

Subject: RE: FOIA Request for Joyful Heart Foundation

[REDACTED]

I write to provide the response of the City to the Public Records Request you made on August 29th.

In response to Request 1, as I described in our call yesterday, the Somerville Police Department conducted an audit of its sexual assault evidence kits in the spring of 2019. The Detective assigned to the Evidence Room sent her findings to the Chief of Police on April 1, 2019. I attach that correspondence here. As you will see, the audit does not catalog the sexual assault evidence kits by year, and the Department does not maintain a document that organizes the data regarding kits in that way. If you are interested in a breakdown by year of the 326 sexual assault evidence kits, I can make a good faith estimate of the time involved in compiling that data.

In response to Request 2, the attached audit letter affirms that the Somerville Police Department has sent all 326 sexual assault evidence kits in its possession to the Massachusetts State Police Crime Lab.

In response to Request 3, the attached letter describes the kits that the State Police Crime Lab sent back to the City without testing.

In response to Request 4, the Somerville Police Department has no record of the destruction or loss of any sexual assault evidence kit.

In response to Request 5, the Somerville Police Department's does not have a policy specific to sexual assault evidence kits, but its 2 evidence policies can be found here:

https://www.somervillepd.com/images/Policies/600_Evidence.pdf

https://www.somervillepd.com/images/Policies/202_Evidence.pdf

To the extent provided by law, you have the right to seek an administrative appeal to the Supervisor of Public Records under 950 CMR 32.08(1) and the right to seek judicial review by commencing a civil action in the superior court.

Please be in touch if you would like to discuss this matter further.

Julie M. McKenzie
Chief Labor Counsel
City of Somerville

[REDACTED]



[redacted]@joyfulheartfoundation.org>

Fwd: FW: FOIA Request for Joyful Heart Foundation

1 message

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

Fri, Sep 13, 2019 at 11:27 AM

[redacted]

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

From: [redacted]@goodwinlaw.com>
Date: Fri, Sep 13, 2019 at 9:59 AM
Subject: FW: FOIA Request for Joyful Heart Foundation
To: [redacted]@joyfulheartfoundation.org>
Cc: [redacted]@goodwinlaw.com>, [redacted]@goodwinlaw.com>, [redacted]@goodwinlaw.com>

[redacted]

We received the response from Somerville. Please see the attached below. Let me know if you would like us to request that they provide a breakdown by year of the kits or if you have any questions.

Thanks,

[redacted]

From: Julie M. McKenzie [redacted]@somervillema.gov>
Sent: Thursday, September 12, 2019 4:36 PM
To: [redacted]@goodwinlaw.com>
Subject: RE: FOIA Request for Joyful Heart Foundation

[redacted]

I write to provide the response of the City to the Public Records Request you made on August 29th.

In response to Request 1, as I described in our call yesterday, the Somerville Police Department conducted an audit of its sexual assault evidence kits in the spring of 2019. The Detective assigned to the Evidence Room sent her findings to the Chief of Police on April 1, 2019. I attach that correspondence here. As you will see, the audit does not catalog the sexual assault evidence kits by year, and the Department does not maintain a document that organizes the data regarding kits in that way. If you are interested in a breakdown by year of the 326 sexual assault evidence kits, I can make a good faith estimate of the time involved in compiling that data.

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Please be in touch if you would like to discuss this matter further.

Julie M. McKenzie

Chief Labor Counsel

City of Somerville

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]@somervillema.gov

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exemption from disclosure as to this communication. If you have received this communication in error, please immediately notify the sender and delete the message from your system. Thank you.

From: [REDACTED]@goodwinlaw.com]
Sent: Thursday, August 29, 2019 4:11 PM
To: Public Records [REDACTED]
Subject: FOIA Request for Joyful Heart Foundation

Dear Mr. Wright:

Attached please find a letter regarding a request for information on behalf of the Joyful Heart Foundation pursuant to the Massachusetts Public Records Law. For more information on the Joyful Heart Foundation, please see their website: <http://www.joyfulheartfoundation.org/>.

Should you have any questions, please feel free to contact me to discuss.

Best,

[REDACTED]
 **GOODWIN**
Goodwin Procter LLP
[REDACTED]
[REDACTED]
[REDACTED]@goodwinlaw.com | goodwinlaw.com

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9/13/2019

Joyful Heart Foundation Mail - Fwd: FW: FOIA Request for Joyful Heart Foundation



Chief Fallon compliance.pdf

45K

Chief Fallon,

I was assigned the task of determining if the Somerville Police Department is in compliance with Chapter 69 section 214 of the Criminal Justice Reform Bill.

The Somerville Police Department does not have any sexual assault evidence kits in its custody that did not go to the Mass. State Police Crime Lab for processing. The Somerville Police Department is in complete compliance with Chapter 69 section 214 of Criminal Justice Reform Bill. I will be available all day Monday April 1, 2019 if you would like to assign a ranking member from our department to verify my results and inspect room 4 where the kits are located prior to your signing and submitting the required form. A detailed summary is listed below.

We currently have 326 sexual assault kits stored in evidence room 4.

I completed a comprehensive inventory of all kits in our possession; this comprehensive inventory consisted of physically examining each kit to see if it fit the criteria outlined in Criminal Justice Reform Bill 214. The guidelines I followed were:

The sexual assault evidence kit never went to the Mass State Police Crime Lab, the kits were investigatory in nature, involving a victim 16 or older at the time of the alleged offense accompanied by a report to our department from the victim, or a pediatric sexual assault kit involving a victim under the age of 16 at the time of the offense and accompanied by a report.

All 326 Sexual Assault kits were transported to the MSP crime lab and have assigned lab numbers written on the side of the kit, all kits are filed with the lab numbers facing outward and visible to the eye upon entering room 4.

The Somerville Police Department does not have any sexual assault evidence kits in its custody that did not go to the Mass State Police Crime Lab. The Somerville Police department is in complete compliance with section 214 of the Criminal Justice Reform Bill.

In reference to the letter from Secretary Turco of EOPSS although not mandatory for the crime bill but extremely encouraged was identifying sexual assault collection kits that were returned from the Mass State Police Crime Lab with DNA testing not completed.

I utilized the same criteria set forth in the Criminal Justice Reform Bill with the exception of the sexual assault evidence collection kit being delivered to the Mass State Police Crime Lab and returned unexamined. The sexual assault evidence collection kit is investigatory in nature, involving a victim 16 or older at the time of the alleged offense accompanied by a report to our department from the victim, or a pediatric sexual assault kit involving a victim under the age of 16 at the time of the offense and accompanied by a report.

There are 19 reported sexual assault kits that were returned from the Mass State Police Crime Lab labeled "Not Examined"

Of the 19 reported sexual assault kits that were returned not examined eleven had the box checked off that a report was made to the police department but there was no victim name on the kit.

I had five reported sexual assault kits that were returned not examined with victims names and I search the files of Sgt. John Christensen but unfortunately the cases that were cataloged in the early 90s are filed by defendant last name and not the victims' name. These kits will be placed aside.

I have three reported sexual assault kits that were returned not examined with named victims and reports, these will be placed aside

The Executive Office of Public Safety is encouraging law enforcement agencies to review the kits that were returned not examined accompanied with a police report. They will reach out to individual departments through separate communications at a later date.

This is the list of reported sexual assault kits that were returned "Not Examined" from the Mass. State Police Crime Lab with no listed victim name, they are referenced by the Mass. State Police Crime Lab Number:

| | | | | | |
|---------|----------|----------|----------|----------|---------|
| C93-651 | C94-1397 | C94-1009 | C92-674 | C92-1041 | C92-470 |
| C94-870 | C94-1313 | C92-596 | C90-1115 | C93-328 | |

This is the list of the reported sexual assault kits that were returned "Not Examined" from the Mass. State Police Crime Lab with a victim that is named on the kit but without a corresponding police report they are referenced by the Mass State Police Crime Lab Number:

| | | | | |
|---------|----------|----------|---------|-----------|
| C93-872 | C94-1405 | C94-1241 | C95-243 | C02-08597 |
|---------|----------|----------|---------|-----------|

This is the list of reported sexual assault kits that were returned "Not Examined" from the Mass. State Police Crime Lab with a victim that is named with a corresponding police report they are referenced by a police incident number and a Mass. State Police Lab Number:

JP# 5031833 / 05-11296

JP# 9015512 / 09-05707

JP# 9023409 /09-08176

The eight reported sexual assault kits that were returned "Not Examined" from the Mass. State Police Crime Lab will be stored in room 4 in a labeled banker's box as we await the communication from the Mass State Police Crime Lab or how they would prefer our Department to proceed.

Feel free to contact me if you have any questions.

