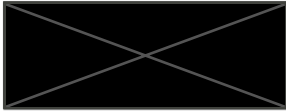




August 23, 2019

BY FEDERAL EXPRESS

Records Access Officer
Law Department



Re: Massachusetts Public Records Request

Dear Records Access Officer:

We represent the Joyful Heart Foundation (“Joyful Heart”) in connection with its End The Backlog project and submit this letter to you on its behalf. Joyful Heart is a non-profit organization focused on preventing and remediating sexual assault, domestic violence and child abuse. As part of the End the Backlog project, Joyful Heart is collecting information throughout the country concerning policies and procedures on evidence processing for the crime of rape, as well as information on the processing of rape kits each year. The ultimate goal of this initiative is to end the backlog of untested rape kits throughout the United States and to work with jurisdictions to develop and implement survivor-centered reforms. Joyful Heart is hoping to collaborate with your office, the Lowell Police Department (“LPD”), as well as other local authorities, in pursuit of this goal.

This letter is a request for information from Joyful Heart pursuant to the Massachusetts Public Records Law, M. G. L. c. 66 § 10 (the “Public Records Law”). As you are aware, the Public Records Law provides that the public must have access to public records not specifically exempt from disclosure.

Joyful Heart hereby requests that the LPD provide public records regarding each of the following:

1. Any documentation regarding the number of all sexual assault evidence kits received by the LPD broken down by year;
2. Any documentation regarding the number of sexual assault evidence kits received by the LPD that have been sent to a crime lab for DNA analysis broken down by year;
3. Any documentation regarding the number of sexual assault evidence kits received by the LPD that have not been sent to a lab for DNA analysis and remain in any storage facilities currently under the LPD’s jurisdiction and control, the date the kit was originally collected, and the reason the kit remains untested;



GOODWIN

Lowell Police Department

August 23, 2019

Page 2



4. Any documentation regarding the number of sexual assault evidence kits received by the LPD that have been destroyed or lost; and
5. Any written policies or procedures regarding the LPD's practices on the handling of sexual assault evidence kits, including testing and destruction protocols, and also including any documents defining the meaning of any terms or abbreviations used by the LPD pertaining to sexual assault evidence kits and evidence tracking systems, if applicable.

Please note that *no* private information of individual suspects or victims is being requested, as we fully respect the privacy interests of those individuals. We are happy to work with you to ensure that all privacy regulations are upheld.

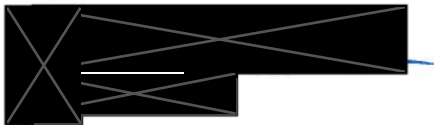
Joyful Heart presumes that as the Records Access Officer, you will be the individual whom it can communicate regarding this request. To the extent there are any other individuals to include, please advise.

We appreciate your immediate attention to this matter. We understand that the records requested in this letter may not be available within ten (10) business days and in that event, pursuant to Subsection 10(b) of the Public Records Law, we look forward to receiving a written response stating the time reasonably necessary to produce the records or information.

In addition, pursuant to Subsection 10(d) of the Public Records Law, we understand that a fee may be imposed in connection with this request. We would kindly request that you waive any such fee based on the public interest in the requested disclosure. If the fee cannot be waived, please provide an estimate of the fees for the above listed documentation prior to incurring any such fee.

If you have any questions, please do not hesitate to contact me at @goodwinlaw.com or 

Sincerely,



cc (via email): Joyful Heart Foundation



Fwd: FW: Public recods request - Lowell, MA

1 message

[REDACTED]@joyfulheartfoundation.org>
To: [REDACTED]@joyfulheartfoundation.org>

Thu, Nov 7, 2019 at 12:50 PM

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: [REDACTED]@goodwinlaw.com>

Date: Wed, Nov 6, 2019 at 4:21 PM

Subject: FW: Public recods request - Lowell, MA

To: [REDACTED]@joyfulheartfoundation.org>

Cc: [REDACTED]@goodwinlaw.com>, [REDACTED]@goodwinlaw.com>

Hi [REDACTED],

I spoke with Stacie Moeser in Lowell's Law Department today. She is generally tasked with responding to FOIA requests. Below is the follow up email I sent to her. I'll let you know when I hear back from her.


Best,



Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: 
Sent: Wednesday, November 6, 2019 4:20 PM
To: @lowellma.gov' @lowellma.gov>
Subject: FW: Public recods request

Hi Stacie,

Thanks again for your time this morning.

I've attached the original FOIA request and the response I received from Jacqueline Cook.

The response did not directly speak to items 1, 2, or 4 in the request and did not fully respond to 3 (why kits remained untested).

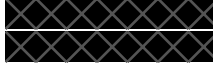
We would appreciate if we could receive either the missing information or the materials Lowell prepared in connection with the 2018 and 2019 audits of sex assault kits. The audits were to have been conducted under An Act Relative to Criminal Justice Reform, Chapter 69 of 2018.

