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The Commonwealth of Massachusetts

Department of State Police

Office of the Chief Legal Counsel

470 Worcester Road

Framingham, Massachusetts 01702

January 10, 2019

Ms. Kade Crockford
Director, Technology for Liberty Program
ACLU of Massachusetts
211 Congress Street
Boston, MA 02110

RE: PUBLIC RECORDS REQUEST

Dear Ms. Crockford:

The Massachusetts Department of State Police ("Department") has received your payment of \$12.50 in response to the Department's offer to provide a sample of 10 redacted emails which correspond to your public records request dated July 17, 2018. Attached are the records for your review. Please note that the emails contain references to pending investigations, active cases, CORI information, investigative materials, security information and personal contact information of state employees and is therefore subject to exemption under M.G.L. c. 4, section 7, clauses 26(a), (b), (c), (f), and (n) as well as M.G.L. c. 66, section 10B.

Additionally, the emails contain internal communications between Department investigators as well as external communications with prosecutors and will also be withheld under M.G.L. c. 4, section 7, clause 26(f). The law enforcement investigative exemption is a well-established principle of law based on public policy. "It is a principle of law founded upon sound public policy and arising out of the creation and establishment of constitutional government that communications made to a district attorney in order to secure the enforcement of law are privileged and confidential in the sense that they cannot be revealed at the instance of private parties in aid of actions at law." Attorney General v. Tufts, 239 Mass. 458, 490-491 (1921). Moreover, federal courts also apply a federal law enforcement privilege. See Dellwood Farms v. Cargill, Inc., 128 F.3d 1122 (7th Cir. 1997)(recognizing federal law enforcement investigatory privilege).

The disclosure of communications between Department investigators and prosecutors handling an investigation would detract from effective law enforcement and would prejudice investigative efforts. There is an interest in preserving the integrity of investigations and communications between law enforcement and any prosecutorial agency. Disclosure of investigative communications between detectives and prosecutors would compromise effective law enforcement since exposure of such information would hinder the investigative process. It is

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in the public interest to prevent such disclosure in order to promote candid discussions between investigators and prosecutors without the risk of such correspondences being made public. Accordingly, the records have been redacted.

If, after reviewing the documents, you decide you would still like to obtain the remainder of the documents produced by the EOTSS search, you may send a check or money order for \$11,093.75, payable to the Commonwealth of Massachusetts, to my attention at:

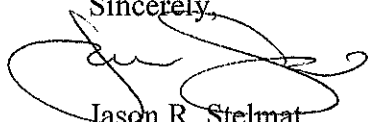
Commonwealth Fusion Center
124 Acton Street
Maynard, MA 01754

Please note that the Department submitted a justification letter to the Supervisor of Public Records pursuant to the Supervisor's October 16, 2018 ruling on the Department's fee petition. It appears as if the Department's justification letter remains under review.

If you wish to challenge any aspect of this response, you may appeal to the Supervisor of Public Records following the procedure set forth in 950 C.M.R. 32.08, a copy of which is available at <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-source/cmr/>. You may also file a civil action in accordance with M.G.L. c. 66, § 10A.

Your attention to this matter is greatly appreciated.

Sincerely,



Jason R. Stelmat
Privacy Officer
Commonwealth Fusion Center
(978) 451-3752