to why people were being sent back to Atkinson Street when just nights before they had been forced away from that area, and who ordered any of this activity.

21. The produced emails also include a thread from the night of August 6, 2019 beginning with Captain Danilecki reporting: “Sirs/Ma’m We did Operation Clean Sweep tonight with BPD, State, Sheriff’s, DPW and needle clean up crew Very busy night Very productive D-4 had most population Garbage trucks are invaluable to us, strong deterrent for them to set up camps We had civilians in green traffic vests following us on bicycles video taping us All good ... no issues.” This elicited a response of “Great job Jack. Thank you” from Massachusetts State Police Major Ball. Yet no records were produced explaining what made this night so “productive,” what items were put into the “invaluable” garbage trucks, what personnel from each referenced agency were involved and in what capacity, or how coordination between BPD and the State Police, the Sheriff’s office or Department of Public Works was accomplished.

22. It is obvious from the review of the few records produced by the City that many responsive records are completely missing. Obviously missing records include but are not limited to:

- i) Any records referring to planning for “Operation Clean Sweep” (which would include records of pre-operation preparation and collaboration both with the Boston Police Department and between the Boston Police and other departments or agencies), as requested by Request Number 1; notably, the Police Commissioner told

the Boston Globe on or about August 9, 2019, that the operation was “long planned” -

<https://www.bostonglobe.com/metro/2019/08/09/rollins-criticizes-south-end-sweeps/SONqbTwoIN8S3Ji3a2VonM/story.html?event=event25>;

ii) Any records referring to orders for the “Operation” to be undertaken or how it should be undertaken, also covered by Request Number 1;

iii) Any records referring to policies or procedures to be followed during the “Operation,” also covered by Request Number 1;

iv) Any records containing communications from August 1, 2019, also covered by Request Number 1;

v) Any records from the Mayor’s office, the Department of Public Works or other departments other than the Boston Police with regard to the first three requests about “Operation Clean Sweep”;

vi) Any records revealing with specificity what property was seized from people in the area during the “Operation” and why, also covered by Request Number 1;

vii) Any actual arrest logs or police reports, as requested by Request Numbers 1 and 2, notwithstanding that G.L. c. 41, § 98F requires police to keep police logs and make them available to the public; even though the Boston Police Department previously published publicly the names, ages and charges made against each person arrested in the “Sweep” on August 1 and 2, 2019, *see, e.g.*,

<https://bpdnews.com/news/2019/8/2/bpd-operation> and

<https://bpdnews.com/news/2019/8/3/bpd-arrests-sixteen-individuals-in-the-area-of-massachusetts-avenue-and-southampton-street>; and even though such records and

reports have clearly been made available to at least one news outlet,

<http://www.wbur.org/news/2019/09/19/south-end-arrests-review>;

viii) Any records discussing or referring to police actions following the original “Sweep” that the Department itself has referred to as “directed” or “maintenance” patrols, which are covered by Request Number 2;

ix) Any records of communications between the Boston Police Department and the Massachusetts State Police, the Suffolk County Sheriff’s Office, the Department of Public Works, or other entities identified in Request Number 3, other than a very few emails as discussed above in which members of the Boston Police Department reported very generally on the arrests and other results of the Sweep on certain nights;

x) Any records revealing the reasons for moving people who were not committing crimes out of or around within the area;

xi) Any records revealing the results of any post-action review of “Operation Clean Sweep” or related actions; and

xii) Any records in response to Request number 4 containing documents or materials actually distributed in connection with or notes taken at the U.S. Conference of Mayors 2019 conference concerning homelessness initiatives, and any records showing onto which resolutions the Mayor of Boston signed, as opposed merely to a few emails about the Conference written prior to the Conference; indeed, documents specifically referenced in the produced emails were not themselves produced.

23. Among the limited number of produced documents referring to arrests, the City produced a copy of a spreadsheet listing references to booking numbers, booking dates, booking

times, booking district, “special arrest” codes, “call signs,” incident numbers and arrest locations on August 1 and 2, but the names and addresses of those arrested are all redacted. *See* Exhibit D attached. The unredacted information in this document fails to reveal for what alleged crimes people were arrested and the circumstances under which they came to be arrested.

