



THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE BRISTOL COUNTY SHERIFF

THOMAS M. HODGSON
SHERIFF

400 Faunce Corner Road
North Dartmouth, MA 02747

TEL 508-995-1311
FAX 508-995-7835

September 20, 2019

Leah S. Rizkallah, Esq.
Foley Hoag
Seaport West
155 Seaport Boulevard
Boston, Massachusetts 02210-2600

Re: Public Records Request dated March 18, 2019

Dear Attorney Rizkallah:

The Bristol County Sheriff's Office ("Sheriff's Office") is in receipt of your letter, dated August 20, 2019, concerning the Sheriff's Office's responses, dated May 29, 2019 and June 11, 2019, to the ACLU of Massachusetts' ("ACLUM") request for public records from the Bristol County Sheriff's Office ("Sheriff's Office"), dated March 18, 2019 (the "Request"). Pursuant to your letter, you state that the Sheriff's Office's responses and productions to the Request contain serious deficiencies and request additional documents referred to in the documents produced under Request Nos. 2, 8 and 9 as well as attachments to emails that were missing. The Sheriff's Office has reviewed your letter and produces additional records contained in the file titled "Records Produced on September 20, 2019" on the enclosed flash drive.

With respect to Request No. 2, ACLUM requested "[a]ll tweets and replies, and all direct messages to or from, the Twitter account @Sheriff_Hodgson". The Sheriff's Office informed you that "Twitter account @Sheriff_Hodgson is not a Sheriff's Office Twitter account; thus, no records exist that are responsive to this request." In response, you contend the Sheriff's Office refused to produce any of the requested records related to the @Sheriff_Hodgson Twitter account (now the @SheriffHodgson Twitter account) and that the Sheriff's Office provides no explanation for its position that the @Sheriff_Hodgson Twitter account is not a Sheriff's Office Twitter account.

The Sheriff's Office only has one Twitter account, the @BristolSheriff (formerly @BCSO1) Twitter account. The @SheriffHodgson Twitter account is Thomas Hodgson's personal Twitter account that he chose to name "@SheriffHodgson". The fact that the Twitter account is named "@SheriffHodgson" does not mean that the account is an agency account used to conduct Sheriff's Office business. Twitter permits persons to select usernames that meet certain

alphanumeric parameters, that may be a person's name or portion thereof, or a nickname, and does not permit a person to register a username that is already taken or that is deemed offensive. Clearly, people select usernames when creating a Twitter account that make it easier for people to find them on Twitter. The fact that Thomas Hodgson chose @SheriffHodgson as the name of his personal Twitter account does not make the account a Sheriff's Office account.

Further, the fact that Sheriff Hodgson may refer to work related issues on his personal Twitter account does not make the account a Sheriff's Office account. Moreover, the fact that a person uses his personal Twitter account to discuss work related issues does not make that person's Twitter account the employer's Twitter account.

Further, all the tweets and replies requested relating to @SheriffHodgson are available to the public on @SheriffHodgson. However, all the direct messages are not available to the public. However, notwithstanding the fact that the Sheriff's Office maintains its position that the @SheriffHodgson Twitter account is not a Sheriff's Office account and has no records responsive to this request; Sheriff Hodgson has agreed to provide ACLUM with copies of all the tweets, replies and messages from his Twitter account for purposes of transparency. Copies of the tweets and replies from the @SheriffHodgson Twitter account are numbered **1-270** in "Records Produced on September 20, 2019" file and the messages from the @SheriffHodgson Twitter account are numbered **271-279**.

With respect to Request No. 8 and 9, ACLUM requested "any request, decision, or recommendation by the BCSO to participate in, any pilot program for the delivery of medication-assisted treatment for opioid use disorder at county correctional facilities, including under Section 98 of Chapter 208 of the Acts of 2018". The Sheriff's Office responded in its May 29, 2019 letter to ACLUM that no records exist that are responsive to these requests. However, you state in your letter that ACLUM has sufficient reason to believe that documents responsive to this request exist and provide, as example, statements made by Sheriff Hodgson during the BCSO's annual 287(g) steering committee meeting held on April 10, 2019.

