

**VIA EMAIL AND CERTIFIED MAIL**

Anne Pare  
Department of Transportation FOAA Officer  
anne.m.pare@maine.gov  
24 Child Street  
Augusta, ME 04330

March 14, 2024

RE: Request for Inspection and Copying of Public Records Pursuant to the Maine  
Freedom of Access Act, 1 M.R.S. § 408-A

Dear Ms. Pare,

This is a request for inspection and copying of public records under 1 M.R.S. § 408-A submitted by the American Civil Liberties Union of Maine Foundation (ACLU of Maine). As detailed below, we request records regarding the Department of Transportation's policies and practices that may negatively impact unhoused individuals residing in Maine.

It is our understanding that in response to growth in the number of unsheltered individuals residing throughout the State, municipalities have successfully asked the Department of Transportation to assist in sweeping encampments sheltering unhoused people, often despite a lack of available shelter beds. Laws and policies that punish unhoused people for sleeping, sitting, or lying down in public places when there is insufficient adequate shelter available may violate constitutional and civil rights. To ensure that unhoused individuals' constitutional and civil rights are not violated, we request public records related to actions taken under state law and/or Department policy that authorize the Department to perform encampment sweeps.

Specifically, we request:

1. any and all statements of policy, practice, guidance, or similar documents, from February 1, 2022 to present, related to the Department of Transportation's authority to conduct sweeps of encampments on public land;
2. all communications, from February 1, 2022 to present, between the Department of Transportation and Maine State Police regarding encampment sweeps;
3. all communications, from February 1, 2022 to present, between the Department of Transportation and the City of Portland regarding encampment sweeps;

4. all communications, from February 1, 2022 to present, between the Department of Transportation and the City of Bangor regarding encampment sweeps;
5. any and all statements of policy, practice, guidance, or similar documents from February 1, 2022 to present related to determining if and when the presence or conditions of campsites or other public places used by unhoused individuals for the purpose of shelter or temporary residence may be subject to removal;
6. any and all records, from February 1, 2022 to present, related to campsite removal and other enforcement activity taken for the cleanup of public places used by unhoused individuals for the purpose of shelter or temporary residence;
7. any and all statements of policy, practice, guidance, or similar documents, from February 1, 2022 to present, for Department staff to determine when property removed from campsites and other public places being used for the purpose of shelter or temporary residence is personal property, including any policies or practices related to identification and collection of medication, medical devices, and other mobility assistance devices;
8. any and all documents, from February 1, 2022 to present, related to collection, storage, and retrieval processes for personal property removed from campsites and other public places used for the purpose of shelter or temporary residence, including policies, practices, or guides indicating where property will be stored, how long property will be stored, storage security, and how property will be returned to owners;
9. any and all records, from February 1, 2022 to present, related to the disposition of all property, including any and all personal property identified, collected, and stored, during a campsite removal and/or encampment resolution;
10. any and all documents, from February 1, 2022 to present, related to citizen requests, public comments, and/or complaints submitted to the Department about homeless persons, encampments and/or the resolutions of encampments in Maine.

Maine's Freedom of Access Act (FOAA) must "be liberally construed and applied to promote its underlying purposes" of promoting openness and transparency in governance, and exceptions to the law are interpreted narrowly. 1 M.R.S. § 401. The law broadly defines the term "public records" to include:

any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, . . . and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business.

1 M.R.S. § 402(3).

The term “public records” includes, but is not limited to, electronic data stored on computers and electronic communications such as e-mails and text messages. Information “received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business” includes, but is not limited to, information stored on the home computers, phones, and other devices of government officials and employees.

Under FOAA, you are required to acknowledge this request within five working days. You are further required, within a reasonable time, to provide an estimate of the time frame for your response. 1 M.R.S. § 408-A(3). Failure to comply in good faith with the requirements of FOAA can result in substantial penalties. *See, e.g., Human Rights Defense Center v. MCCA Risk Pool*, (Super. Ct. No. 21-131) (ordering government entity to pay over \$130,000 in attorneys’ fees and costs based on its bad faith failure to comply with FOAA request for records).

If you deny all or any part of this request, please provide written notice of the denial and the asserted basis for that denial within five working days of the receipt of the request, as required by law. 1 M.R.S. § 408-A(4). Please cite each specific FOAA exemption that you assert as a basis for your denial. To the extent that you deny this request on the basis of 16 M.R.S. § 804, please indicate which subsection of the statute is applicable to the withheld records.

Under 1 M.R.S. § 408-A(11)(B), ACLU of Maine is entitled to a waiver of any fees because release of the requested records is in the public interest. Release of the requested records is “likely to contribute significantly to public understanding of the operations of activities of government and is not primarily in the commercial interest of the requester.” 1 M.R.S. § 408-A(11)(B). To the extent that fee waiver is not granted, please provide a cost estimate within a reasonable time as required by law. *See* 1 M.R.S. § 408-A(3), (9).

If any records responsive to this request are stored electronically, please produce them in the medium in which they are stored. *See* 1 M.R.S. § 408-A(7).

Please provide the applicable records to:

Anahita D. Sotoohi  
ACLU of Maine  
P.O. Box 7860  
Portland, ME 04112  
[asotoohi@aclumaine.org](mailto:asotoohi@aclumaine.org)

Thank you for your anticipated cooperation. We look forward to hearing from you as soon as possible and no later than five working days from your receipt of this request.

Respectfully,

*Ad Ad*

Anahita D. Sotoohi  
Legal Fellow  
ACLU of Maine  
[asotoohi@aclumaine.org](mailto:asotoohi@aclumaine.org)  
207.613.4350

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