



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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March 10, 2011

John Reinstein, Legal Director
American Civil Liberties Union of Massachusetts
211 Congress Street
Boston, MA 02110

Re: Your Public Records Request

Dear Mr. Reinstein:

This letter is in further response to your public records request, dated January 13, 2011 and received by this office on January 18, 2011, made pursuant to the Massachusetts Public Records Law, G.L. c. 66, § 10. You requested copies of records held by the Office of the Attorney General (AGO), specifically nine (9) categories of records related to our office's issuance of G.L. c. 271, § 17B administrative subpoenas.

After a comprehensive search of AGO records, we respond to each part of your request as follows:

1. Any written description of the procedure for approval of the issuance by the [A]ttorney [G]eneral of an administrative subpoena pursuant to the provisions of § 17B;

The AGO has no records responsive to your request.

2. A sample of the form of a § 17B administrative subpoena used by the [O]ffice of the [A]ttorney [G]eneral;

Enclosed please find 2 pages of records that may be responsive to your request and subject to disclosure under the public records law, G.L. c. 66, § 10 and G.L. c. 4, § 7, cl. 26.

3. Records showing the number of § 17B administrative subpoenas issued by the [A]ttorney [G]eneral in each year for the years 2008, 2009 and 2010;

To the extent that the AGO possesses records responsive to your request, they fall within an exemption from the definition of public records under G.L. c. 4, § 7, cl. 26(f), and therefore they are not subject to disclosure, as they are investigative materials and/or investigatory techniques that are necessarily compiled out of the public's view, the disclosure of which would compromise effective law enforcement.



4. Records showing the particular offenses or category of offenses which were the subject of “ongoing criminal investigations” justifying the issuance of a § 17B administrative subpoena in each year for the years 2008, 2009 and 2010 and the number of such subpoenas issued for each offense or category of offense;

To the extent that the AGO possesses records responsive to your request, they fall within an exemption from the definition of public records under G.L. c. 4, § 7, cl. 26(f), and therefore they are not subject to disclosure, as they are investigative materials and/or investigatory techniques that are necessarily compiled out of the public’s view, the disclosure of which would compromise effective law enforcement.

5. Records showing whether in any case the recipient of a § 17B administrative subpoena was requested not to disclose to the subject of the records that a subpoena for his records had been received;

To the extent that the AGO possesses records responsive to your request, they fall within an exemption from the definition of public records under G.L. c. 4, § 7, cl. 26(f), and therefore they are not subject to disclosure, as they are investigative materials and/or investigatory techniques that are necessarily compiled out of the public’s view, the disclosure of which would compromise effective law enforcement.

Additional Note: See document provided in response to Request #2.

6. Records showing whether notice of any § 17B administrative subpoena was provided to the person or entity who is the subject of the records;

To the extent that the AGO possesses records responsive to your request, they fall within an exemption from the definition of public records under G.L. c. 4, § 7, cl. 26(f), and therefore they are not subject to disclosure, as they are investigative materials and/or investigatory techniques that are necessarily compiled out of the public’s view, the disclosure of which would compromise effective law enforcement.

7. Records showing the names of the common carriers or service providers to whom a § 17B administrative subpoenas was issued by the [A]ttorney [G]eneral and the number of such subpoenas issued to each in each year for the years 2008, 2009 and 2010;

To the extent that the AGO possesses records responsive to your request, they fall within an exemption from the definition of public records under G.L. c. 4, § 7, cl. 26(f), and therefore they are not subject to disclosure, as they are investigative materials and/or investigatory techniques that are necessarily compiled out of the public’s view, the disclosure of which would compromise effective law enforcement.

John Reinstein
March 10, 2011
page 3

8. Any motions to quash a § 17B subpoena which have been filed since October 2008;
and

The AGO has no records responsive to your request.

9. Records showing the name and court docket number of any case in which a motion to suppress evidence obtained as a result of a § 17B subpoena has been filed.

Please be advised that we are in the process of identifying and reviewing records that may be responsive to your request and subject to disclosure under the public records law, G.L. c. 66, § 10 and G.L. c. 4, § 7, cl. 26. You will be notified as soon as possible of the results of our efforts, and whether there is a cost associated with producing responsive records that are not otherwise exempt from disclosure.

The public records law permits a custodian of public records to charge a requester for the expense of searching for, retrieving, and segregating responsive records, in addition to charges for photocopying. See G.L. c. 66, § 10; 950 CMR 32.06 (1)(c) and (4). As the costs for producing the enclosed responsive record are nominal, we are waiving the fees in this instance.

If you wish to challenge this response, you may appeal to the Supervisor of Public Records following the procedure set forth in 950 CMR 32.08, a copy of which is enclosed.

Very truly yours,



Lorraine A. G. Tarrow
Assistant Attorney General
General Counsel's Office

enclosures