

Ms. Kate Silvia, Primary RAO
MA Department of Corrections
50 Maple Street
Milford, MA 01757
(508) 422-3436; kate.silvia@state.ma.us

November 16, 2021

Re: Second Public Records Request

Dear Ms. Silvia:

This letter is a public records request under M.G.L. c. 66, § 10 (the “PR Law”) concerning those public records¹ as described below within the possession, custody, or control of the Massachusetts Department of Corrections (DOC), defined to include without limit (i) all DOC officers, employees, agents, or representatives, as well as (ii) any third parties or independent contractors that do business with, or provide services to or on behalf of, DOC.

Please provide the following public records:

1. All public records concerning the creation, drafting, selection, application, distribution, and dissemination of any requirements, rules, regulations, restrictions, dress codes, or other constraints considered by MCI-Norfolk or other DOC personnel to be applicable to video calls² between non-legal video visitors and inmates at MCI-Norfolk.
2. All public records containing communications between MCI-Norfolk or other DOC personnel and all non-legal video visitors approved by MCI-Norfolk and/or Securus Technologies, Inc. (“Securus”) to place video calls with MCI-Norfolk inmates, including all such communications setting forth any requirements, rules, regulations, restrictions, dress codes, or other constraints considered by MCI-Norfolk or other DOC personnel to be applicable to such video calls.
3. All public records sufficient to show whether, when, by whom, and how non-legal video visitors with a scheduled video call involving an MCI-Norfolk inmate were provided with advance notification of any requirements, rules, regulations, restrictions, dress codes, or other constraints considered by MCI-Norfolk or other DOC personnel to be applicable to such video calls.
4. In cases of video calls between non-legal video visitors and MCI-Norfolk inmates in which a violation(s) is alleged to have been committed by the non-legal video visitor, all public records concerning or sufficient to show the following:
 - a. For each such video call, the requirement, rule, regulation, restriction, dress code requirement, or other constraint alleged to have been violated.

¹ The PR Law broadly defines “public records” to include “all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee” of any Massachusetts governmental entity.

² The terms “video call” and “video visit” are used interchangeably in this letter. Both terms refer to telephone calls that include a video feed between inmates and non-legal visitors.

- b. For each such video call, all communications with the subject non-legal video visitor, the subject inmate, and/or any third party concerning the alleged violation(s).
5. To the extent any non-legal video visitor is alleged to have committed a violation(s) during a video call with an MCI-Norfolk inmate and information concerning such alleged violation was disclosed by MCI-Norfolk or any other DOC personnel to any third party, public records sufficient to show:
 - a. All policies, processes, or procedures governing the release of such information to third parties, including when and in what circumstances such disclosures are permitted or required; when and in what circumstances such disclosures are limited or prohibited, if any; whether and to what extent the decision to disclose such information to third parties is subject to advance review by legal or other counsel; and whether and to what extent the MCI-Norfolk or DOC employee(s) or official(s) responsible for such disclosure may be subject to discipline, reprimand, or any other form of employee sanction for improperly or illegally disclosing such information to third parties.
 - b. The legal, statutory, or other basis for disclosing such information to third parties, with citation to all relevant statutes, regulations, DOC memoranda, or other enabling or authorizing documents you believe provide legal authority for, and/or mandate, such disclosures.
 - c. With respect to each such video call, the identity of the third party or parties to whom such disclosure was made, including without limit the relation of such third party or parties to the subject non-legal video visitor.
 - d. With respect to each such video call, (i) the purpose or goal of disclosing such information to such third party or parties and how such disclosures promote the DOC's mission/vision of "providing [inmate] care" and/or effecting "positive behavioral change" among inmates (*see MA DOC Program Description Booklet*, October 2020); (ii) how such disclosures facilitate inmate visits or "reflect the importance of maintaining [inmate] contact with family and the community" (*see* 103 CMR 483.01); and (iii) how such disclosures are consistent with the requirement that all DOC staff "shall treat visitors with dignity and respect" (*see* 103 CMR 483.01).
 - e. With respect to each such video call, the name and title of the MCI-Norfolk or DOC employee(s) or official(s) who (i) determined a violation(s) had occurred, and (ii) authorized or caused disclosure of such alleged violation(s) to the third party or parties.
6. All public records detailing all lawsuits, grievances, and/or other arbitrated or mediated conflicts commenced on or after January 1, 2018 to the present in which DOC and/or MCI-Norfolk (or any agent thereof) was a defendant or respondent and in which the opposing party or parties asserted claims including, without limit, (i) tortious interference with business or contractual relations (or any state or federal analog thereto), and (ii) intentional infliction of emotional distress (or any state or federal analog thereto).
7. With respect to each dispute, conflict, or lawsuit identified in response to **Request 6**, above, public records sufficient to show how each such dispute was handled and/or resolved, including without limit the parties involved; the nature and facts of the complaint; the date on which the complaint was filed or otherwise commenced and in what forum; the date on which the dispute was resolved and the manner of such resolution (*e.g.*, judgment following trial; summary judgment; directed verdict; settlement; etc.); the amount paid, if any, to settle the dispute and to whom such monies were paid;

