

Emiliano Falcon-Morano

From: Paquette, Keith (POL) <[REDACTED]>
Sent: Thursday, January 20, 2022 2:49 PM
To: Emiliano Falcon-Morano
Cc: Gallagher, Katie (POL)
Subject: RE: ACLU Public Records Request - 2021-MSP-4642

Good afternoon Emiliano,

The following is the Department's formal response to your request:

The Massachusetts Department of State Police ("Department") has received your request for:

1. All communications to and from officers and employees of the MSP pertaining to the use of drones or UAVs, including text messages and emails;
2. All contracts, purchase agreements, and invoices pertaining to drones and UAVs by the MSP, dated before, on, or after March 1, 2020;
3. Records pertaining to the use of drones and UAVs, including logs, notes, police reports, incident reports, intelligence reports, and any other record that shows who operated or used drones, how and when, and for what reasons; and
4. Manuals, policies, and procedures governing the use of drones and UAVs, including records showing how the decision to deploy a drone or similar UAV is made, dated before, on, or after March 1, 2020.

On December 28, 2021, pursuant to our conversation you agreed to narrow down your request relating to request #1 (emails use of drones) and request #3 (use of drones logs, notes, reports, etc.) to the first two (2) weeks of November of 2021 (October 31 to November 13th) only.

The Department considers your request as a submission pursuant to G.L. c. 66, §10, the Massachusetts Public Records Law.

In response to request #1 (emails), the Department has located the following responsive records relating to the use of drones and UAV's:

1. Ayer Report November 5, 2021 with attachment 2021-IMT-118 Ayer Search.
 - a. The Department redacted a juvenile's name, address, and date of birth pursuant to G. L. c.4, §7 cl. 26(a), which exempts from public dissemination records that are specifically or by necessary implication exempt from public disclosure. In this instance, the Legislature has, by clear implication, exempted records and reports pertaining to minor children from public disclosure. See G.L. c. 119, §§1-84; G.L. c. 71, §34D; G.L. c. 276, §100B; G.L. c. 120, §21; and G.L. c. 209A, §8.
 - b. The Department redacted the name, date of birth, and address of the subjects of the investigation; and the type of evidence and location of the evidence, as this matter involves an on-going investigation. The information was redacted pursuant to G. L. c. 4, §7, cl. 26 (f), the investigatory exemption. G.L. c. 4, §7, cl. 26 (f), exempts from public disclosure "investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." G. L. c. 4, §7, cl. 26 (f) recognizes that the disclosure of certain investigatory materials could detract from effective law enforcement to such a degree as to operate in derogation, and not in support, of the public interest. Bougas v. Chief of Police, 371 Mass. 59, 62-63 (1976). Releasing information and records regarding an on-going investigation would detract from effective law enforcement and could prejudice investigative efforts. New Hampshire State Police is compelled to

conduct a thorough and objective investigation of the events into this incident. There is an interest in preserving the integrity of the investigation and any potential subsequent prosecution. Therefore, the records you seek are not available currently pursuant to G.L. c. 4, §7, cl. 26 (f).

2. Brayton Point November 2, 2021.

- a. The Department redacted the drones serial number pursuant to G.L. c. 4, §7, cl. 26(n), the security exemption of the Public Records Law, which exempts from disclosure records “including but not limited to blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.” People for the Ethical Treatment of Animals, Inc. vs. Department of Agricultural Resources & another, 477 Mass. 280 (2017), addressed this exemption. In this decision, the Court laid out a two-prong analysis to determine if a record was properly withheld under this exemption. The first prong of analysis considers, “whether, and to what degree, the record sought resembles the records listed as examples in the statute” and the second prong of analysis requires “the factual and contextual support for the proposition that disclosure of the record is “likely to jeopardize public safety.” PETA, 477 Mass. at 290. The Department asserts that disclosing the serial numbers could lead to a member of the public being able to gain access to or hack the drone. As such, this could jeopardize public safety by eliminating a law enforcement tool that provides security, emergency preparedness, and threat and vulnerability assessments, throughout the Commonwealth. Disclosure could place members of the public in danger and provide criminals with information to strategize a plan of attack on persons and infrastructure within the Commonwealth. Therefore, in the reasonable judgment of the Department, disclosure of the serial number is likely to jeopardize public safety.
- b. The Department redacted the name, address, telephone number, and group Facebook page of the person involved in this incident, as this matter remain the subject of an on-going investigation within the Department. The information was redacted pursuant to G.L. c. 4, §7, cl. 26 (f), for the same reasons described above.

