

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT
C.A. No. 2384CV01076

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.,

Plaintiff,

v.

OFFICE OF THE STATE AUDITOR,

Defendant.

OFFICE OF THE STATE AUDITOR’S MOTION FOR SUMMARY JUDGMENT

Pursuant to Mass. R. Civ. P. 56, Defendant, Office of the State Auditor (“OSA”), respectfully submits this Motion for Summary Judgment. The parties have submitted herewith a Statement of Material Facts (“J. Stmt.”) and a Joint Appendix (“J.A.”).

Plaintiff American Civil Liberties Union of Massachusetts, Inc. (“ACLU”) seeks, in this action for declaratory and injunctive relief, to compel responses to public records requests (the “Requests”), which sought the unredacted reports on healthcare and inmate deaths issued by OSA to the Plymouth County Sherriff’s Department (“PCSD”) and the Bristol County Sherriff’s Office (“BCSO”). OSA provided both reports, omitting in each report only one section and references to that section in other parts of the report.

This Court should enter summary judgment and a declaration in favor of OSA because disclosure of the disputed records is prohibited under the public safety and cyber security exemption encoded in the Massachusetts public records law under G.L. c. 4, § 7, twenty-sixth (n). The public safety and cyber security exemption applies because the redacted sections discuss the cyber security systems at the county jails [or houses of correction, or both] operated

by PCSD and BCSO, and disclosure of those redactions is likely to jeopardize public safety and cyber security. Because a discussion of the content of the redacted portions of the report would reveal the very information that is exempt from disclosure, OSA, as part of this motion, requests that this Court conduct an *in camera* review of the responsive documents.

In support of this motion, OSA relies upon its memorandum of law and supporting exhibits in the Joint Appendix.

Respectfully submitted,

OFFICE OF THE STATE AUDITOR,

By its attorney,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

/s/Samuel Furgang

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CERTIFICATE OF SERVICE

I, Samuel Furgang, hereby certify that, on, a true and accurate copy of the foregoing Motion for Summary Judgment was served by email on October 13, 2023, on the following:

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