Please let me know if you need additional info.

Best,



Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: Cook, Jacqueline [REDACTED]@lowellma.gov>
Sent: Monday, September 9, 2019 10:49 AM
To: [REDACTED]@goodwinlaw.com>
Subject: Public recods request

Good Morning,

I write in response to your records request which we received on August 26. In part, you asked for "the number of all sexual assault evidence kits received by this agency broken down by year as well as how many kits have been sent to a crime lab for DNA analysis and finally the amount of kits that have not been sent to a lab for DNA analysis and remain in storage under the LPD jurisdiction and control plus the date the kit was originally collected and the reason the kit remains untested."

Attached is the data responsive to your request. If you have any questions, you can contact Sgt. James Latham at [REDACTED] He is the officer in charge of our Evidence room and would have the expertise and knowledge to answer any and all questions regarding this matter.

If you wish to appeal the City's response, you may petition the Supervisor of Records. The petition should be sent to the following address:

SECRETARY OF THE COMMONWEALTH

DIVISION OF PUBLIC RECORDS

[REDACTED]

[REDACTED]

In addition, please be advised that you have the right to seek judicial review of an unfavorable decision by commencing a civil action in the Superior Court under MGL c. 66 section 10A, subsection (c).

Jacqueline Cook

Keeper of Records/RAO

Lowell Police Department

[REDACTED]

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3 attachments

 **image001.gif**
1K

 **Sex Assault Kits Info.pdf**
121K

 **FOIA Letter to Lowell MA for Joyful Heart Foundation (8-23-2019 FedEx to Lowell).PDF**
149K

September 6, 2019

To Whom it may concern,

In response to a Freedom of Information request that was received, I submit the following:

Within the last ten years we respond as follows:

Year	Sex Assault kits submitted	Awaiting Testing
2009	35	
2010	40	
2011	31	
2012	44	
2013	47	
2014	66	
2015	35	
2016	48	
2017	44	
2018	43	
2019	17(current)	5

We are currently in possession of 5 untested Sexual Assault Kits that are awaiting transfer to the Massachusetts State Police Crime Lab for testing. Those 5 kits were collected on the following dates: 8/24 (1), 8/25 (2), 8/28 (1), 8/30 (1).

We are not aware of any Sexual Assault Kits that have been lost or destroyed.

I have attached the portion of the Policy and Procedures that pertain to the Submission of Evidence to Forensic Laboratory, which would include Sexual Assault kits.

Respectfully Submitted,

Sgt. James Latham

September 6, 2019

To Whom it may concern,

In response to a Freedom of Information request that was received, I submit the following:

Within the last ten years we respond as follows:

Year	Sex Assault kits submitted	Awaiting Testing
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We are not aware of any Sexual Assault Kits that have been lost or destroyed.

I have attached the portion of the Policy and Procedures that pertain to the Submission of Evidence to Forensic Laboratory, which would include Sexual Assault kits.

Respectfully Submitted,

Sgt. James Latham

5)

- h. For additional guidance in packaging and storing evidence, department personnel shall refer to the procedures outlined in the FBI Handbook of Forensic Science.

II. SUBMISSION OF EVIDENCE TO FORENSIC LABORATORIES

1. It shall be the responsibility of the Evidence Unit to coordinate and delegate the preparation and transmittal of physical evidence to the appropriate lab. Written results of a laboratory analysis will be available to the investigating officers.
2. All seized evidence subject to laboratory examination will be submitted to the appropriate laboratory as soon as possible.
3. In situations where perishable evidence such as fresh blood, blood stained objects, physiological stains and tissue and biological materials cannot be submitted in a timely fashion, such perishable evidence will be stored in the secured evidence refrigerator.
4. As with all evidence, officers are to ensure that the proper chain of evidence is recorded when handling perishable evidence. The officer transferring the evidence will ensure the following chain of custody information is documented which shall include:
 - a. Case number.
 - b. Date and time of initial seizure and all subsequent transfers.
 - c. Officer's name and signature initially seizing evidence and subsequent officers handling the evidence.
 - d. Storage facilities.
 - e. Physical description of each piece of evidence.
 - f. Destination of transferable evidence, i.e., other agencies, laboratories.
 - g. Witness signatures.
 - h. Any other data that may further secure the chain of custody and/or describe disposition of evidence.
5. Items of physical evidence submitted for examination will be prepared in a uniform manner. Items of evidence will be packaged and transmitted consistent with the requirements of the receiving laboratory.
6. Depending upon the circumstances surrounding a particular investigation and/or the type of evidence in question, the department will utilize, but is not limited to, any of the following crime/forensic laboratories:



Re: Public recods request

2 messages

[Redacted]@joyfulheartfoundation.org>

Tue, Nov 26, 2019 at 2:19 PM

To: "[Redacted]@goodwinlaw.com>

Cc: [Redacted]@goodwinlaw.com>, "[Redacted]@goodwinlaw.com>,"

[Redacted]@joyfulheartfoundation.org

Great- thanks so much and happy holidays!