3. CARS Weekly Report 11-01-21 to 11-07-21.

- a. The Department redacted a personal telephone number in the email pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption. Pursuant to the privacy exemption, the Department can withhold “personnel and medical files or information and any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; provided, however, that this subclause shall not apply to records related to a law enforcement misconduct investigation.” M.G.L. c. 4, §7, cl. 26 (c).
- b. In the weekly report, the Department redacted all information relating to the nature and course of the investigation for all incidents referenced, pursuant to G. L. c. 4, §7, cl. 26 (f), the investigatory exemption. G. L. c. 4, §7, cl. 26 (f) recognizes that the disclosure of certain investigatory materials could detract from effective law enforcement to such a degree as to operate in derogation, and not in support, of the public interest. Bougas v. Chief of Police, 371 Mass. 59, 62-63 (1976). Releasing information and records regarding an on-going investigation would detract from effective law enforcement and could prejudice investigative efforts. The Department is compelled to conduct a thorough and objective investigation of the events into this incident. There is an interest in preserving the integrity of the investigation and any potential subsequent prosecution. Therefore, the records you seek are not available currently pursuant to G.L. c. 4, §7, cl. 26 (f).

4. DHS (Department of Homeland Security) Weekly Notes 11-12-21:

- a. The Department redacted all information in the report CIIS Weekly Significant Activity Report that is not related to drones as it contains highly sensitive and security information. The portion of the document that is related to drones is located on pages 5-6 of report (pages 6-7 full record) under IMAT. In this section, the Department redacted only information relating to on-going investigations pursuant to G.L. c. 4, §7, cl. 26 (f), for the same reasons described above.

5. 11/10 Back Bay and Fens flights.
 - a. The Department redacted the email address of the sender pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
6. 310 Northern Avenue 11/3.
 - a. The Department redacted the email address of the sender and a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
7. BAF Drone Flight- Tuesday, November 16th:
 - a. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
8. BPL:
 - a. The Department redacted the email address of the sender pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
9. MassDOT Aeronautics Drone Team at Lawrence Airport.
 - a. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
10. MassDOT Aeronautics Drone Team at Orient Heights MBTA:
 - a. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
11. Monday Flights:
 - a. The Department redacted the email address of the sender and a recipient pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
12. Westfield-Barnes Regional Airport- Drone Flights- Tuesday, November 16th
 - a. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
13. Revs Drone Flight 11_1.
 - a. The Department redacted the email addresses pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
14. IMAT UAS Activity 11-5 thru 11-11-2021.
 - a. The Department redacted information relating to on-going investigation (same information in the attachment to email#4 listed above) pursuant to G.L. c. 4, §7, cl. 26 (f), for the same reasons described above.
 - b. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
15. MassDOT drone team flights over MTBA Riverside Line today.
 - a. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
16. IMAT UAS Activity 10-29 thru 11-4-2021.
 - a. The Department redacted a personal phone number pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.

In response to request #2 (contracts, purchase agreement, invoices), the Department has located the following responsive records:

1. Governor Baker Award Letter dated October 4, 2019 (1 page).
2. Executive Office of Public Safety and Security (EOPSS) award letter dated October 4, 2019 (1 page).
3. U.S. Department of Homeland Security Unmanned Aircraft Systems (UAS) approval letter dated July 6, 2020 (2 pages).
4. Operational Services Division (OSD) Contract with Safeware for Statewide Contract HLS06 (2 pages).
5. Contract User Guide for HLS06 (8 pages).
6. MSP Purchase Order PO-19-1080-OSD03-SRC3-14550:281, including Release Purchase Order, Quotation, and Invoice (7 pages).
7. MSP Purchase Order PO-19-1080-OSD03-SRC3-14550:351, including Release Purchase Order, Quotation, Invoice, Packing List, Packing Slip, and Consignee Memo (23 pages).

8. MSP Purchase Order PO-19-1080-OSD03-SRC3-14550:500, including Release Purchase Order, Quotation, and Invoice (6 pages).
9. Invoice 3903102 dated 8/23/2021 (2 pages).

Please be advised that there is an Operational Services Division Homeland Contract that is publicly available on www.commbuys.com. For your reference, the Safeware contract is: Master G2B Blanket Purchase Order PO-19-1080-OSD03-SRC3-14635.

