

Adriana Lafaille
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November 30, 2015

Via First Class Mail

Lisa A. Presby
Compliance Officer
City of New Bedford
Office of the City Solicitor
133 William Street - Room 203
New Bedford, MA 02740-6163

Re: Public Records Request

Dear Ms. Presby:

Thank you for your response to the American Civil Liberties Union Foundation of Massachusetts' July 1, 2015 request for public records under G. L. c. 66, § 10. That request sought updated records on the NBPD's policies and practices concerning (1) unbiased policing (2) citizen stops, frisks, searches, and arrests and (3) anti-gang initiatives. The request and your response are enclosed here.

I am writing to clarify some aspects of our request. After reviewing the documents produced, it appears that some portions of our request may have been misunderstood. As a result, some documents produced were not responsive to the request, while responsive documents were perhaps not produced. Moreover, although there might be training documents or NBPD rules that are responsive to some parts of our request, we did not receive any training documents or Department rules. This has caused us to wonder whether the Department's search included its rules, training materials, and all other public records.

Our request sought memoranda, policies, procedures, directives, guidance, rules, regulations, legal analysis, and training materials pertaining to various topics¹:

1. Unbiased policing and implicit bias. In response to this request, you provided General Order 3-20, which relates to preventing harassment of NBPD employees. But this request relates to policies that may seek to ensure that police are unbiased in their interactions with civilians outside the department. For example, if there are

¹ Note that the examples below are intended only to clarify, not narrow, our request.

materials that discuss how officers should interact with the public in an unbiased manner, or implicit racial bias, these would be responsive to this request.

2. The stop, frisk, search, and arrest of civilians, including pedestrians, bicyclists and motorists. In response to this request, you provided General Order 14-06, regarding custodial procedures. While this document was responsive, this request also asks about the Department's policies and trainings with regard to stops, frisks, and searches, and arrests. For example, policies or training materials that describe the suspicion needed for a stop, search, or arrest would be responsive.

3. Consensual encounters and searches. This request seeks policies, trainings, and other documents about encounters and searches of civilians that officers may deem consensual. In response, you provided General Order 14-06, regarding custodial procedures. While that document did address searches of people who are arrested, our request asked about *consensual* encounters between law enforcement officers and civilians. For example, Directive 06-71 explains that "[c]onsensual encounters offer a unique opportunity for officers to garner useful information about criminal conditions in their patrol area." If there are documents which further describe the permissible use of consensual encounters, these would be responsive to this request.

4. The circumstances in which the NBPD employs or considers race or ethnicity in policing, and when it prohibits such employment or consideration. In response to this request, you provided information relating to police hiring. But this request sought policies, training materials, and other documents about the use of race in police encounters with civilians. For example, if there are policies or training materials that instruct officers whether or in what circumstances they may consider an individual's race in determining whether to stop or arrest him/her, those materials would be responsive to this request.

5. The standards for recording race and/or ethnicity in records concerning police-civilian encounters, including observations, stops, frisks, searches, consent searches, arrests, citations, and summons. You stated that you had no documents in response to this request. To the extent that there are documents that describe how officers should determine an individual's race when completing field interview reports or arrest reports, or other reports, these documents would be responsive.

6. The supervision or training of officers who conduct police-civilian encounters. This request asks about policies or other documents regarding how officers who make field interrogations or other police-civilian encounters are supervised and trained. You stated that you had no documents that were responsive to this request.

7. The "meet and greet" program and the high-energy patrol initiative. In response to this request, you provided Directive 06-71, regarding the High-Energy Patrol

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Initiative. In his report on the shooting of Malcolm Gracia in 2012, the District Attorney stated that the NBPD's encounter with Mr. Gracia began because a detective wanted to "meet and greet" him and his companion. The report explained that "meet and greet" is "gang unit parlance for an encounter with unknown individuals to determine their identities and activities in the area." Responsive public records would include any documents that explain or govern the practice of "meet and greet" in the gang unit or by any other NBPD officer.

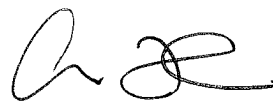
8. The use of police-civilian encounters in anti-gang initiatives and enforcement. You provided Directive 92-96, regarding Operation S.T.A.N.D., in response to this request. Please confirm whether this directive, and directive 06-71 on the High-Energy Patrol Initiative, are still in effect, and whether there are any relevant training documents, orders, or other records.

9. The entry, use, and dissemination of gang databases. You responded that the Commander of the Gang Unit is responsible for updating the Gang Unit Drive. If there are policies or other documents that explain or govern the internal use of any gang database, such documents would be responsive.

10. Community policing. You stated that there are no responsive documents. Please confirm that this means that the NBPD does not have "community policing" officers or employ "community policing."

