

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

**SUPERIOR COURT
DOCKET NO. 2484CV00683**

**AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, INC.
PLAINTIFF**

v.

**OFFICE OF THE DISTRICT ATTORNEY
FOR THE BRISTOL DISTRICT
DEFENDANT**

DEFENDANT'S ANSWER

The Defendant, Office of the District Attorney for the Bristol District (BDAO), answers the Complaint for Declaratory and Injunctive Relief as follows:

- 1) The BDAO admits it received a public records request dated May 23, 2023, from the American Civil Liberties Union of Massachusetts, Inc. (ACLU), regarding the materials identified in this paragraph of the Complaint.
- 2) The BDAO denies the factual allegations in this paragraph. Furthering answering, the BDAO admits that it frequently utilizes the Massachusetts State Police Crime Laboratory (State Crime Lab) to assist in the investigation and prosecution of criminal acts through the use of DNA evidence. The FSOB Report cited in this paragraph speaks for itself.
- 3) The BDAO denies the factual allegations in this paragraph. Furthering answering, the BDAO admits that it frequently utilizes the State Crime Lab to assist in the investigation and prosecution of criminal acts through the use of DNA evidence, and that it regularly receives DNA reports from the State Crime Lab.
- 4) The BDAO denies the factual allegations of this paragraph. Further answering, the BDAO admits that consistent with its mandate to investigate and prosecute criminal acts, the BDAO reviews and organizes DNA evidence provided to it by the State Crime Lab.
- 5) The BDAO denies the factual allegations of this paragraph. Further answering, the BDAO denies that it is a facility engaged in forensic services or that it maintains a DNA database. Further answering, the FSOB Report speaks for itself.
- 6) The BDAO is without sufficient information to admit or deny the allegations in this paragraph of the Complaint.
- 7) The BDAO admits it received a public records request dated May 23, 2023, from ACLU, but it denies that it maintains a "local DNA database." Further answering, the

BDAO admits that it responded to ACLUM by letter dated June 7, 2023, and that letter speaks for itself.

- 8) The BDAO denies the factual allegations of this paragraph. Further answering, the BDAO's June 7, 2023, letter speaks for itself. Further answering, the BDAO states that it supplemented its response to the ACLUM's public records request when by letter and email dated April 5, 2024, it forwarded to counsel for ACLUM all four (4) memoranda of understanding (MOU) in unredacted form. Each MOU speaks for itself.
- 9) The BDAO denies that it maintains a DNA database. Further answering, the BDAO admits that it did not produce any responsive records that may exist because Massachusetts law prohibits the public disclosure of DNA evidence. Further answering, the BDAO will file with the Court – as **Exhibit A** to its Answer – a “document log” listing records in the possession of the BDAO that were withheld in response to the ACLUM's request, and citing the legal basis for withholding the record from public disclosure.
- 10) The BDAO admits that the ACLUM sent a second public records request by letter dated November 2, 2023, and the BDAO responded to that letter by letter dated November 16, 2023. Further answering, the BDAO states that it supplemented its response to the ACLUM's public records request when by letter and email dated April 5, 2024, it forwarded to counsel for ACLUM all four (4) memoranda of understanding (MOU) in unredacted form.
- 11) The BDAO denies that it has failed to comply with the public records law. Further answering, the BDAO states that it supplemented its response to the ACLUM's public records request when by letter and email dated April 5, 2024, it forwarded to counsel for ACLUM all four (4) memoranda of understanding in unredacted form.
- 12) The BDAO denies that it has failed to comply with the public records law.
- 13) The BDAO denies that it has failed to comply with the public records law.
- 14) The BDAO is without sufficient information to either admit or deny the allegations in this paragraph.
- 15) The BDAO admits that it is an independent state agency dedicated to ensuring the safety and security of all people, and committed to protecting the civil rights and civil liberties of all people, including victims of crime. Further answering, the BDAO denies that it has failed to comply with the public records law
- 16) Admitted.
- 17) The BDAO is without sufficient information to either admit or deny the allegations in this paragraph. Further answering, the BDAO states that the cited caselaw speaks for itself.

