

April 8, 2016

Jessie J. Rossman, Esq.  
ACLU Foundation of Massachusetts  
211 Congress Street, Suite 301  
Boston, MA 02110

*Sent via E-Mail and U.S. Mail*

Re: Freedom of Information Request  
Cell Site Simulators

Dear Attorney Rossman,

This letter is in further response to your request for documents potentially in the possession, custody or control of the Boston Police Department under the Freedom of Information Act (FOIA [5 U.S.C. § 552]) and/or Massachusetts Public Records Law (M.G.L. c. 66, § 10). Specifically you requested information regarding the use of cell site simulators. Earlier responses were provided on January 29, 2016 and March 4, 2016. As we discussed, the Department does not have documentation that specifically addresses some of the outstanding inquiries; however, the information contained in prior responses, and herein, is provided in an effort to answer your questions regarding Cell Site Simulators.

The Department previously reported that it has deployed its current cell site simulator equipment on nineteen (19) occasions since 2014. Enclosed please find police reports corresponding to incidents during which the Department utilized its current cell site simulator equipment. These documents have been redacted pursuant to M.G.L. c. 4 §7(26)(a), (c) and (f) and M.G.L. c. 6 §172. Specifically, any confidential investigatory material, criminal offender record information and information regarding specific witnesses / victims has been removed to protect their privacy.

Of the nineteen (19) deployments referenced above, ten (10) were done at the request of an outside law enforcement agency. Nine (9) different agencies have requested the Department's assistance through use of the equipment. Of these agencies, five (5) are state or local law enforcement and four (4) are federal entities.

Assuming responsive documentation exists identifying these agencies, any further details regarding the deployment of cell site simulators for other law enforcement agencies is exempt from disclosure by M.G.L. c. 4 §7(26)(f). Disclosure of the information contained in these documents would not be in the public interest and would prejudice the possibility of effective law enforcement. The protection of such investigatory materials is essential to ensure that the Department can continue to effectively monitor and control criminal activity and thus protect the safety of private citizens.

More specifically, disclosing the jurisdictions where this equipment is utilized may result in the use of countermeasures to avoid detection by law enforcement in locations where this equipment

is being utilized. This would not only potentially endanger the lives and physical safety of law enforcement officers and other individuals, but also adversely impact criminal investigations. Additionally, the identification of these agencies could be used to construct a map or directory of jurisdictions that possess the investigative capabilities, thereby providing further information for potential suspects that could be used to evade detection.

Through public disclosures, the use of this equipment will be rendered essentially useless for future investigations. In order to ensure that such equipment, and any information related to its functions, operation and use, is protected from potential compromise it is not subject to disclosure as a public record.

Finally, the Department has not been able to identify any search warrant documentation completed as part of the nine (9) occasions during which it utilized a cell site simulator.

Please be advised that this office does not provide legal assistance, opinions or explanations about police policy to the public, and will not respond to any such request. If you have been denied records by the Boston Police Department, you have the right to appeal this decision with the Supervisor of Public Records at the Public Records Division of the Secretary of the Commonwealth.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nicole I. Taub".

Nicole I. Taub