



The Commonwealth of Massachusetts
Department of State Police

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Office of the Chief Legal Counsel
470 Worcester Road
Framingham, Massachusetts 01702

August 4, 2010

Laura Rotolo, Esq.
Staff Attorney
ACLU of Massachusetts
211 Congress Street
Boston, MA 02110

Re: Public Records Request

Dear Attorney Rotolo:

The Massachusetts Department of State Police (“Department”) received your public records request for records related to the Commonwealth of Massachusetts Fusion Center (“CFC”). It is my understanding that you are not requesting documents that were already provided in the Department’s previous responses on June 20, 2007 and August 28, 2008. In the interest of clarity, the Department responds to each of your requests individually as follows:

Information Sharing Agreements

Request No. 1: “Any document listing all Massachusetts cities and towns with which the [CFC] has entered into Memoranda of Understanding or other agreement regarding the sharing of intelligence or law enforcement information.”

RESPONSE: The Department does not have documents that are specifically responsive to this request. Although the CFC has entered into MOUs related to information sharing with some Massachusetts cities and towns, see generally Attachment 3 to the Department’s June 20, 2007 response, the Department does not have a document listing each such city and town. As was indicated in the Department’s June 20, 2007 response to question 10, it has been a longstanding, routine practice for the CFC and law enforcement agencies from Massachusetts cities and towns to share information with each other. General Laws chapter 22C, §§ 36 and 38 provide for such information sharing.

Request No. 2: **“A copy of any Memorandum of Understanding, contract or agreement between the Commonwealth Fusion Center and the FBI Joint Terrorism Task Force.”**

RESPONSE: The Department provided a copy of the 2003 Joint Terrorism Task Force (“JTTF”) MOU between the Department and the Federal Bureau of Investigation (“FBI”) in its August 28, 2008 response. The Department does not possess a more recent MOU with the JTTF.

Request No. 3: **“Any documents stating the procedures for sending information that is in the custody of the CFC to the national Information Sharing Environment.”**

RESPONSE: The Department does not have documents responsive to this request.

Request No. 4: **“Any Memoranda of Understanding, contract or agreements between the CFC and Fusion Centers in other states regarding the sharing of information.”**

RESPONSE: The Department provided the ACLU with documents responsive to this request in its June 20, 2007 and August 28, 2008 responses. The Department is unaware of any further MOUs executed since those responses.

Request No. 5: **“Any Memorandum of Understanding, contract or agreements between the CFC and the National Counterterrorism Center regarding the sharing of information.”**

RESPONSE: The Department does not have documents responsive to this request.

Request No. 6: **“Any Memorandum of Understanding, contract or agreement between the CFC and the Boston Regional Intelligence Center (BRIC) regarding the sharing of information.”**

RESPONSE: Please see the MOU between the CFC and the Boston Police Tactical Intelligence Center previously provided in Attachment 3 to the Department’s June 20, 2007 response. Please also see the 2009 MOU between the Massachusetts Criminal History Systems Board (“CHSB”), the Massachusetts Department of State Police, the Boston Police Department, and Knowledge Computing Corporation regarding the COPLINK software application. (Attachment A).

Privacy Working Group – Request Numbers 7 - 9

As you know, the Executive Office of Public Safety and Security (EOPSS) responded to Request Nos. 7 through 9 in a letter to you dated May 13, 2010.

CFC Operations and Procedures

Request No. 10: **“A document containing a list of all entities, whether public or private that have embedded personnel in the CFC as of January 2010.”**

RESPONSE: The Department does not have a document responsive to this request. The Federal Bureau of Investigation (“FBI”) and the Department of Homeland Security (“DHS”) have personnel embedded in the CFC as of January, 2010.

Request No. 11: **“Records indicating how the CFC identifies or labels information that is obtained from other agencies, specifically how the CFC labels the source of the information.”**

RESPONSE: The CFC identifies and labels information in accordance with 28 CFR Part 23. All information that is entered into the CFC’s Criminal Intelligence Database must comply with 28 CFR Part 23. Attached is a pamphlet, which sets forth required standards for entering data into multijurisdictional intelligence databases pursuant to 28 CFR Part 23. (Attachment B).

Request No. 12: **“CFC Standard Operating Procedures, rules, policies or regulations regarding responding to requests from the public under the Massachusetts Public Records Laws, G.L. c. 66, § 10, or the Fair Information Practices Act, G.L. c. 66A, §§ 1 *et seq.*”**

RESPONSE: Requests for information from the public are submitted to the Department’s Office of the Chief Legal Counsel and responded to in accordance with the law. (See also CFC-05 previously provided in Attachment 7 to the Department’s June 20, 2007 response).

Request No. 13: **“Any Standard Operating Procedures, rules, policies or regulations regarding auditing mechanisms to ensure that data obtained by the CFC is accurate and can legally be shared with other agencies; any description of such auditing mechanisms.”**

RESPONSE: Information submitted to the CFC for entry into the Criminal Intelligence Database is reviewed by CFC staff to ensure that it meets the requirements of 28 CFR Part 23 before being entered into the Database. In addition, information in the Database is automatically purged after five (5) years

unless it has been updated within the five (5) year period in accordance with 28 CFR Part 23. (See also CFC-05 previously provided in Attachment 7 to the Department's June 20, 2007 response).

Request No. 14: "A copy of the CFC budget for the years 2004 to the present, including the line items for funding and spending."

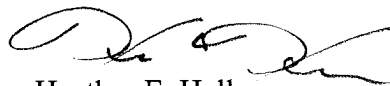
RESPONSE: The CFC does not have a responsive document for the year 2004 as it did not have expenditures specifically assigned to it for that year. With respect to the CFC budget for the years 2005 through 2010, please see Attachment C. There is an expenditure listed in the 2006 Budget for approximately \$965 to "Elmwood Donuts." Elmwood Donuts is a company doing business as Mel & Ernies Catering. (See Attachment D). This expenditure was related to food provided to attendees at a Homeland Security exercise that was conducted in conjunction with the Department of Homeland Security on June 15, 2006. (See Attachment D).

Request No. 15: "Records showing how many times the CFC has used undercover operatives since its inception and a description of such operations."

RESPONSE: If the Department had documents that were responsive to this request, they would not be subject to disclosure pursuant to G.L. c. 4, § 7(26)(f) and (n) (investigative and security exemptions). Furthermore, CFC-04 entitled, "Guidelines for Investigations Involving First Amendment Activity" effective April 8, 2008, is still in effect and adhered to. (See Attachment E).

Despite the fact that the response to this public records request required a substantial amount of time and resources, the Department has waived the fees for the costs associated with responding to this request. If you disagree with, or object to, the Department's response, you may appeal in accordance with G.L. c. 66, § 10(b) and 950 CMR 32.08. Please contact me at the number below if you have any questions or need further assistance. You may also contact Chief Legal Counsel LaDonna J. Hatton at (508) 820-2311.

Sincerely,



Heather E. Hall
Deputy Chief Legal Counsel
(508) 820-2629

Enclosures

Copy: Greg I. Massing, Esq.
Major Dermott J. Quinn
Lieutenant R. Scott Range