24. The City claims as a basis for its redaction of Exhibit D the exemption to the Public Records Law applicable where release of materials “relat[es] to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of privacy.” G.L. c. 4, § 7, Twenty-Sixth (c). It asserts this reason for not providing responsive information even though arrest logs with arrestees’ names, addresses and charges are public as a matter of statute, and must be “written in a form that can be easily understood,” G.L. c. 41, § 98F, and even though the Boston Police Department itself had previously published the names of people arrested during the “Operation” and the charges on which they were arrested.

25. On the afternoon of September 20, 2019, ACLUM wrote again to the City’s Public Records Officer flagging that many responsive documents seemed to be missing and asking if the City intended to produce more. The Records Officer indicated his understanding that all records that were going to be provided had been produced.

CLAIMS FOR RELIEF

COUNT I – VIOLATION THE MASSACHUSETTS PUBLIC RECORDS LAW – G.L. C. 66, § 10

26. Plaintiff incorporates by reference and re-alleges all of the allegations in the preceding paragraphs.

27. The PRL strongly favors disclosure by creating a presumption that all government records are public records. The purpose of the PRL is to enable the public to hold their government officials accountable for their conduct.

28. Under the PRL, defendant was required to respond to plaintiff's request within ten business days, to conduct an adequate search for responsive documents, and to demonstrate application of any exemptions. G.L. c. 66, § 10(a)-(b).

29. Defendant has custody of the public records requested by plaintiff.

30. Defendant failed to produce records or otherwise respond to plaintiff's request within the ten business days provided by the PRL.

31. Defendant has continued to fail to produce all responsive records.

32. Plaintiff is entitled to injunctive relief requiring defendants to produce the requested records post-haste. G.L. c. 66, § 10A(c)-(d).

33. Plaintiff is entitled to injunctive relief prohibiting defendants charging any fee for the production of the records sought. G.L. c. 66, §§ 10(e), 10A(c)-(d).

34. Plaintiff is entitled to an award of reasonable attorney fees and costs. G.L. c. 66, § 10A(d)(2).

COUNT II – DECLARATORY JUDGMENT – G.L. C. 231A

35. Plaintiff incorporates by reference and re-alleges all of the allegations in the preceding paragraphs.

36. There is an actual controversy between plaintiff and defendant regarding the production of the requested records and the conditions under which the City can unilaterally provide itself an extension of time beyond 10 business days to respond to a public records request.

37. Pursuant to G.L. c. 231A and the PRL, plaintiff is entitled to a declaration that the records it requests are public records within the meaning of G. L. c. 66, § 10, that their release is

required by law, and that the City did not have legal justification for not producing records within 10 business days and for not producing all responsive records.

PRAYERS FOR RELIEF

Wherefore, plaintiff ACLUM asks this Court to GRANT the following relief:

38. Issue a declaratory judgment pursuant to G. L. c. 231A that additional records plaintiff has requested are public records within the meaning of G. L. c. 66, § 10 and that their release is required by law;
39. Issue a declaratory judgment pursuant to G. L. c. 231A that defendant has violated G.L. c. 66, § 10 by not responding substantively to the request within 10 business days, including because it did not comply with all conditions set forth in G.L. c. 66, § 10(b);
40. Enter preliminary and permanent injunctions ordering defendant to immediately produce additional records responsive to the request without charge to ACLUM;
41. Award ACLUM costs and reasonable attorney fees in the action; and
42. Grant such other relief as the Court may deem just and proper.

September 24, 2019

Respectfully submitted,



Ruth A. Bourquin (BBO #552985)
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AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Massachusetts

August 12, 2019

By Hand Delivery

The Honorable Martin J. Walsh
Mayor of the City of Boston
1 City Hall Square, Suite 500
Boston, MA 02201-2013

Re: Operation "Clean Sweep"

Dear Mayor Walsh,

We are writing on behalf of the American Civil Liberties Union of Massachusetts (ACLUM) to express deep concern about what appear to be serious violations of Constitutional and other legal protections caused by the recent police actions in the area of Melnea Cass Boulevard, Southampton Street, and Massachusetts Avenue, including Atkinson Street. These actions occurred on at least August 1, August 2 and August 6 and, according to eye witness reports, seem to be occurring on an on-going basis but perhaps on a less massive scale.

These actions, which the Boston Police Department (BPD) has apparently dubbed Operation "Clean Sweep," have targeted not just persons engaged in alleged criminal activity but, more generally, persons experiencing homelessness and individuals with disabilities in the area. On an ongoing basis, "directed patrols" are apparently occurring in the area, which reportedly include forcing individuals to move along on the streets upon threat of arrest and demanding they empty their pockets for inspection by the officers.