The first example provided states:

"The sheriffs all met not too long ago - a few months back - and collectively we decided, for those that were going to decide to use medically-assisted treatment, that there would be a sampling of four or five sheriffs who were going to do it to see how it goes. Medically-assisted treatment is very controversial with regards to the types of medication that have to be given. For example, when somebody is on a medically-assisted treatment program, there are certain medications where it takes ten minutes per person to have that medication dissolve in their mouth, and they have to be watched by a person on our staff until it is done."

In response to this example, the Sheriff's Office states that Sheriff Hodgson is referring to a Massachusetts Sheriff's Association Meeting ("MSA"). Any records of decisions made, if any exist, would be records of the MSA.

The next three examples provided state:

“We have probably the most difficult county when it comes to detoxing people for drug use.”

“I am not going to institute a program that’s going to have people ... come to jail who want to get off drugs, be exposed to more drugs. Because if you can’t go to jail to get off drugs, I don’t know where you’re going to go to get off drugs.”

“We aren’t going to institute programs that we don’t know [are] working yet, as are a number of other Sheriffs, until we know it works.”

In response to these examples, the Sheriff’s Office states that Sheriff Hodgson’s statements refer to his decision to not institute medically-assisted treatment in its entirety. The decision was not reduced to writing and, thus, no record exists that is responsive to the request. A search of the records requested under Request Nos. 8 and 9 was conducted by discussing the request with Sheriff Hodgson and senior staff who would likely be involved in such a discussion or who might have records that relate to the request. During my initial search for records, I was informed that no records exist relating to Request Nos. 8 and 9. Upon receipt of your letter, I confirmed that my previous response stating that no records exist that are responsive to Request Nos. 8 and 9 is correct.

With respect to deficiencies in the production of documents that have missing attachments, numerous documents were provided, many of which included attachments. Most, if not all, of the emails you identify as deficient because attachments were missing are emails that mention a document in the body of the email but that did not include an attachment to the email itself. However, for each of the documents and emails listed in your letter, copies of the attachments mentioned in the email or that was missing from the email that noted an attachment are contained on the enclosed flash drive and numbered as follows:

First production dated May 29, 2019: “Miscellaneous communications between Sheriff or staff and White House or Secret Service,” PDF pages 1, 7 and 98.

Response: For PDF page 1, see record # **280** titled “Statement from Bristol County Sheriff Thomas Hodgson on Congressional Democrats’ lack of funding for border security”.

For PDF page 7, see record # **281** titled “Statement from Bristol County Sheriff Thomas Hodgson on President Donald Trump’s State of the Union Address”.

For PDF page 98, see record # **282-284** titled “United States-Mexico-Canada Trade Fact Sheet - Strengthening North American Trade in Agriculture”.

Second Production dated June 11, 2019:

1. Email from Kerri-Ann Hanley to Lawrence Oliveira dated 1/11/2018 with the subject "Document Requests":

- Response:**
- a. For Hanley request for records # 1 requesting "a current organization chart of BSCO Admin employees", see record # **285-298** titled "Organizational Chart".
 - b. For Hanley request for records # 2 requesting "A listing of all non-payroll programs in operation", no list was produced or exists. A list of non-payroll programs in operation was provided verbally.
 - c. For Hanley request for records # 3 requesting "A copy of FY 16 and 17 approved budgets", see record # **299-301** titled "FY16 Budget BSD by Section" and record # **302-304** titled "FY17 Budget BSD by Section".
 - d. For Hanley request for records # 4 requesting "A listing of all grants received during FY 16 and 17 (doesn't matter where they came from, a listing for now, and we will select what we must look at later)", see record # **305-308** listing Federal Grant Budgets FY16 & FY17.
 - e. For Hanley request for records # 5 requesting "A listing of all contracts that were approved/signed/executed, etc. during FY 16 and 17", no list was produced or exists. A list of all contracts that were approved/signed/executed during FY16 and FY17 was provided verbally.
 - f. For Hanley request for records # 6 requesting "A listing of all "active" contracts that have not expired yet (signed in prior fiscal years but still active)", see response # 1(e) above.