In response to request #3 (use of drones and UAV's logs, notes, reports, etc.), the Department has located the following responsive records relating to the use of drones and UAV's:

1. Massachusetts State Police- FAA Registrations excel spreadsheet- contains list of active MSP drones registered to the Department members.
 - Included within this list is the Collision Analysis & Reconstruction Section (CARS) section. For more information about this section please visit [https://www.mass.gov/info-details/specialized-units#collision-analysis-&-reconstruction-section-\(cars\)-](https://www.mass.gov/info-details/specialized-units#collision-analysis-&-reconstruction-section-(cars)-)
 - Included within this list is the Incident Management Assistance Team (IMAT). For more information about this unit please visit <https://www.mass.gov/info-details/specialized-units#incident-management-assistance-team->
 - Included within this list is the Special Tactics and Operations Team (STOP). For more information about this unit please visit [https://www.mass.gov/info-details/specialized-units#special-tactics-and-operations-team-\(stop\)-](https://www.mass.gov/info-details/specialized-units#special-tactics-and-operations-team-(stop)-)
2. MSP UAS (Unmanned Aerial System) Flight Log 10-31 thru 11-13-21 excel spreadsheet (pilot reported log).
3. MSP UAS(Unmanned Aerial System) Airdata Oct 31 thru Nov 13 2021 excel spreadsheet (flight logs downloaded from the drones).
4. Administrative Logs 2021-000-455962, 2021-000-456336, 2021-000-456364, and 2021-TK9-002959 (4 logs in total).
 - In logs 2021-000-456336 and 2021-000-456364, the Department redacted a personal phone numbers pursuant to G.L. c. 4, §7, cl. 26 (c), the privacy exemption.
5. Case Master Report 2021-IMT-126.
6. Case 2021-IMT-131- Case Master Report 2021-IMT-131 and seven (7) attachments. The following is the list of attachments: JPG file 5R half power map with dimensions; JPG file 13R full power map with dimensions; JPG file 2021-IMT-131 1; JPG file 2021-IMT-131 2; JPG file 2021-IMT-wx; PDF EOD map EVOC 11-11-21 Letter Portrait; and Word document FBI EOD XRAY Dimension mapping.
7. Case 2021-IMT-132- Case Master Report 2021-IMT-132 and five (5) attachments. The following is the list of attachments: JPG file 21-imt-131 1; JPG file 21-imt-132 2; JPG file 21-imt-132 3; JPG file 21-imt-132 4; and JPG file 21-imt-132 wx.
8. Collision Analysis & Reconstruction Section (CARS) unit has seven (7) on-going investigations involving the use of drones. The investigation case numbers are as follows: 2021-CAR-000384; 2021-CAR-000387; 2021-CAR-000389; 2021-CAR-000390; 2021-CAR-000392; 2021-CAR-000393; and 2021-CAR-000395. The reports are not completed due to the on-going investigation in all seven (7) incidents. It is my understanding that the drone records that would be included in each investigation would be the forensic mapping of the motor vehicle crash sites. Your request for the reports and any associated records, including the expected forensic mapping is denied at this time pursuant to G.L. c. 4, §7, cl. 26 (f). The Department asserts that releasing information and records regarding an on-going investigation would detract from effective law enforcement and could prejudice investigative efforts. The Department is compelled to conduct a thorough and objective investigation of the events into this incident. There is an interest in preserving the integrity of the investigation and any potential subsequent prosecution. Therefore, the records you seek are not available currently pursuant to G.L. c. 4, §7, cl. 26 (f).

In response to request #4 (manuals, policies and procedures), the Department has located the following responsive records:

1. Department of State Police General Order TOP-07A Small Unmanned Aircraft Systems (UAS) dated June 28, 2019 (4 pages).

2. Massachusetts State Police Uncrewed Aircraft Systems Standard Operating Procedures June 2021 (21 pages).

The above-described records are being shared with you through the following OneDrive link:



Please be advised that Department members expended approximately twenty (20) hours of time to gather, review, and redact the responsive records in this request, at no charge to you.

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/lib/laws-by-source/cmr/>. You may also file a civil action in accordance with M.G.L. c. 66, § 10A.

Sincerely,

Keith A. Paquette
Staff Legal Counsel
Massachusetts State Police
470 Worcester Road
Framingham, MA 01702



From: Emiliano Falcon-Morano <efalcon@aclum.org>
Sent: Thursday, January 13, 2022 10:30 AM
To: Paquette, Keith (POL) <[redacted]>
Cc: Gallagher, Katie (POL) <[redacted]>
Subject: Re: ACLU Public Records Request - 2021-MSP-4642

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Thank you!

Best,
Emiliano

From: Paquette, Keith (POL) <[redacted]>
Sent: Thursday, January 13, 2022 10:10 AM
To: Emiliano Falcon-Morano <efalcon@aclum.org>
Cc: Gallagher, Katie (POL) <[redacted]>
Subject: RE: ACLU Public Records Request - 2021-MSP-4642

Good morning Emiliano,