



The Commonwealth of Massachusetts
BERKSHIRE DISTRICT ATTORNEY



DAVID F. CAPELESS
DISTRICT ATTORNEY

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

March 29, 2017

Kade Crockford
American Civil Liberties Union of Massachusetts
211 Congress Street
Boston, MA 02110

Re: Public Records Request

Dear Ms. Crockford:

The Berkshire District Attorney replies to your request for certain records, dated February 8, 2017, 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;
 - A sample request form, which must be submitted to the District Attorney from any police department seeking permission to use an administrative subpoena, is 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 2014, 2015, and 2016;
 - Please see the attached list of administrative subpoenas issued for the years 2014 through 2016.

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 2014, 2015 and 2016 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 the names of the common carriers or service providers to whom a § 17B administrative subpoena was issued by the District Attorney for Berkshire County and the number of such subpoenas issued to each in each year for the years 2014, 2015 and 2016;

- Please see above.

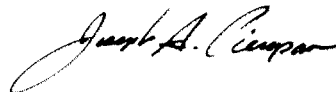
7 Any motions to quash a § 17B subpoena which have been filed since January 2014;

- No such records exist.

8 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



ADMINISTRATIVE SUBPOENA REQUEST FORM
Berkshire District Attorney



Tracking No. _____

Date of Request _____

Requesting Officer Information

Agency Case Number _____

Name _____

Agency _____

Unit _____

Office # _____

Fax # _____

Cell # _____

Others needing copy of records:

Address

Case/Request Information

Please describe the nature of your investigation and the specific information you are requesting (**Must** attach a copy of any reports or a summary of investigation)

Company/service provider(s) in custody of records being sought (if known)

1. _____ 2. _____ 3. _____

Contact information for custodian(s) of records being sought (if known)

1. _____ 2. _____ 3. _____

Records requested - Check all that apply

- | | |
|---|---|
| 1 <input type="checkbox"/> Basic subscriber information | 4 <input type="checkbox"/> Text message detail |
| 2 <input type="checkbox"/> Billing information | 5 <input type="checkbox"/> Internet Protocol logs |
| 3 <input type="checkbox"/> incoming/outgoing calls | 6 <input type="checkbox"/> Other |

Date range for records request _____ to _____

Do you need an expedited return? Yes No

Please identify any exigent circumstances in support of an expedited request.

Notification: (Please be advised that the content of stored communications and certain stored records are not available with an administrative subpoena. Be advised that under MGL c. 271 § 17B, only the Attorney General or District Attorney may issue an administrative subpoena. Contact your legal representatives for further information.)



ADMINISTRATIVE SUBPOENA REQUEST FORM
Berkshire District Attorney



Ref # _____

For Administrative Use Only

Request Received by: SMD

Date Received _____

Requested by: _____

Date Order Issued _____

Provider: _____

Date Records sent: _____

Cost of Records: _____

Admin Notes

Approved Denied Reviewed by: _____ Date of Review _____



The Commonwealth of Massachusetts
BERKSHIRE DISTRICT ATTORNEY



DAVID F. CAPELESS
DISTRICT ATTORNEY

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

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 sent via (choose email, secure fax, mail, law enforcement portal)

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 XXXX:



The Commonwealth of Massachusetts
BERKSHIRE DISTRICT ATTORNEY



DAVID F. CAPELESS
DISTRICT ATTORNEY

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

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 sent via(choose email, secure fax, mail, law enforcement portal)

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: XXXXXXXXX

ADMINISTRATIVE SUBPOENA INFORMATION
2014-2016

YEAR	PHONE RECORDS	INTERNET RECORDS	TOTAL ADMIN. SUBPOENAS ISSUED
2014	230	73	303
2015	147	54	201
2016	247	55	302