- 18) The BDAO is without sufficient information to either admit or deny the allegations in this paragraph. Further answering, the BDAO states that the FSOB Report speaks for itself.
- 19) The legal assertions in this paragraph require no response.
- 20) The legal assertions in this paragraph require no response.
- 21) The legal assertions in this paragraph require no response.
- 22) The legal assertions in this paragraph require no response.
- 23) The legal assertions in this paragraph require no response.
- 24) The legal assertions in this paragraph require no response.
- 25) The legal assertions in this paragraph require no response.
- 26) The legal assertions in this paragraph require no response.
- 27) The FSOB Report speaks for itself.
- 28) The FSOB Report speaks for itself.
- 29) The FSOB Report speaks for itself.
- 30) The FSOB Report speaks for itself.
- 31) The FSOB Report speaks for itself.
- 32) Admitted. Furthering answering, the BDAO states that it frequently utilizes the State Crime Lab to assist in the investigation and prosecution of criminal acts through the use of DNA evidence, and that it regularly receives DNA reports from the State Crime Lab.
- 33) Admitted. Furthering answering, the BDAO states that it frequently utilizes the State Crime Lab to assist in the investigation and prosecution of criminal acts through the use of DNA evidence, and that it regularly receives DNA reports from the State Crime Lab.
- 34) Admitted. Furthering answering, the BDAO states that it frequently utilizes the State Crime Lab to assist in the investigation and prosecution of criminal acts through the use of DNA evidence, and that it regularly receives DNA reports from the State Crime Lab.
- 35) The BDAO is without sufficient information to either admit or deny the allegations in this paragraph.

- 36) Denied. Further answering, the BDAO admits that consistent with its mandate to investigate and prosecute criminal acts, the BDAO reviews and organizes DNA evidence provided to it by the State Crime Lab.
- 37) The BDAO denies that it maintains a local DNA database. Further answering, the BDAO admits that it participated in a news story regarding its efforts to solve crimes utilizing DNA evidence and states that the news story speaks for itself.
- 38) The BDAO is without sufficient information to admit or deny that the FSOB opened an investigation. Further answering, the BDAO states that the FSOB has no authority to investigate the BDAO and that the FSOB Report speaks for itself.
- 39) The BDAO denies that it has failed to comply with the public records law. Further answering, the BDAO states that Massachusetts law prohibits the public disclosure of DNA evidence.
- 40) The BDAO is without sufficient information to either admit or deny the allegations in this paragraph.
- 41) The BDAO admits it received a public records request dated May 23, 2023, from ACLUM and states that the letter speaks for itself.
- 42) The BDAO admits that it responded to ACLUM's public records request on June 7, 2023, and states that the letter speaks for itself.
- 43) The BDAO admits that it received a second letter dated November 2, 2023, from ACLUM and states that the letter speaks for itself.
- 44) The BDAO admits that it responded to ACLUM's second letter on November 16, 2023, and states that the letter speaks for itself.
- 45) Denied.
- 46) The BDAO admits it received a public records request dated May 23, 2023, from ACLUM and states that the letter speaks for itself.
- 47) The BDAO admits that it denied ACLUM's public records request, but denies that it has failed to comply with the public records law.
- 48) Denied.
- 49) The BDAO admits that it responded to ACLUM's public records request on June 7, 2023, and states that the letter speaks for itself. Further answering, the legal assertions in this paragraph require no response.

