



## DENNIS POLICE DEPARTMENT

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Michael J. Whalen  
Chief of Police

90 Bob Crowell Road  
SOUTH DENNIS, MA 02660  
(774) 352-1451 (Voice)  
(774) 352-1442 (FAX)  
mwhalen@town.dennis.ma.us

September 5, 2013

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

Re: Public Records Request dated March 14, 2013

Dear Ms. Rotolo:

This letter is a follow-up to my earlier letters and is a response to your FOI request dated March 14, 2013. That request followed a meeting where I explained the general functions and workings of the Team. At that time I also provided you and Ms. Murray with a tour of the armored vehicle "Bearcat" and explained its basic uses and functions.

At this time I am responding to your request as a member agency of the Cape Cod Regional Law Enforcement Council. There are a number of exemptions to the Public Records Law that I believe are applicable to your request and those exemptions are outlined below. However, I have enclosed a copy of the Mutual Aid agreement currently in place and the line items in the FY 13 and FY 14 budgets of the CCRLEC that are applicable to the Tactical Team. You should know that the Council is in the process of amending the Mutual Aid agreement and I expect this process will take several months.

Although several exemptions to the Public Records Law have been cited below, such exemptions are not meant to be exhaustive.

First, under exemption (a) documents may be withheld to the extent they are exempted by other statutes. SWAT records that fall under CORI exemptions will not be released or they will be redacted to meet CORI requirements. Other statutes related to medical information or other public records may also be redacted or withheld.

Exemption (b) allows documents to be withheld from disclosure to the extent that the disclosure would prove detrimental to the workings of the team. Training records that outline specific tactics and strategies meet the meaning and spirit of this exemption and such records will be withheld or redacted in order to assure the safety of team members and confidentiality of specific tactics and security measures employed by the Team during the course of their work.

Under exemption (c), “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”, may be withheld from disclosure. To the extent that records specifically name individuals or contain “personal information” those records will be redacted or withheld.

Under exemption (f) to the Public Records Law, “investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest,” may be withheld from disclosure. As your request seeks reports prepared during, or in response to, sensitive police operations it may be possible that some documents responsive to your request may be connected to an ongoing criminal investigation or prosecution, and disclosure of those documents at this time may jeopardize such investigation or prosecution. Even if any criminal investigation is concluded, “[t]he fact that an investigation has concluded does not necessarily destroy the investigatory exemption. ‘[I]f an agency’s investigatory files were obtainable without limitation after the investigation was concluded, future law enforcement efforts by the agency could be seriously hindered.

Finally, under exemption (n) to the Public Records Law, “. . . records relating to the security or safety of persons, buildings, structures” may be exempted to the extent that such documents may jeopardize public safety. It is expected that there will be documents that meet this exemption and, therefore, such documents will be withheld or redacted to meet this exemption.

Pursuant to 950 CMR 32.08, you may appeal this response to the Supervisor of Public Records within 90 days.

Sincerely,



Michael J. Whalen  
Chief of Police