On Nov 13, 2019, at 10:56 AM, [Redacted]@goodwinlaw.com> wrote:

<image001.gif>

Hi [Redacted],

Please see below for a little more from Lowell. Nothing substantive, yet. We'll keep this on our radar and will ping them if we do not receive a substantive response in the coming days.

Best,

[Redacted]

[Redacted]

Goodwin Procter LLP

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]@goodwinlaw.com | goodwinlaw.com

From: Moeser, Stacie [REDACTED]@lowellma.gov>
Sent: Wednesday, November 13, 2019 10:33 AM
To: [REDACTED]oodwinlaw.com>
Cc: Gettings, Celine [REDACTED]@lowellma.gov>
Subject: RE: Public recods request

Hi [REDACTED],

I wanted to check back in with you and let you know that I received your materials and am in the process of getting some clarification from LPD. Your request may ultimately be assigned to another attorney in the Law Department (I receive all of the inquiries and then many are distributed within for response), but either way myself or someone from my office will be following up with you. Please do not hesitate to reach out to me with any questions or concerns in the meantime, and thank you for your patience as we work through this.

Respectfully,

Stacie

Stacie M. Moeser | *Assistant City Solicitor*
City of Lowell - Law Department

[REDACTED]
<http://www.lowellma.gov>

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delete all electronic copies of this message and its attachments, if any, and destroy any hard copies you may have created and notify the Sender via email or telephone.

From: [REDACTED]@goodwinlaw.com]
Sent: Wednesday, November 06, 2019 4:20 PM
To: Moeser, Stacie
Subject: FW: Public recods request

<image001.gif>

Hi Stacie,

Thanks again for your time this morning.

I've attached the original FOIA request and the response I received from Jacqueline Cook.

The response did not directly speak to items 1, 2, or 4 in the request and did not fully respond to 3 (why kits remained untested).

We would appreciate if we could receive either the missing information or the materials Lowell prepared in connection with the 2018 and 2019 audits of sex assault kits. The audits were to have been conducted under An Act Relative to Criminal Justice Reform, Chapter 69 of 2018.

Please let me know if you need additional info.

Best,



<image002.png>

Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: Cook, Jacqueline [REDACTED]@lowellma.gov>
Sent: Monday, September 9, 2019 10:49 AM
To: [REDACTED]@goodwinlaw.com>
Subject: Public recods request

Good Morning,

I write in response to your records request which we received on August 26. In part, you asked for "the number of all sexual assault evidence kits received by this agency broken down by year as well as how many kits have been sent to a crime lab for DNA analysis and finally the amount of kits that have not been sent to a lab for DNA analysis and remain in storage under the LPD jurisdiction and control plus the date the kit was originally collected and the reason the kit remains untested."

Attached is the data responsive to your request. If you have any questions, you can contact Sgt. James Latham at [REDACTED]. He is the officer in charge of our Evidence room and would have the expertise and knowledge to answer any and all questions regarding this matter.

If you wish to appeal the City's response, you may petition the Supervisor of Records. The petition should be sent to the following address:

SECRETARY OF THE COMMONWEALTH

DIVISION OF PUBLIC RECORDS

[REDACTED]

[REDACTED]

In addition, please be advised that you have the right to seek judicial review of an unfavorable decision by commencing a civil action in the Superior Court under MGL c. 66 section 10A, subsection (c).

Jacqueline Cook

Keeper of Records/RAO

Lowell Police Department

[REDACTED]

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Thu, Jan 23, 2020 at 4:06 PM

To: [REDACTED]@joyfulheartfoundation.org>

Cc: [REDACTED]@goodwinlaw.com>

Cc: [REDACTED]@goodwinlaw.com>, [REDACTED]@goodwinlaw.com>, B [REDACTED]
[REDACTED]@joyfulheartfoundation.org>

Thanks. So Frustrating. If there are kits just sitting bc they were never entered into any tracking system...but we can only push so much. And at least they have been sending them for the last decade. Thanks for your work!!

[REDACTED]

[REDACTED]

On Thu, Jan 23, 2020 at 3:56 PM [REDACTED]@goodwinlaw.com> wrote:

Yes, that's correct, at least as of Nov. 26, 2019. That's the date on which Stacie told me that no kits were awaiting transport or testing.