the total amount in legal fees and costs incurred by DOC or MCI-Norfolk (or any agent thereof) in connection with the dispute; and whether and to what extent any DOC or MCI-Norfolk employee(s) or official(s) was disciplined, reprimanded, or otherwise subject to any form of employee sanction, including termination, in connection with the facts alleged in the dispute, conflict, or lawsuit.

8. All public records concerning the policies, processes, or procedures governing either contemporaneous or after-the-fact review by MCI-Norfolk or other DOC personnel of recorded video visit calls between non-legal video visitors and MCI-Norfolk inmates, including without limit:
 - a. The name and title of all DOC or MCI-Norfolk employee(s) or official(s) required or permitted to review such video calls.
 - b. Whether such DOC or MCI-Norfolk employee(s) or official(s) is required to review all such video calls or, if not all, which video calls are selected for review and for what reason (e.g., random selection, every fifth or tenth or twentieth video call, selection based on the identity of the video visitor or the subject inmate, etc.).
 - c. The number of such video calls selected for review and such number stated as a percentage of the total number of video calls made involving non-legal video visitors and MCI-Norfolk inmates.

Unless otherwise specifically stated, the above requests should include public records from the initiation of non-legal video calls in or around early January 2021 to the present. Further clarification of any of the above requests can be provided upon request.

I also request that any fees incurred in connection with responding to this letter be waived as this request is in the public interest, as suggested but not stipulated by the recommendations of the Massachusetts Supervisor of Public Records. In addition, as stated by the Massachusetts Secretary of the Commonwealth, “all agencies and municipalities are strongly urged to waive the fees associated with access to public records”.³ The requested documents will be made available to the general public free of charge as part of the public information service at [MuckRock.com](https://www.muckrock.com), processed by a representative of the news media/press, and is made in the process of news gathering and not for commercial usage.

Moreover, on March 11, 2021, I served a public records request on the DOC (the “March 11 PRR”). Among other inquiries, the March 11 PRR contained all the above inquiries; however, in its partial, incomplete, and improper responses to the March 11 PRR, the DOC simply ignored the above (and thus the requests are being resubmitted here). Nonetheless, I was charged – and paid – a \$900 fee in connection with the March 11 PRR. To charge additional fees now in connection with a subset of the same requests contained in the March 11 PRR (and which the DOC willfully ignored) would be improper, at best, and a violation of state laws and regulations, at worst.

If you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and release any portions of the records for which you do not claim an exemption. Please provide the requested records in electronic format to the maximum extent possible. To the extent you contend any of the requested records are not public records or are otherwise exempt from disclosure in response to this request please take steps to ensure that such

³ Galvin, William F. (Secretary of the Commonwealth), *A Guide to the Massachusetts Public Records Law* (updated March 2020) at 41 (accessed 11/16/21 at <https://www.sec.state.ma.us/pre/preinformation.htm>).

records are preserved, and are not modified, deleted, or destroyed, pending review of your contention and the resolution of any resulting dispute.

With respect to the form of production, responsive electronic records should be provided electronically in their native file format, to the maximum extent possible. Paper records may be scanned and provided in static-image format (PDF). Please provide copies of entire correspondence in relevant searches, including all documents or attachments that were included or forwarded. Records should include but not be limited to electronic correspondence transmitted via computer, laptop, mobile phone and/or other electronic devices, and should include but not be limited to any emails in which an employee or other official or agent was the direct recipient, CC recipient, BCC recipient, and/or listserv recipient. All images in any email should be downloaded and viewable before being copied. Please note that custodians of public records must comply with a public records request within ten (10) days of receipt thereof. If you cannot comply with my request within the mandated time frame, you are statutorily required to provide an explanation in writing. Thank you for your anticipated assistance with this matter. Please do not hesitate to contact me if you have any questions or need further clarification concerning any part of this request.

Sincerely,

/s/ M. Claire Masinton

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