- 50) The legal assertions in this paragraph require no response. Further answering, the BDAO states that the Determination of the Supervisor of Records cited in this paragraph speaks for itself.
- 51) The BDAO admits that it responded to ACLUM's public records request on June 7, 2023, and November 16, 2023, and states that each letter speaks for itself. Further answering, the legal assertions in this paragraph require no response.
- 52) The BDAO admits that it responded to ACLUM's public records request on June 7, 2023, and states that the letter speaks for itself. Further answering, the legal assertions in this paragraph require no response.
- 53) The legal assertions in this paragraph require no response. Further answering, the BDAO states that the Determination of the Supervisor of Records cited in this paragraph speaks for itself.
- 54) The BDAO admits that it responded to ACLUM's public records request on June 7, 2023, and states that the letter speaks for itself. Further answering, the legal assertions in this paragraph require no response. Further answering, the BDAO states that the Determination of the Supervisor of Records cited in this paragraph speaks for itself.
- 55) Denied. Further answering, the BDAO states that it supplemented its response to the ACLUM's public records request when by letter and email dated April 5, 2024, it forwarded to counsel for ACLUM all four (4) memoranda of understanding in unredacted form. Each MOU speaks for itself.
- 56) The BDAO is without sufficient information to either admit or deny the allegations in this paragraph.
- 57) The BDAO admits that it responded to ACLUM's public records request on June 7, 2023, and states that the letter speaks for itself. Further answering, the BDAO states that it supplemented its response to the ACLUM's public records request when by letter and email dated April 5, 2024, it forwarded to counsel for ACLUM all four (4) memoranda of understanding in unredacted form.
- 58) The BDAO repeats its responses to paragraphs 1-57.
- 59) The legal assertions in this paragraph require no response.
- 60) The legal assertions in this paragraph require no response.
- 61) Denied.
- 62) Denied.
- 63) Denied.

64) Denied.

65) Denied.

66) Denied.

67) The BDAO repeats its responses to paragraphs 1-66.

68) Admitted.

69) The legal assertions in this paragraph require no response.

70) The legal assertions in this paragraph require no response.

71) The legal assertions in this paragraph require no response.

72) Denied.

73) The legal assertions in this paragraph require no response.

74) The legal assertions in this paragraph require no response.

75) The legal assertions in this paragraph require no response.

76) The legal assertions in this paragraph require no response.

77) The legal assertions in this paragraph require no response.

Further answering, the BDAO requests that the Court enter judgment for the Defendant, without costs, attorney's fees, or punitive damages awarded to the Plaintiff, and order such other relief as the Court deems proper and just.

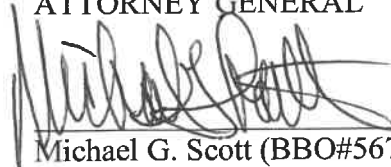
[signature on next page]

Respectfully submitted,

BRISTOL DISTRICT ATTORNEY'S OFFICE

By: ANDREA JOY CAMPBELL
ATTORNEY GENERAL

DATE: 5/3/2024




Michael G. Scott (BBO#567829)
Special Assistant Attorney General
Assistant District Attorney
Bristol District Attorney's Office
218 South Main Street
Fall River MA 02721
(508) 961-1817
michael.g.scott@mass.gov

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the attached pleading upon counsel for the plaintiff by electronic mail.

Date: 5/3/24


Michael G. Scott

DOCUMENT LOG

- 1) **SQL spreadsheet** compiling DNA Y-STR testing information obtained from 159 state crime lab DNA reports concerning 362 DNA samples from Bristol County criminal investigations, and recording verbatim from the DNA reports lab number, city, sample description, sample number, and allele types (22 pages)
STATUS: Withheld
Exemptions: G.L. c. 4 §7, cl. 26(a) (DNA reports exempted from disclosure by G.L. c. 22E §10)
G.L. c. 4 §7, cl. 26(c) (privacy of information in DNA reports)
G.L. c. 4 §7, cl. 26(f) (DNA reports used in ongoing criminal investigations)
- 2) **MOU** between Plymouth DA and Bristol DA regarding DNA reports and searchable spreadsheet (3 pages)
STATUS: Released
- 3) **MOU** between Northwestern DA and Bristol DA regarding DNA reports and searchable spreadsheet (3 pages)
STATUS: Released
- 4) **MOU** between Middle DA and Bristol DA regarding DNA reports and searchable spreadsheet (3 pages)
STATUS: Released
- 5) **MOU** between Cape & Islands DA and Bristol DA regarding DNA reports and searchable spreadsheet (3 pages)
STATUS: Released