While we understand that public safety must be protected, it cannot be at the cost of compliance with basic legal rights. Therefore, we ask that you direct the BPD to cease and desist these activities, pending further discussions and implementation of appropriate policies and procedures.

We also ask that the City promptly provide the public records requested at the end of this letter.

Factual Background

Our understanding of the facts is informed by attendance by ACLUM staff at a public forum last week at which members of your Administration appeared, our review of media reports, a review of social media accounts of those present during the police actions, and conversations with some of those directly affected. Of course, responses to the enclosed public records request and ongoing discussions with eye witnesses and affected individuals will enable us to confirm the facts more specifically.

On August 1, 2019, a corrections officer on his way to work was allegedly assaulted in the neighborhood by certain individuals. The incident was captured on videotape, enabling identification of some or all of the individuals actually involved in this troubling incident.

Instead of addressing the matter by investigating those who were responsible, the BPD, reportedly at your direction¹ and clearly at the direction of BPD officials, entered the area—in substantial force—on August 1, August 2 and again on August 6. Officers reportedly surrounded individuals who were lawfully on the streets in the area, demanded to know their identities, arrested some on charges unrelated to the assault on the corrections officer, forced others to leave the area—including by accusing them of “loitering”—and confiscated and destroyed personal property of persons on the streets, including wheelchairs and other items belonging to those with disabilities.

As far as we can discern, the City provided no advance notice to affected persons of summarily destroyed personal property.

We understand that your Administration is committed to providing services to those in need, and we thank you for that. But efforts to provide services cannot be conducted in ways that violate basic legal rights.

Legal Issues

In addition to the moral and ethical issues raised by these actions against some of the most vulnerable members of our society, the conduct of the City and BPD in these regards raises a host of serious legal issues.

¹ See <https://whdh.com/news/boston-police-make-several-arrests-in-clean-sweep-response-to-attack-on-correction-officer/> and <https://defensemaven.io/bluelivesmatter/news/video-boston-mob-beats-corrections-officer-so-mayor-orders-clean-sweep-sPXRGZFIJUCFg69aioiPLQ/>.

First, our Constitutions do not allow police to assume guilt by association, and here many of the affected individuals indeed have no association with the alleged perpetrators of crimes, other than having no place other than the streets to sleep, sit and store their belongings. It is well established that forcing individuals to undergo questioning without reasonable, individualized suspicion of criminal conduct violates state and federal Constitutional protections against unreasonable searches and seizures. *See, e.g., U.S. v. Espinoza*, 490 F.3d 41 (1st Cir. 2007).

Second, seizing and destroying private, unabandoned property without prior notice and the opportunity to first remove that property, and without providing a system for individuals to reclaim confiscated property, violates the Fourth and Fourteenth Amendments of the U.S. Constitution and similar state Constitutional provisions. *See, e.g., Proctor v. District of Columbia*, 2018 WL 6181739 (D.D.C. 2018); *Russell v. City of Honolulu*, 2019 WL 6222714 (D. Ha. 2013); *Lavan v. City of Los Angeles*, 797 F. Supp. 2d 1005 (C.D. Cal. 2011). *See also Lyall v. City of Denver*, 319 F.R.D. 558 (D. Colo. 2017) (certifying class action challenging sweeps and taking of property); *Kincaid v. City of Fresno*, 244 F.R.D. 497 (C.D. Cal. 2007) (same).

Third, we are unaware that the City or the BPD made any reasonable modifications for persons with disabilities, apparently resulting in such persons being left without wheelchairs and medication. This is in violation of Title II of the Americans with Disabilities Act and other state and federal laws protecting the rights of persons with disabilities.

Finally, the City of Boston's anti-loitering ordinance has been ruled unconstitutional. *Commonwealth v. Williams*, 395 Mass. 302 (1985). Yet officers apparently continue to cite it as a basis to force individuals to move away from locations on a public street where they have every right to be, thereby creating a strong likelihood of violations of the Massachusetts Civil Rights Act, G.L. c. 12, § 11H.

Requested Actions

In light of the foregoing legal issues, and to avoid the need for litigation, ACLUM urges you to immediately direct BPD and any others working with them in these actions to cease this problematic conduct.

