



The Commonwealth of Massachusetts  
BERKSHIRE DISTRICT ATTORNEY



DAVID F. CAPELESS  
DISTRICT ATTORNEY

April 12, 2013

7 NORTH STREET - P.O. BOX 1969  
PITTSFIELD, MA 01202  
(413) 443-5951 FAX (413) 499-6349

Kade Crockford  
American Civil Liberties Union of Massachusetts  
211 Congress Street, 3<sup>rd</sup> Floor  
Boston, MA 02110

Re: Public Records Request

Dear Ms. Crockford:

The Berkshire District Attorney replies to your request for certain records, dated April 4, 2013, as follows:

1. Any written description of the procedure for approval of the issuance by the District Attorney for Berkshire County of an administrative subpoena pursuant to the provisions of § 17B;
  - We have no records responsive to this request. Sample request forms, which must be submitted to the district attorney from any police department seeking permission to use an administrative subpoena, are included for your information.
2. A sample of the form of a § 17B administrative subpoena used by the office of the District Attorney for Berkshire County;
  - Two sample forms are attached.
3. Records showing the number of § 17B administrative subpoenas issued by the District Attorney for Berkshire County in each year for the years 2011, 2012, and 2013;
  - Please be advised that, even if this information was available, release of it is not public record.
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 2011, 2012 and 2013 and the number of such subpoenas issued for each offense or category of offense;

- No such records exist.

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;

- Please note that our standard form directs that recipients of subpoenas not disclose its receipt "as any such disclosure could impede the investigation being conducted and thereby interfere with the enforcement of the law."

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

- No such records exist.

7. Records showing the names of the common carriers or service providers to whom a § 17B administrative subpoenas was issued by the District Attorney for Berkshire County and the number of such subpoenas issued to each in each year for the years 2011, 2012 and 2013;

- Please be advised that even if this information was available, it is not public record.

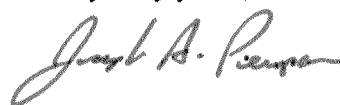
8. Any motions to quash a § 17B subpoena which have been filed since January 2011;

- No such records exist.

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.

- No such records exist.

Very truly yours,



Joseph A. Pieropan  
Assistant District Attorney

DATE

**SERVICE PROVIDER INFORMATION**

**Administrative Subpoena  
Case #**

Dear Sir or Madam:

Pursuant to an official criminal investigation being conducted by the Berkshire District Attorney's Office, and relative to General Laws Chapter 271, Section 17B, it is hereby requested that your company furnish, as soon as possible, **(TYPE OF RECORDS REQUESTED)** for the following telephone number:

**INSERT PHONE NUMBER(s) & DATE(s) / TIME(s)**

**THE INFORMATION MAY BE FAXED TO 413-443-0800 (A SECURE FAX MACHINE).**

You are not to disclose the existence of this request as any such disclosure could impede the investigation being conducted and thereby interfere with the enforcement of law. If you have any questions concerning this request, please do not hesitate to contact me.

Sincerely,

David F. Capeless  
District Attorney

DFC/smd

**SENT BY FACSIMILE TO XXXXXXXXXXXX**

DATE

**SERVICE PROVIDER INFORMATION**

**Administrative Subpoena  
Case #**

Dear Sir or Madam:

Pursuant to an official criminal investigation being conducted by the Berkshire District Attorney's Office, and relative to General Laws Chapter 271, Section 17B, it is hereby requested that your company furnish, as soon as possible, **INFORMATION REQUESTED** for the following:

**EMAIL OR IP ADDRESS OR OTHER INFO:  
DATE(S) / TIME(S):**

**THE INFORMATION MAY BE FAXED TO 413-443-0800 (A SECURE FAX MACHINE).**

You are not to disclose the existence of this request as any such disclosure could impede the investigation being conducted and thereby interfere with the enforcement of law. If you have any questions concerning this request, please do not hesitate to contact me.

Sincerely,

David F. Capeless  
District Attorney

DFC/smd  
SENT VIA FAX: