



MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

(617) 727-2200  
www.mass.gov/ago

July 12, 2019

**VIA E-MAIL ONLY**

Ava Sasani  
Through Muckrock  
[76077-87491204@requests.muckrock.com](mailto:76077-87491204@requests.muckrock.com)  
[76126-40288287@requests.muckrock.com](mailto:76126-40288287@requests.muckrock.com)  
[76076-56296859@requests.muckrock.com](mailto:76076-56296859@requests.muckrock.com)

**Re: Your Public Records Requests**

Dear Ms. Sasani:

I write in response to your three (3) public records requests made pursuant to the Massachusetts public records law, G.L. c. 66, § 10, and received on June 27, 2019.<sup>1</sup> In three June 26 e-mails to me, you requested copies of records from the Office of the Attorney General (AGO). Your requests and our responses are as follows:<sup>2</sup>

**Request A**

*A copy of the most recent Fair Labor Division staffing reports related to part-time, full-time, and other applicable employees that participate in responsibilities related to the management and investigation of complaints or otherwise related to wage theft or employer wage violations, including those materials that capture the following data points:*

- the number of Hotline and Intake Coordinators
- the number of Wage and Hour Investigators
- the number of Inspector I, Inspectors II, and Inspector III
- the number of paralegals
- the number of administrative assistants
- the number of Assistant Attorneys General in the Fair Labor Division

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<sup>1</sup> See Supervisor of Records Regulations at 950 CMR 32.03(3). See also 950 CMR 32.02 and 950 CMR 32.06(2)(e).

<sup>2</sup> We have adjusted the formatting and removed extraneous information from these requests.



Please be advised that the AGO has no records that comprise "the most recent Fair Labor Division [FLD] staffing report" or contain the information as described in the text of Request A. However, we enclose a one-page record that reflects the number of, and positions held by, Fair Labor Division employees.

**Request B**

*All evaluative materials used by the Fair Labor Division's Hotline and Intake Coordinators to decide whether or not to refer a wage-related complaint to the Wage and Hour Investigators, in addition to all materials used by Wage and Hour Investigators to decide whether or not to begin investigating a wage complaint. The time period for this request is between January 1, 2015 and June 24, 2019.*

Please be advised that the AGO has no records responsive to Request B.

**Request C**

***All case files and investigative materials for [the] following four closed wage theft cases:***

- 1) The 2018 investigation into E.J. Paving Company, Inc. and its president, Thomas Evangelista, in which the Fair Labor Division cited a total of \$172,554.42*
- 2) The 2019 investigation into Khalifa Mohamed Aldhaheri and Mona Alqubaisi for failing to pay their live-in workers*
- 3) The 2019 investigation into Eversource for underpaying workers*
- 4) The 2019 investigation into Green Life Janitorial, citation #18-02-48590-003*

*For the above three [sic] cases, I am requesting all documents in which:*

- the Fair Labor Division's Hotline and Intake Coordinators to decide whether or not to refer a wage-related complaint to the Wage and Hour Investigators*
- all materials used by Wage and Hour Investigators to decide whether or not to begin investigating a wage complaint.*
- Guiding criteria used in the issuance of a citation*
- Guiding criteria used to prioritize further legal action brought by the Attorney General's Office against an employer*

- *Any notes or reports about these cases written by either the Assistant Attorneys General, Hotline and Intake Coordinators, or Wage and Hour Investigators who worked on the 2019 Eversource investigation (bullet #3 in the above list of cases)*
- *Any emails or communications between the Attorney General's Office staff and the Green Life Janitorial (or Green Life Janitorial's representing attorneys) AFTER the initial citation was issued.*
- *Any spreadsheets, logs, or other digital or written databases that track an employer's compliance with citations issued by the Attorney General's Office.*

The public records law permits a custodian of public records to charge requesters for certain costs associated with responding to public records requests. See G.L. c. 66, § 10(d) and 950 CMR 32.07. An agency may require payment of that fee prior to complying with a public records request. See G.L. c. 66, § 10(a).

We estimate that the labor required to process Request C amounts to twelve (12) hours. This estimate accounts for: two and one half (2.5) hours already expended for staff to search for, retrieve, and prepare the responsive records for review; six and one half (6.5) hours for qualified staff to review the records, and redact certain protected information<sup>3</sup> and otherwise segregate the records; and three (3.0) hours for an attorney to further review the records for protected information, all at the rate of \$25.00 per hour. However, G.L. c. 66, § 10(d)(ii)(B) provides that no fees shall be charged for the first four (4.0) hours of labor required to respond to a request. Therefore, the total amount of chargeable labor is eight (8.0) hours at the rate of \$25.00 per hour (\$200.00).

Further, please be advised that to the extent Request C seeks records which describe the AGO's decision-making processes, we expect that such records may fall, in whole or in part, within exemptions to the definition of public records under G.L. c. 4, § 7, cl. 26(d) and (f), and/or be privileged attorney-client communications.<sup>4</sup>

If you would like us to further process Request C as outlined above, we will do so upon receipt of the required amount. Please make your check or money order payable to the Commonwealth of Massachusetts, noting on the check that it concerns a public records request, and send it to my attention at the above address. Please note that this charge is a

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<sup>3</sup> The names of complainants, employees, and certain third parties require redaction in accordance with G.L. c. 4, § 7, cl. 26(c), as disclosure of this information would constitute an unwarranted invasion of personal privacy. See also G.L. c. 66A, § 2(c) and 940 CMR 11.04(1)(b)(1).

<sup>4</sup> See Suffolk Const. Co., Inc. v. Division of Capital Asset Management, 449 Mass. 444 (2007); Hanover Ins. Co. v. Rapo & Jensen Ins. Services, Inc., 449 Mass. 609 (2007).

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good faith estimate only. We will notify you of any additional costs prior to providing the records to you so that the charge can be reconciled.

Alternatively, please contact me should you wish to modify Request C in the interest of reducing the amount of labor and applicable charges.

You have the right to appeal this response to the Supervisor of Records pursuant to G.L. c. 66, § 10A(a), and to seek judicial review of an unfavorable decision by commencing a civil action in the superior court under G.L. c. 66, § 10A(c).

Very truly yours,



Lorraine A.G. Tarrow  
Assistant Attorney General & Records Access Officer  
General Counsel's Office

Office of Attorney General Maura Healey  
Fair Labor Division Positions as of 7/11/19

Position	No. of Employees	Division
AAG (Fellow)	1	Fair Labor Division
Counsel II	13	Fair Labor Division
Deputy Division Chief	1	Fair Labor Division
Division Chief	1	Fair Labor Division
Chief of Investigations	1	Fair Labor Division
Industrial Safety & Health Inspector I	1	Fair Labor Division
Industrial Safety & Health Inspector II	16	Fair Labor Division
Industrial Safety & Health Inspector III	2	Fair Labor Division
Information Officer I	2	Fair Labor Division
Paralegal Specialist	2	Fair Labor Division
Program Coordinator I	2	Fair Labor Division