We also would recommend that the City take affirmative steps to identify and provide compensation to those whose property and personal rights have been violated.

Finally, we request the following public records, pursuant to G.L. c. 66, § 10, within the 10 business days required by law. The request covers records in the custody of any individual employed by the City and any department thereof, including but not limited to the office of the Mayor and BPD. Since this request is in the public interest and for the benefit of very low income individuals, we ask that any fees for such records be waived.

The records requested at this time are as follows:

- 1) All records discussing, referring to, planning, ordering, describing, documenting, or evaluating the actions taken by BPD during August 2019 in the area of Massachusetts Avenue, Southampton Street, Melnea Cass Boulevard and Atkinson Street, including but not limited to Operation "Clean Sweep," and including but not limited to all records reflecting or revealing arrests made, property seized, orders to carry out the actions taken, and/or policies and procedures followed or intended to be followed by BPD.
- 2) All records discussing, referring to, planning, ordering, describing, documenting, or evaluating the "directed patrols" referred to by Michael Stratton, deputy superintendent of the BPD, in the Boston Globe article published on August 8, 2019, available at <https://www.bostonglobe.com/metro/2019/08/08/tensions-flare-homeless-and-drug-users-spread-into-south-end/6ezmt03vWJ2GEUvs2aRQhK/story.html>, and which seem to be ongoing on a daily or near-daily basis, including but not limited to all records reflecting or revealing arrests made, property seized, orders to take the actions taken, and/or policies and procedures followed or intended to be followed by BPD.
- 3) All records discussing, referring to, or containing any communications with the Massachusetts State Police, Governor Baker or any employee of his administration, members or officers of the corrections officers union representing South Bay corrections officers, and/or District Attorney Rachael Rollins concerning the BPD actions described in items #1 and #2 of this records request.
- 4) All records relating to the 2019 U.S. Conference of Mayors' 87th Annual Meeting in Honolulu, Hawaii concerning the issue of homelessness, including any materials provided or notes taken before, during or after the event.

Conclusion

On behalf of ACLUM, and the vulnerable individuals being adversely affected by these police actions, we urge you to promptly and publicly order the cessation of these activities. BPD would remain free to address actual or suspected criminal activity based on probable cause and reasonable suspicion. What cannot continue is this targeting of vulnerable individuals *en masse* based only on the fact that they are present in a location with other vulnerable individuals.

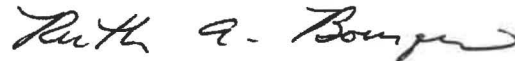
We also urge a prompt response to the public records request set forth above.

If you would like to schedule a time to meet and discuss these issues, including how public safety can be protected and appropriate services can be provided consistent with law, we would be more than willing to make time. In any event, we would respectfully request a timely response to our request that these actions be suspended.

Sincerely,



Matthew Segal
Legal Director
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Ext. 330



Ruth Bourquin
Senior & Managing Attorney
rbourquin@aclum.org
Ext. 348

cc: Shawn Williams, City of Boston Records Officer (by email)
Eugene O'Flaherty, Corporation Counsel (by email)
Nicole O'Connor, Counsel for BPD (by email)



EXHIBIT B

PUBLIC RECORDS

OFFICE OF THE RECORDS ACCESS OFFICER

Martin J. Walsh, Mayor

August 26, 2019

Ruth A. Bourquin
Senior Attorney
ACLU Massachusetts
211 Congress Street
Boston, MA 02110
rbourquin@aclum.org

Re: August 12, 2019 Public Records Request

Dear Ruth:

The City of Boston (City) has received your request for public records from the Boston Police Department. A response to a public records request must be provided within ten (10) business days from the business day a written request was received. G. L. c. 66, § 10 (a); 950 CMR 32.06(2)(b). This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Specifically, you requested the following, including your clarification of Request 2:

- 1. All records discussing, referring to, planning, ordering, describing, documenting, or evaluating the actions taken by BPD during August 2019 in the area of Massachusetts Avenue, Southampton Street, Melnea Cass Boulevard and Atkinson Street, including but not limited to Operation "Clean Sweep," and including but not limited to all records reflecting or revealing arrests made, property seized, orders to carry out the actions taken, and/or policies and procedures followed or intended to be followed by BPD.*
- 2. All records discussing, referring to, planning, ordering, describing, documenting, or evaluating the "directed patrols" referred to by Michael Stratton, deputy superintendent of the BPD, in the Boston Globe article published on August 8, 2019, and which seem to be ongoing on a daily or near-daily basis, including but not limited to all records reflecting or revealing arrests made, property seized, orders to take the actions taken, and/or policies and procedures followed or intended to be followed by BPD.*