[REDACTED]



Goodwin Procter LLP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@goodwinlaw.com | goodwinlaw.com

From: [REDACTED]@joyfulheartfoundation.org>
Sent: Thursday, January 23, 2020 3:44 PM
To: [REDACTED]@goodwinlaw.com>
Cc: [REDACTED]@goodwinlaw.com>; [REDACTED]@goodwinlaw.com>
Subject: Re: FW: Public recods request

Ok, thank you [REDACTED]. So in essence, they have tested everything since 2009, correct?

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On Thu, Jan 23, 2020 at 3:35 PM [REDACTED]@goodwinlaw.com> wrote:

Hi [REDACTED],

Please see below from Lowell, MA – Stacie thought she could get us the data from 2000-2008 but “the data was not complete or consistently maintained prior to 2009.”

Based on her email below, I think 2009-2019 is the best we can get from them.

Best,



Goodwin Procter LLP



@goodwinlaw.com | goodwinlaw.com

From: Moeser, Stacie [REDACTED]@lowellma.gov>
Sent: Thursday, January 23, 2020 3:15 PM
To: [REDACTED]@goodwinlaw.com>
Cc: Gettings, Celine [REDACTED]@lowellma.gov>
Subject: RE: Public recods request

Hi [REDACTED]

I hope you are having a great start to 2020! Unfortunately, I do not have a good update. The Department tried to prepare the same information back to 2000, but in so doing they found that the data was not complete or consistently maintained prior to 2009. I apologize for this unexpected outcome.

Respectfully yours,
Stacie

From: [REDACTED]@goodwinlaw.com]
Sent: Wednesday, January 22, 2020 3:08 PM
To: Moeser, Stacie
Cc: Gettings, Celine
Subject: RE: Public recods request

Hi Stacie,

I hope you've been well.

I'm following up on our emails below. Would you please send us information for the sex assault kits from 2000-2008?

Thanks,

[REDACTED]

[REDACTED]



Goodwin Procter LLP

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]@goodwinlaw.com | goodwinlaw.com

From: Moeser, Stacie [REDACTED]@lowellma.gov>
Sent: Tuesday, November 26, 2019 2:46 PM
To: [REDACTED]@goodwinlaw.com>
Cc: Gettings, Celine [REDACTED]@lowellma.gov>
Subject: RE: Public recods request

Hi [REDACTED]

The records are ready back to 2000, if that would be helpful.

Stacie

From: [REDACTED]@goodwinlaw.com]
Sent: Tuesday, November 26, 2019 1:19 PM
To: Moeser, Stacie
Cc: Gettings, Celine
Subject: RE: Public recods request

Hi Stacie,

Do the records go back further than 2009? If yes, how far back?

Thanks,

[REDACTED]

[REDACTED]



Goodwin Procter LLP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [@goodwinlaw.com](mailto:[REDACTED]@goodwinlaw.com) | goodwinlaw.com

From: Moeser, Stacie [REDACTED] [@lowellma.gov](mailto:[REDACTED]@lowellma.gov)>

Sent: Tuesday, November 26, 2019 11:01 AM

To: [REDACTED] [@goodwinlaw.com](mailto:[REDACTED]@goodwinlaw.com)>

Cc: [REDACTED] [@lowellma.gov](mailto:[REDACTED]@lowellma.gov)>

Subject: RE: Public records request

Hi [REDACTED],

Thank you for your patience as I tracked down the state audit on sexual assault kits. I was able to obtain our response to the audit, and am attaching it here for your reference. As you will find on page 3, the Chief certified that there were no previously unsubmitted sexual assault evidence kits, therefore no other documentation was sought or required by the state.

I know that this is a probably a shorter response that you had been expecting, so I have also gone back over your other questions to see if we have any other responsive information. I have confirmed that LPD is not aware of any sexual assault kits lost or destroyed from 2009-2019. Every sexual assault kit that was collected was submitted for testing and is reflected in the data that they previously provided.

Additionally, I was able to clarify the status of the five 2019 kits that were listed as "awaiting testing" as of September 6, 2019. Those kits were waiting to be transported by LPD to the Massachusetts State Police Crime Lab, which is done every ten days for all evidence collected that needs to be tested (e.g., drugs, etc.). As of today, there are no kits awaiting transport/testing.

I hope that this resolves your outstanding questions. If you have not done so already, I might also recommend contacting Stefany Harman at the Crime Lab [REDACTED] who was listed as the point person on our state audit documentation.

[Quoted text hidden]

XXXXXXXXXX
XXXXXXXXXX

Hi Stacie,

Thanks again for your time this morning.

I've attached the original FOIA request and the response I received from Jacqueline Cook.

The response did not directly speak to items 1, 2, or 4 in the request and did not fully respond to 3 (why kits remained untested).

We would appreciate if we could receive either the missing information or the materials Lowell prepared in connection with the 2018 and 2019 audits of sex assault kits. The audits were to have been conducted under An Act Relative to Criminal Justice Reform, Chapter 69 of 2018.

Please let me know if you need additional info.

Best,



[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]