2. Email from Louis Bertolino to Lawrence Oliveira dated 1/12/2018 with the subject "MSA uniform procurement policy":

Response: See record # **309-324** titled "Policy Governing The Procurement Of Commodities and Services" and record # **325** titled "Competitive Procurement Exception Explanation Form".

3. Email from Louis Bertolino to Lawrence Oliveira dated 1/16/2018 with the subject "Procurement policy":

Response: See response #2 above.

4. Email from Louis Bertolino to Lawrence Oliveira dated 1/18/2018 with the subject "meeting":

Response: See record # **326-338** titled "ICE Contract".

5. Email from Louis Bertolino to Lawrence Oliveira dated 3/23/2018 with the subject "Employee CORI checks":

Response: See record # **339-347** titled "05.01 Information Systems" policy and record # **348**, a letter to Louis Bertolino from Marc Duprey dated March 23, 2018.

6. Email from Douglas Hoelscher to Brock Cordeiro (copying others) dated 9/17/2018 with the subject "Letter from Sheriff Hodgson of Bristol County, Massachusetts":

Response: See record # **349**, a letter to Douglas Hoelscher from Sheriff Thomas Hodgson dated September 14, 2018.

7. Email from Britt Carter to Elizabeth Doyle dated 11/26/2018 with the subject "Latest in print - Sheriff & Deputy Magazine (November/December 2018)":

Response: See record # **350**, copy of article from November/December 2018 issue of Sheriff & Deputy Magazine titled "NSA Withholds Support for First Step Act", and record # **351**, copy of article from November/December 2018 issue of Sheriff & Deputy Magazine by Madeleine Coliezzi titled "A Dangerous First Step".

8. Email from Britt Carter to Elizabeth Doyle dated 11/29/2018 with the subject "Letter":

Response: See record # **352-354**, a letter to President Donald Trump from Sheriff Thomas Hodgson dated November 29, 2018.

9. Email from Britt Carter to Elizabeth Doyle dated 12/4/2018 with the subject "Booklet":

Response: See record # **355-363**, a booklet titled "A Fresh Step to Success".

10. Email from Blake Deeley to Sheriff Thomas Hodgson dated 1/31/2019 with the subject "White House follow up letter":

Response: See record # **364-365**, a letter to Blake Deeley from Sheriff Thomas Hodgson dated January 31, 2019.

11. Email from William Crozer to Sheriff Thomas Hodgson dated 5/8/2019 with the subject "Sheriff's Letter to MSA Regarding the Warrant Service Officer Program-05-08-2019":

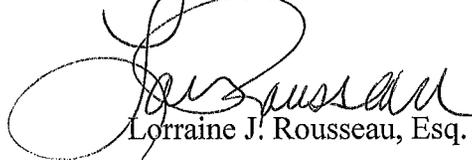
Response: See record # **366-367**, a letter to Mass Sheriff's Association from Sheriff Thomas Hodgson dated May 8, 2019.

The Sheriff's Office has now provided attachments and records you have indicated were missing from previous productions of records. The Sheriff's Office believes it has made a diligent effort to comply with the ACLUM's records request, which has included numerous emails. If the ACLUM identifies any additional records that may have been inadvertently missed or was mentioned in an email but not included as an attachment to an email, please advise and the Sheriff's Office will respond accordingly.

The ACLUM has the right to appeal this decision to the Supervisor of Public Records under 950 CMR 32.08(1) and to seek judicial review by commencing a civil action in the Superior Court.

Thank you.

Very truly yours,



Lorraine J. Rousseau, Esq.

Enc.

cc: Christopher E. Hart, Esq.
Daniel McFadden
Robert M. Novack, Esq.