With regard to request #2 of our public records request, please be advised that that is intended to cover "maintenance patrols" or "directed patrols" or any police actions in the identified area directed at people who congregate there. I write to make this clarification because we have just seen a distinction being made by City personnel between "maintenance" and "directed" patrols. [Boston.com article published August 9, 2019]

3. *All records discussing, referring to, or containing any communications with the Massachusetts State Police, Governor Baker or any employee of his administration, members or officers of the corrections officers union representing South Bay corrections officers, and/or District Attorney Rachael Rollins concerning the BPD actions described in items #1 and #2 of this records request.*
4. *All records relating to the 2019 U.S. Conference of Mayors' 87th Annual Meeting in Honolulu, Hawaii concerning the issue of homelessness, including any materials provided or notes taken before, during or after the event.*

The City needs additional time to provide any responsive records. The public records law permits a response time of up to twenty-five (25) business days from the business day a written request is received, so long as an explanation is provided. G. L. c. 66, § 10(b)(vi); 950 CMR 32.06(2)(i). I will provide a written follow up to this letter in ten (10) business days.

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G. L. c. 66, § 10A (c); G. L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Very truly yours,



Shawn A. Williams, Esq.
Director of Public Records



EXHIBIT C

PUBLIC RECORDS

OFFICE OF THE RECORDS ACCESS OFFICER

Martin J. Walsh, Mayor

September 17, 2019

Ruth A. Bourquin
Senior Attorney
ACLU Massachusetts
211 Congress Street
Boston, MA 02110
rbourquin@aclum.org

Re: Final Response to August 12, 2019 Public Records Request

Dear Ruth:

The City of Boston (City) has received your request for public records from the Boston Police Department. A response to a public records request must be provided within ten (10) business days from the business day a written request was received. G. L. c. 66, § 10 (a); 950 CMR 32.06(2)(b). This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Specifically, you requested the following, including your clarification of Request 2:

- 1. All records discussing, referring to, planning, ordering, describing, documenting, or evaluating the actions taken by BPD during August 2019 in the area of Massachusetts Avenue, Southampton Street, Melnea Cass Boulevard and Atkinson Street, including but not limited to Operation "Clean Sweep," and including but not limited to all records reflecting or revealing arrests made, property seized, orders to carry out the actions taken, and/or policies and procedures followed or intended to be followed by BPD.*
- 2. All records discussing, referring to, planning, ordering, describing, documenting, or evaluating the "directed patrols" referred to by Michael Stratton, deputy superintendent of the BPD, in the Boston Globe article published on August 8, 2019, and which seem to be ongoing on a daily or near-daily basis, including but not limited to all records reflecting or revealing arrests made, property seized, orders to take the actions taken, and/or policies and procedures followed or intended to be followed by BPD.*

With regard to request #2 of our public records request, please be advised that that is intended to cover "maintenance patrols" or "directed patrols" or any police actions in the identified area directed at people who congregate there. I write to make this clarification because we have just seen a distinction being made by City personnel between "maintenance" and "directed" patrols. [Boston.com article published August 9, 2019]

3. *All records discussing, referring to, or containing any communications with the Massachusetts State Police, Governor Baker or any employee of his administration, members or officers of the corrections officers union representing South Bay corrections officers, and/or District Attorney Rachael Rollins concerning the BPD actions described in items #1 and #2 of this records request.*
4. *All records relating to the 2019 U.S. Conference of Mayors' 87th Annual Meeting in Honolulu, Hawaii concerning the issue of homelessness, including any materials provided or notes taken before, during or after the event.*

The records responsive to Requests 1-3 are located [here](#). Please note that one (1) document, identified as [17.pdf](#), is partially redacted to omit personally identifiable information regarding certain persons arrested during this period. This redacted information is exempt pursuant to the first and second clause of the privacy exemption to the public records law. This information identified persons who may have a substance abuse problem. This information is both medical, as it is diagnostic in nature, as well as an intimate detail. The courts have stated information is an intimate detail if it identifies a person and relates to substance abuse. The public interest in disclosure is not outweighed by this privacy interest. G. L. c. 4, § 7 (26) (c). All responsive records are provided and no records are withheld or redacted other than the portions identified above.

