

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
C.A. NO. 2084CV01035

AMERICAN CIVIL LIBERTIES UNION)
OF MASSACHUSETTS,)
Plaintiff,)
v.)
BRISTOL COUNTY SHERIFF’S OFFICE,)
Defendants)

AFFIDAVIT OF LORRAINE J. ROUSSEAU, ESQ.

NOW comes Lorraine J. Rousseau, Esq., under oath, deposes and states as follows:

1. I am an attorney admitted to practice law within the Commonwealth of Massachusetts with 28 years of experience.
2. I am employed as an attorney by the Bristol County Sheriff’s Office (“BCSO”).
3. This affidavit is submitted in support of the Defendant’s Response to the Second Order on Plaintiff’s Request for Injunctive Relief.
4. Pursuant to the Court’s Second Order on Plaintiff’s Request for Injunctive Relief, the Court has ordered the Defendant BCSO to provide a written response and affidavit attesting to the existence or non-existence of email communications requested under Plaintiff American Civil Liberties Union of Massachusetts’ (“ACLUM”) under # 6, 8 and 10 of its public records request.
5. The ACLUM’S public records request requests records relating to a violent disturbance on May 1, 2020 in the BCSO ICE Building by Immigration and Customs Enforcement (“ICE”) Detainees that resulted in injuries to staff and ICE Detainees and significant property damage (“Incident”).
6. Very few written communications, excluding electronic communications

“emails”) exist during the period of May 1, 2020 to the present between the BCSO, including Sheriff Thomas Hodgson and “BCSO employees”, and “any federal department or agency”, including Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”), the Office of the Inspector General (“OIG”) for DHS, and the Executive Office of the President, relating to the Incident. Attached to this response is Defendant’s Second Custodial Index, dated December 23, 2020, listing two records produced to ACLUM.

7. The BCSO is continuing to search for any such other written communications (not emails) and will provide a further response on or before January 15, 2021 regarding whether any other such written communications exist.

8. The BCSO has conducted a search of its email system to determine if any email communications exist that may be responsive to request # 6, 8 and 10.

9. As the ACLUM did not provide specific search terms to use to conduct this search, the BCSO ran a search using numerous possible terms in order to find emails that are responsive to request # 6, 8 and 10. The result of this search identified over 40,000 emails that may or may not be responsive to the records requested under # 6, 8 and 10.

10. Thus, the BCSO records # 6, 8 and 10 are overly burdensome and broad and cannot be processed as requested.

11. A search of the BCSO email system requires the use of search terms and other parameters to find records that may be responsive to the records request.

12. First, the period time for the search is pretty straightforward, May 1, 2020 to the present.

13. Second, the search requires using search terms to find emails that may contain words related to the Incident.

14. As the ACLUM did not include search terms in its records request, the BCSO is

using “May 1, 2020”, “May 1”, “riot”, “disturbance”, “covid” and “detainee” as terms to search for emails. However, these search terms will return numerous emails that may or may not be responsive to the records request.

15. Third, searching for emails to and/or from Sheriff Hodgson and “BCSO employees”, which means “*all*” BCSO employees (approximately 600+ employees), means that the search will return numerous emails that may or may not be responsive to the records request.

16. Fourth, searching for emails to and/or from “*any federal department or agency*”, DHS, ICE, OIG and the Executive Office of the President requires using the domain part of email addresses for such agencies, which is the part of an email address that follows the ampersand (“@”) in the email address.

17. Finding emails for “any federal department or agency” requires using “.gov” as a search terms; however, this will return numerous emails that are not responsive to the records requested.

18. Other search terms would include using “dhs”, “oig”, “@ice”, “.ice”, “@who” or “who” (White House Office), and “@eop” or “.eop” (Executive Office of the President).

19. Presently, a preliminary search for emails using the above search terms and parameters identified over 40,000 emails that may or may not be responsive to the records requested under # 6, 8 and 10.

20. These records undoubtedly include numerous emails that are not responsive to the records requested and include numerous emails that are duplicates of emails that are responsive and not responsive to the records requested.

21. Regardless of the number of emails found based on the search terms used, each email must then be read to determine if it is responsive to the records requested.

22. Given the vast number of email communications that have been identified as

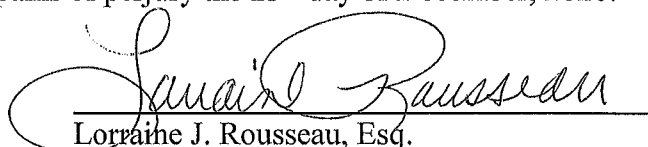
containing terms related to the ACLUM's records request, the BCSO recommends that the ACLUM narrow its records request or provide specific terms to be used to search for the requested emails.

23. The AGO has concluded his investigation and issued a Report regarding such on December 15, 2020.

24. The Senate investigation is ongoing and no information is available regarding the status of the investigation.

25. The OIG's investigation is ongoing and no information is available regarding the status of the investigation.

Signed under the penalties and pains of perjury the 23rd day of December, 2020.


Lorraine J. Rousseau, Esq.