



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES

CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

KATHLEEN A. THEOHARIDES  
SECRETARY OF ENERGY  
AND ENVIRONMENTAL AFFAIRS

ONE SOUTH STATION  
BOSTON, MA 02110  
(617) 305-3500

MATTHEW H. NELSON  
CHAIR

ROBERT E. HAYDEN  
COMMISSIONER

CECILE M. FRASER  
COMMISSIONER

August 13, 2019

Via Electronic Mail

Michael Hur  
American Civil Liberties Union of Massachusetts  
211 Congress Street  
Boston, MA 02110  
[mhur@aclum.org](mailto:mhur@aclum.org)

RE: Public Records Request

Dear Mr. Hur:

The Massachusetts Department of Public Utilities (“Department”) has received your public records request dated July 16, 2019, seeking copies of the following records: (1) records revealing the names, addresses, and contact information of “[e]very person engaged in the towing away of motor vehicles” pursuant to government authority in the past three years (“Item 1”); (2) pursuant to G.L., c. 159B, § 6B or any other state law, regulation, or policy, all annual reports, financial statements, or other documents revealing revenues and/or net profits filed by “[e]very person engaged in the towing away of motor vehicles” pursuant to government authority between January 1, 2016 and July 16, 2019 (“Item 2”); (3) all documents necessary to reveal the demographics (including race, ethnicity, and gender) of all persons whose cars were impounded in the past three years pursuant to an order by the police and the offense for which they were arrested (“Item 3”); and (4) any state laws, regulations, or policies that regulate tow companies and/or vehicle impoundment (“Item 4”). After a reasonable search, the Department has located some of the records responsive to your request and is enclosing these records.

On July 22, 2019, I contacted the American Civil Liberties Union of Massachusetts (“ACLU”) and spoke with your colleague, Jessica Lewis, who informed the Department that she is working on this matter and authorized the Department to discuss the request with her. The Department had contacted ACLU to request an extension of time to provide any potentially

responsive records until August 13, 2019 because the Department needed more time to collect the records relating to the financial statements of all towing carriers for the timeframe outlined in your request. During my conversation with Ms. Lewis, she agreed to an extension until August 13, 2019, to receive these records. In addition, on August 7, 2019, I contacted Ms. Lewis to seek a further extension because the Department needed an additional five business day to scan the financial statements for the fiscal year 2016. As a result of that conversation, Ms. Lewis amended Item 2 of your request to exclude any records for the fiscal year 2016 in order to expedite the production.

In response to Item 1 of your request, please note the information is available on the Department's website. You can access these records at <https://eeaonline.eea.state.ma.us/DPU/Fileroom/Transports>. Once you enter the webpage, please click the down arrow in the box appearing on the left corner. An alphabetical list of towns will display on the screen. Please select a town, then select the service type by clicking on the tab entitled "TOWERS". You will note the name, address, and contact information for each company are provided on the screen. If there are no towing companies listed for a town, the message "Nothing Found" will appear on the screen.

As you will note, the records for Item 2 are enclosed. Further, in response to Item 3, the Department has no records responsive to this request. Furthermore, in response to Item 4, please be advised the Department does not have jurisdiction over the regulation of vehicle impoundment throughout the Commonwealth. As for any state laws, regulations, or policies that regulate tow companies, please refer to the enclosed Bulletin and state regulations 220 CMR 272.00. For your convenience, you can access the regulations at <https://www.mass.gov/files/documents/2017/10/11/220cmr272.pdf>

Please also note that G.L. c. 4, § 7(26)(c) exempts from the definition of public records "personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy." Accordingly, the Department has redacted certain personal information, such two licensed carriers' policy numbers, a licensed carrier routing number, and a licensed carrier check number, prior to producing the records in response to your request.

Department staff spent approximately eight hours compiling and reviewing the documents related to this request. In the particular circumstances of this matter, the Department is waiving its right to recover the costs of compiling this information because the responsive record is likely to benefit the public interest and will not result in commercial gain. However, in the future the Department may charge for any subsequent requests based in accordance with governing law and policy. See G.L. c. 66, § 10(d); 950 CMR 32.07(2) (record custodian permitted to charge \$0.05 per double-sided page for black and white photocopies, and up to \$25.00 per hour for every hour of actual work preparing documents in excess of four hours). Therefore, compiling records in response to a similar request in the future may result in costs under public records laws of approximately \$100.00.

Any person denied access to public records may appeal to the Supervisor of Public Records ("Supervisor") within ninety (90) days and has the right to seek judicial review of an unfavorable decision by commencing a civil action in superior court pursuant to G.L. c. 66, §§ 10A(a), 10A(c). An appeal to the Supervisor shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. G.L. c. 66, § 10A(a); 950 CMR 32.08.

If you have any questions or require further information, please contact me at 617-305-3532.

Sincerely,



Carline L. Lemoine  
Legal Division

Enc.