The records responsive to Request 4 are located [here](#). Please note that one email is redacted to omit attorney-client protected communications. To withhold a record under the common law attorney-client privilege a government custodian must "provide a detailed description of the record, including the names of the author and recipients, the date, the substance of such record, and the grounds upon which the attorney-client privilege is being claimed." G. L. c. 66, § 10A(a). The portion of the record redacted is entitled Subject: Fw: Checking in - USCM meeting with Mayor Walsh. The redacted portion does not contain information relative to the substance of your request for records. All responsive records are provided and no records are withheld or redacted other than the portions identified above.

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G. L. c. 66, § 10A (c); G. L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Very truly yours,



Shawn A. Williams, Esq.
Director of Public Records

	A	B	C	D	E	F	G	H	I
1	BK_NUM	BK_DATE	BK_TIME	BOOKINGDISTRICT	SPECIALARRESTCODE	CALLSIGN	INCIDENT_NUM	ARREST_LOCATION	SURNAME
2	20190024706	01-Aug-19	08:56:00 PM	C6	N/A	A102F	192059818	Southampton St/Bradston St	
3	20190089802	02-Aug-19	09:35:00 AM	B2	N/A	B611	182078905	44 Reading St	
4	20190118304	02-Aug-19	03:19:00 PM	D4	N/A	D431D	162080232	33 E Springfield St	
5	20190024606	01-Aug-19	08:21:00 PM	D4	N/A	D431F	192059799	795 Mass Ave	
6	20190118404	02-Aug-19	05:51:00 PM	D4	N/A	DK01F	192060090	Topeka/Southampton St	
7	20190116104	01-Aug-19	06:52:00 PM	D4	N/A	F102F	192059758	112 Southampton	
8	20190116004	01-Aug-19	12:21:00 PM	C6	N/A	F810	192059632	Southampton St / Atkinson St	
9	20190118104	02-Aug-19	01:58:00 PM	C6	N/A	FG01D	182029508	115 Southampton St	
10	20190025106	02-Aug-19	08:59:00 PM	D4	N/A	T625	192060155	794 Mass Ave	
11	20190025206	02-Aug-19	09:29:00 PM	D4	N/A	T625	192012895	794 Mass Ave	
12	20190118904	02-Aug-19	09:12:00 PM	D4	N/A	T631	192060160	112 Southampton Street	
13	20190117204	01-Aug-19	11:50:00 PM	D4	N/A	T631	192059766	Atkinson St/Southampton St	
14	20190117304	02-Aug-19	12:04:00 AM	D4	N/A	T631	192059766	Atkinson St/Southampton St	
15	20190117704	02-Aug-19	12:55:00 AM	D4	N/A	T631	192059766	Atkinson St/Southampton St	
16	20190117404	02-Aug-19	12:21:00 AM	D4	N/A	T631	192059766	Atkinson St/Southampton St	
17	20190117104	01-Aug-19	11:22:00 PM	D4	N/A	T631	192059766	Atkinson/Southampton	
18	20190116704	01-Aug-19	09:32:00 PM	D4	N/A	T631	192059766	Atkinson/Southampton	
19	20190116804	01-Aug-19	10:07:00 PM	D4	N/A	T631	192059766	Atkinson/Southampton	
20	20190117504	02-Aug-19	12:36:00 AM	D4	N/A	T631	192059766	Atkinson/Southampton	
21	20190117004	01-Aug-19	10:58:00 PM	D4	N/A	T631	192059766	Atkinson/Southampton	
22	20190117604	02-Aug-19	12:44:00 AM	D4	N/A	T631	192059766	Atkinson/Southampton St	
23	20190117804	02-Aug-19	11:54:00 AM	D4	N/A	V801	192019265	Mass Ave/ Albany	
24	20190089502	01-Aug-19	11:06:00 PM	B2	Drug Unit Arrests	V867	182041863	Gerard St/Island	
25	20190118004	02-Aug-19	01:20:00 PM	D4	Drug Unit Arrests	V938	192060009	9 Melnea Cass Blvd	
26	20190118204	02-Aug-19	02:34:00 PM	D4	Drug Unit Arrests	V938	192060009	Massachusetts Av/ Albany St	
27	20190024406	01-Aug-19	02:25:00 PM	C6	Drug Unit Arrests	V938	192059670	Southampton St/Atkinson St	
28	20190025006	02-Aug-19	08:33:00 PM	D4	N/A	VD110	192060148	30 Northampton St	
29	20190116604	01-Aug-19	09:11:00 PM	D4	N/A	VD110	192059789	870 Mass Ave	
30	20190116504	01-Aug-19	08:53:00 PM	D4	Drug Unit Arrests	VD110	192059789	870 Mass Ave	
31	20190118704	02-Aug-19	08:26:00 PM	D4	Drug Unit Arrests	VD115	192060141	Southampton/Glenway	
32	20190116404	01-Aug-19	08:37:00 PM	D4	Drug Unit Arrests	VD16	192059796	32 Gerard St	
33	20190119204	02-Aug-19	10:57:00 PM	D4	Drug Unit Arrests	VD16	192060145	Mass Ave/Albany	
34	20190119304	02-Aug-19	11:21:00 PM	D4	Drug Unit Arrests	VD16	192060145	Mass Ave/Albany St	
35	20190024506	01-Aug-19	07:54:00 PM	C6	Drug Unit Arrests	VD180	182091623	Southampton St/Cummings St	
36	20190116304	01-Aug-19	08:13:00 PM	D4	Drug Unit Arrests	VD211	192059783	155 Southampton	
37	20190116204	01-Aug-19	07:48:00 PM	D4	N/A	VD837	192059783	155 Southampton	
38	20190118504	02-Aug-19	07:39:00 PM	D4	Drug Unit Arrests	VD938	192060131	85 Southampton	
39	20190118604	02-Aug-19	08:05:00 PM	D4	Drug Unit Arrests	VD938	192060131	Topeka/Southampton	
40	20190118804	02-Aug-19	08:47:00 PM	D4	N/A	YB04	192060160	112 Southampton St	
41	20190119004	02-Aug-19	09:37:00 PM	D4	N/A	YB04	192060160	112 Southampton Street	

