



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

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May 4, 2020

VIA ELECTRONIC MAIL

Carol Rose
Executive Director, ACLU of Massachusetts

Robert Greenwald
Clinical Professor of Law
Faculty Director, Center for Health Law and Policy Innovation
Harvard Law School

Re: Public Record Request OGC 2020-64

Dear Ms. Rose and Mr. Greenwald:

This letter is in regard to the above referenced public record request received by the Department of Public Health (the Department or DPH) via email on April 2, 2020. This request has been assigned a tracking number: **OGC 2020-64**.

Related to the March 18, 2020, Order requiring local boards of health to disclose to the official with the responsibility for administering the response to emergency calls in their jurisdiction the addresses of people living in their jurisdiction who have tested positive for COVID-19, you requested:

“records pertaining to the development of the Order, including but not limited to meeting agendas or minutes, notices, analyses, memos, and communications (including emails).

Please also provide us with records pertaining to public health-related or other information describing the operational effectiveness of the Order.

“...please provide records pertaining to its implementation, including but not limited to manuals, policies, procedures, and training materials. Please also provide records reflecting instructions or guidelines pertaining to how patient address information will be shared, used, confidentially stored, and disposed once the Emergency finishes, if available.”

Regarding the equity concerns you related in your letter, you also requested:

“information relevant to the Department’s plans for distributing equipment. Please provide us with any directives, guidance, or other records pertaining to how the Department will make determinations about which hospitals, regions, or people will receive personal protective equipment and ventilators.”

On April 17, 2020, I spoke to your colleague, Kade Crockford of the ACLU of Massachusetts, who agreed to an extension until Friday, May 1, 2020, for the response. On April 30, 2020, my colleague Rebecca Rodman again spoke to Kade Crockford, who agreed to an extension until Wednesday, May 6, 2020, for the Department to respond to your requests related to the March 18, 2020, Order requiring local boards of health to disclose to the official with the responsibility for administering the response to emergency calls in their jurisdiction the addresses of people living in their jurisdiction who have tested positive for COVID-19.

Regarding your request for information relating to the Department’s plans for distributing personal protective equipment (PPE), the Department provides the following response. Guidance for prioritizing use of PPE during the COVID-19 response is posted online. The link is here: <https://www.mass.gov/info-details/personal-protective-equipment-ppe-during-covid-19>. In addition, the Department posts the COVID-19 dashboard that includes information on PPE distribution by recipient type and geography. This information is updated daily. You can find the most recent information and a link to the archives here: <https://www.mass.gov/info-details/covid-19-response-reporting>. In addition, enclosed are three documents (two excel spreadsheets and one two page word document) responsive to your request. Certain data has been redacted from the Acute Care Hospital Vent Tracking Sheet. The numbers on the spreadsheet have been redacted pursuant to G.L. c. 4, § 7, clause 26(f), the “investigatory exemption”. The disclosure of this information could compromise future investigative efforts related to the COVID-19 emergency and, therefore, is not in the public interest. This redacted information is also exempt pursuant to to G.L. c. 4, § 7, clause 26(n) because it relates to plans, policies, and procedures for emergency preparedness, the disclosure of which, in the reasonable judgment of the Department, is likely to jeopardize public safety.

DPH reserves the right to retrieve any exempted, privileged, or otherwise protected materials inadvertently included in this production. Any such production is not, and shall not be considered or deemed, a waiver of any applicable privileges or protections from disclosure.

DPH now considers this public record request closed. If you wish to challenge this response, and your request was received in writing, you may appeal to the Supervisor of Records following the procedure set forth in 950 CMR 32.08, a copy of which is attached. Pursuant to G.L. c. 66, § 10A, you may also seek judicial review by commencing a civil action in Suffolk Superior Court.

Please contact me with any questions. In any communication regarding this request, please reference the assigned tracking number **OGC 2020-64**.

Sincerely,



Helen Rush-Llyod
Records Access Officer