Best regards,

Detective Trish Elpidoforos



[REDACTED]@joyfulheartfoundation.org>

FOIA Requests from Joyful Heart Foundation - Clarification Request

6 messages

[REDACTED]@joyfulheartfoundation.org>
[REDACTED]@somervillema.gov

Thu, Oct 15, 2020 at 10:41 AM

Dear Ms. McKenzie,

This is [REDACTED] at Joyful Heart Foundation. I am writing regarding the FOIA request our partners at Goodwin Procter LLC sent in August 2019.

From the email and document you provided, we are confused about when you submitted the sexual assault kits to the MSP Crime Lab. The document says there were 326 kits in the evidence room that were inventoried in April 2019. The document also says that "All 326 Sexual Assault kits were transported to the MSP crime lab and have assigned lab numbers written on the side of the kit, all kits are filed with the lab numbers facing outward and visible to the eye upon entering room 4." The document also lists the number of kits that were not examined by the lab.

When did your department send all the kits to the lab? Given that all the kits were in the City of Somerville's evidence room at the time of the letter, did the lab send all the kits back to the City after assigning numbers, or testing them? If the lab sent all the kits back to the City, for how long does the City store all the kits (tested, untested, anonymous)?

I would highly appreciate your clarification.

Kindly,

[REDACTED]

 Somerville - FOIA Response Letter_September 13, 2019.pdf
45K

Julie M. McKenzie [REDACTED]@somervillema.gov
To: [REDACTED]@joyfulheartfoundation.org>

Thu, Oct 15, 2020 at 2:26 PM

Hello:

I don't immediately know the answers to these questions, but let me get more information and I will respond shortly.

Thanks,

Julie

Julie M. McKenzie

Chief Labor Counsel

City of Somerville

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@somervillema.gov

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[Quoted text hidden]

Julie M. McKenzie [REDACTED]@somervillema.gov>
To: [REDACTED]@joyfulheartfoundation.org>

Tue, Oct 20, 2020 at 12:36 PM

Hello:

I have followed up with the Somerville Police Department about the questions you raise below. Please see the City's responses in red. Let me know if you have additional questions or if I can be of any further assistance in this matter.

Thanks,

Julie

Julie M. McKenzie

Chief Labor Counsel

City of Somerville

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@somervillema.gov

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From: [REDACTED]@joyfulheartfoundation.org>
Sent: Thursday, October 15, 2020 10:42 AM
To: Julie M. McKenzie [REDACTED]@somervillema.gov>
Subject: FOIA Requests from Joyful Heart Foundation - Clarification Request

Dear Ms. McKenzie,

This is [REDACTED] at Joyful Heart Foundation. I am writing regarding the FOIA request our partners at Goodwin Procter LLC sent in August 2019.

From the email and document you provided, we are confused about when you submitted the sexual assault kits to the MSP Crime Lab. The document says there were 326 kits in the evidence room that were inventoried in April 2019. The document also says that "All 326 Sexual Assault kits were transported to the MSP crime

lab and have assigned lab numbers written on the side of the kit, all kits are filed with the lab numbers facing outward and visible to the eye upon entering room 4." The document also lists the number of kits that were not examined by the lab.

When did your department send all the kits to the lab? The 326 kits described in the letter were sent to the lab over a matter of years. SPD sends kits to the lab once there is a named victim. If the victim is not named, SPD holds the kit until the victim discloses the assault. All juvenile kits are processed regardless of if there is a named victim. Given that all the kits were in the City of Somerville's evidence room at the time of the letter, did the lab send all the kits back to the City after assigning numbers, or testing them? Again, these kits were processed by the lab and returned to the Department over the course of many years. The lab sends kits back to the City after testing or, assigning a number if the kits were labeled "Not Examined," as described in the City's letter in 2019. If the lab sent all the kits back to the City, for how long does the City store all the kits (tested, untested, anonymous)? The Department retains these kits for, at minimum, the duration of the relevant statute of limitations.

[Quoted text hidden]

[Redacted]@joyfulheartfoundation.org>
To: "Julie M. McKenzie" [Redacted]@somervillema.gov>

Wed, Oct 21, 2020 at 12:53 PM

Dear Julie,

Thank you very much for the clarification. This was very helpful.

Best,

[Redacted]

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

Wed, Oct 21, 2020 at 12:54 PM

Hi [Redacted],

Below is the clarification email from Somerville PD on their SAKs.

[Quoted text hidden]

[Redacted]@joyfulheartfoundation.org>
[Redacted]@joyfulheartfoundation.org>

Wed, Oct 21, 2020 at 1:49 PM

[Redacted]

[Redacted]@joyfulheartfoundation.org> wrote:

[Quoted text hidden]