EXHIBIT D

	J	K	L	M	N	O	P	Q	R	S	T	U	V
1	GIVEN1	DOB	STREET NUM	STREET NAME	STREET TYPE	CITY	RACE	HEIGHT	BUILD	SEX	WEIGHT	OCCUPATION	SOCIAL SEC NUM
2						ROSLINDALE	H	62	T	F	167		
3						BOSTON	I	70	S	M	175		
4					ST	BOSTON	W	71	M	M	185		
5						DORCHESTER	K	62	S	F	120		
6					CI	MEDFORD	W	69	M	M	170		
7					ST	BOSTON	K	62	T	M	145		
8					ST	BOSTON	K	65	M	M	160		
9					ST	DORCHESTER	K	71	S	M	185		
10						BOSTON	W	62		F	115		
11						WATERTOWN	W	61		F	106		
12						HOMELESS	K	68		M	140		
13						BOSTON	K	68	M	M	175		
14						BOSTON	I	71	S	M	150		
15						BOSTON	I	65	S	M	135		
16						BOSTON	H	69	M	M	175		
17					ST	ROXBURY	K	68	M	M	162		
18					ST	BOSTON	W	68	S	M	150		
19					ST	BOSTON	K	69	M	M	190		
20						BOSTON	K	74	H	M	230		
21					ST	BOSTON	H	70	S	M	150		
22						BOSTON	W	72	M	M	200		
23						BOSTON	W	74	M	M	180		
24					ST	BOSTON	K	66	M	M	145		
25					ST	WEST ROXBURY	W	67	T	M	200		
26					ST	MATTAPAN	K	68	T	M	200		
27						HANSON	W	61	S	F	125		
28						BOSTON	I	64		F	120		
29						BOSTON	H	65	M	M	160		
30						BOSTON	H	69	S	M	140		
31					AV	BOSTON	W	70	M	M	200		
32						BOSTON	H	67	M	M	180		
33						BOSTON	K	69	M	M	185		
34					ST	BOSTON	K	69	U	M	200		
35						ROXBURY	K	64	S	F	130		
36					ST	ROXBURY	W	71	M	M	210		
37						BOSTON	K	66	S	M	125		
38					AV	BOSTON	K	73	S	M	185		
39					ST	PLYMOUTH	W	66	M	M	140		
40					AV	BRIGHTON	W	75	S	M	150		
41						HOMELESS	W	72	S	M	178		

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