I hope this letter has helped to clarify the documents that we are seeking in our July 1, 2015 request. Please contact me if I can clear up anything further. My colleague, Laura Rótolo, and I look forward to working with you to resolve this request.

Very truly yours,



Adriana Lafaille
Staff Attorney
American Civil Liberties Union
Foundation of Massachusetts
617 482 3170 x 308
alafaille@aclum.org

cc: Captain Paul Oliveira, New Bedford Police Dep't (via US Mail)

Enc.



Laura Rótolo
Staff Counsel
(617) 482-3170 x 311
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July 1, 2015

Via First Class Mail

Lisa A. Presby
Compliance Officer
City of New Bedford
Office of the City Solicitor
133 William Street - Room 203
New Bedford, MA 02740-6163

Re: Public Records Request

Dear Ms. Presby:

This is a request for public records under M.G.L. ch. 66, § 10 made on behalf of the American Civil Liberties Union Foundation of Massachusetts.

Your office and Captain Oliveira from the New Bedford Police Department (NBPD) have been very helpful in providing Field Interview Reports. I am writing to request updated records on the NBPD's policies and practices concerning (1) unbiased policing (2) citizen stops, frisks, searches, and arrests and (3) anti-gang initiatives.

Please provide all memoranda, policies, procedures, directives, guidance, rules, regulations, legal analysis, and training materials pertaining to:

1. unbiased policing and implicit bias;
2. the stop, frisk, search, and arrest of civilians, including pedestrians, bicyclists and motorists;
3. consensual encounters and searches;
4. the circumstances in which the NBPD employs or considers race or ethnicity in policing, and when it prohibits such employment or consideration;

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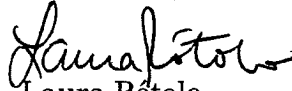
5. the standards for recording race and/or ethnicity in records concerning police-civilian encounters, including observations, stops, frisks, searches, consent searches, arrests, citations, and summons;
6. the supervision or training of officers who conduct police-civilian encounters;
7. the "meet and greet" program and the high-energy patrol initiative;
8. the use of police-civilian encounters in anti-gang initiatives and enforcement;
9. the entry, use, and dissemination of information in gang databases;
and
10. community policing.

Pursuant to the Massachusetts Public Records Law, G. L. c. 66, § 10(b), we request a response to this request within ten days.

Because this request involves a matter of public concern and is made on behalf of a nonprofit organization, I ask that you waive any copying costs pursuant to 950 CMR 32.06(5).

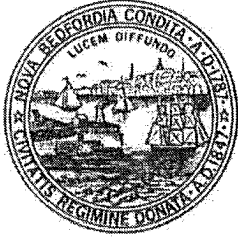
Please call me if you have any questions regarding the scope of this request. Thank you for your prompt attention to this matter.

Very truly yours,



Laura Rótolo
Staff Counsel
American Civil Liberties Union of MA
Tel.: 617 482 3170 x 311
Email: lrotolo@aclum.org

cc: Captain Oliveira, New Bedford Police Dep't (via US Mail)



City of New Bedford
OFFICE OF THE CITY SOLICITOR

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October 1, 2015

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ELIZABETH TREADUP PIO
Special Legal Counsel

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

Re: Request for Information

Dear Ms. Rotolo:

Enclosed please find copies of documents in response to your request for information pursuant to the provisions of M.G.L. c. 66, section 10 (the "Public Records Law") dated July 1, 2015.

1. Unbiased policing and implicit bias. See **New Bedford Police General Order #3-20 – Anti Discriminatory Harassment Policy.**
2. The stop, frisk, search, and arrest of civilians, including pedestrians, bicyclists and motorists. See **New Bedford Police General Order #14-06 – Custodial Procedures.**
3. Consensual encounters and searches. See **New Bedford Police General Order #14-06 – Custodial Procedures.**
4. The circumstances in which the NBPD employs or considers race or ethnicity in policing, and when it prohibits such employment or consideration. See **Federal Consent Decree.**
5. The standards for recording race and/or ethnicity in records concerning police-civilian encounters, including observations, stops, frisks, searches, consent searches, arrests, citations, and summons. **There are no documents responsive to this request.**
6. The supervision or training of officers who conduct police-civilian encounters. **There are no documents responsive to this request.**
7. The "meet and greet" program and the high-energy patrol initiative. See **New Bedford Police Directive #06-71 – High Energy Patrol Initiative.**

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8. The use of police-civilian encounters in anti-gang initiatives and enforcement. **See New Bedford Police Directive #92-26 – Operation S.T.A.N.D.**
9. The entry, use, and dissemination of information in gang databases. **The Commander of the Gang Unit is responsible for updating the Gang Unit Drive which is a shared folder on the New Bedford Police Department's Computer System.**
10. Community policing. **There are no documents responsive to this request.**

Very truly yours,

Lisa A. Presby
Compliance Officer

enc.

cc: Captain Paul Oliveira