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March 7, 2012

Jonathan R. Davis
Acting General Manager
MBTA
16 Park Plaza, Room 3910
Boston, MA 02116

Re: Public Records Request

Dear Mr. Davis:

This is a public records request on behalf of the American Civil Liberties Union Foundation of Massachusetts for records made or received by the MBTA. As you know, in recent years, the MBTA has undergone a fundamental change in how it operates, with the introduction of electronic fare media and the phasing out of the token system.

Through the Charlie Card system, the MBTA provides riders with added convenience and benefits. It also is able to collect, store and share information about millions of passengers, including those who use managed account services, those who purchase MBTA tickets online, and those who use a credit card to pay for a fare at a Charlie Card station. It has also been reported that the MBTA maintains data about the use of individual Charlie Cards that have been purchased with cash, although the use of such cards may not always disclose personally identifiable information.

The data collected by the MBTA includes not only identification and purchase records, but also the time and location of each occasion that a Charlie Card is used. Video surveillance cameras further enhance the ability of the MBTA to track the activities and travel of individual passengers. The combination of the electronic fare records and digital video records thus make it possible to track the location of individual passengers throughout the system and to provide that information to other law enforcement agencies.

With MBTA ridership at an all-time high, hundreds of thousands of people pass the turnstiles every day leaving an electronic trace, yet the public is unaware of how that data is used, stored or shared. In order to enhance the public's understanding of these programs and to insure a measure of accountability for the operations of the MBTA, we request access to the following records.

Passenger Tracking

1. Any privacy policy, with the exception of the policy available at http://mbta.com/customer_support/privacy_policy/, that relates to MBTA riders and users of the MBTA website. By its own terms, the policy available online “only applies to information transmitted through [the MBTA] Website.” (Section 1). Please provide any other policies that apply to MBTA riders and users of the MBTA services.
2. Final memoranda, policies, guidance, standards, procedures and training materials related to:
 - a. The release of Personally Identifiable Information “in cases involving threat of imminent harm” (Privacy Policy Section 12);
 - b. Access by MBTA personnel to Personally Identifiable Information, user data and location data (Privacy Policy Section 5);
 - c. The release of Personally Identifiable Information, user data and location data to other law enforcement agencies; and
 - d. The retention or deletion of Personally Identifiable Information, user data and location data.
3. The job description of the MBTA Privacy and Security Administrator (Privacy Policy Section 14).
4. Any records indicating the number of times from 2005 to present when Personally Identifiable Information, user data or location data was released to third parties.
5. A copy of a blank “Personal Data Access Request Form” or any other form used to request Personally Identifiable Information, user data or location data.
6. Records of any auditing mechanism relating to MBTA officials’ and/or third parties’ access to Personally Identifiable Information, user data or location data.
7. Intra-agency agreements with local, state, or federal agencies regarding the sharing of Personally Identifiable Information, user data or location data
8. Final memoranda, policies, guidance, standards, procedures and training materials pertaining to:
 - a. Access of MBTA personnel to video surveillance/CCTV data;
 - b. The sharing of data obtained through video surveillance/CCTV with third parties or other law enforcement agencies;
 - c. The retention or destruction of video surveillance/CCTV data;
 - d. MBTA’s compliance with the Fourth Amendment in using video surveillance and/or CCTV cameras.

9. Intra-agency agreements with local, state, or federal agencies regarding the sharing of video surveillance/CCTV data.

Federal Grants

10. All applications for funding, award letters, budgets and progress reports for grants from the federal government, including ones from the Department of Homeland Security, the U.S. Department of Justice, the Department of Transportation and the Federal Highway Administration, relating to surveillance, intelligence operations and policing.

We appreciate that this request seeks a large number of records. We are happy to work with you to narrow the request or establish a reasonable phased timeline for the release of records. We are sending a concurrent request for related information to the MBTA Transit Police.

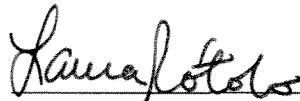
Because this request involves a matter of public concern and because it is made on behalf of a nonprofit organization, we ask that you waive any copying costs pursuant to 950 C.M.R. § 32.06(5). ACLUM is a nonprofit §501(c)(3) organization dedicated to the protection of civil rights and liberties for all persons in the Commonwealth of Massachusetts. As the state's affiliate of the American Civil Liberties Union, ACLUM is part of a nationwide network of advocates dedicated to defending and expanding the civil liberties of all.

If you decide not to waive copying costs, we request that you permit us to examine, at our election, the responsive documents before deciding which portions to photocopy. We also request that you send documents in electronic form whenever possible.

Should you determine that some portion of the documents requested are exempt from disclosure, please release any reasonably segregable portions that are not exempt. In addition, please note the applicable statutory exemption and explain why it applies to the redacted portions. As you know, a custodian of public records shall comply with a request within ten days after receipt.

Thank you for your assistance. We look forward to your response.

Sincerely,



Laura Rótolo

cc: William A. Mitchell, Jr., MBTA General Counsel, Room 7760