

VIA MAIL AND EMAIL

Brian O'Malley
Deputy City Administrator (FOAA Officer)
City of Lewiston
27 Pine St
Lewiston, ME 04240
bomalley@lewistonmaine.gov

July 9, 2025

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

Dear Brian O'Malley,

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 Lewiston Police Department's arrests of unhoused people residing in the city.

Unhoused people are arrested at significantly higher rates than housed people, often for non-violent, low-level offenses related to survival behaviors.¹ Based on our review of the arrest summary reports from other areas in the state, it appears that unhoused people living in Maine are more likely to be arrested than housed individuals.² The heavy policing and criminalization of homelessness often subjects unhoused people to serious civil rights violations, including indiscriminate destruction of personal property and police targeting and abuse.³ Moreover,

¹ *Jailing the homeless: New data shed light on unhoused people in local jails*, PRISON POLICY INITIATIVE (Feb. 11, 2025), https://www.prisonpolicy.org/blog/2025/02/11/jail_unhoused_bookings/; Emily Peiffer, *Five Charts that Explain the Homelessness-Jail Cycle—and How to Break It*, URBAN INSTITUTE (Sept. 16, 2020), <https://www.urban.org/features/five-charts-explain-homelessness-jail-cycle-and-how-break-it>.

² For example, according to the Cumberland County arrest summary reports reviewed, on many days unhoused people constitute over 25 percent of the arrests in Cumberland County, yet unhoused people make up only .4 percent of the population in the county. See MaineHousing, *2024 Point in Time Count*, <https://mainehousing.org/docs/default-source/housing-reports/2024-point-in-time-report.pdf>.

³ See, e.g., *Criminalizing the Homeless: A Curated Collection of Links*, THE MARSHALL PROJECT, https://www.themarshallproject.org/records/3929-criminalizing-the-homeless?gad_source=1&gad_campaignid=10717909109&gbraid=0AAAAADF7VuovekHuJfyg00HFEQHAPiRLr&gclid=Cj0KCQjw1JjDBhDjARIsABIM2SsTMI5gfeWOY5fGNTW0sBWWhETRSubkDexUUNHmTlgZgTIWmn7zEzEaAgjYEALw_wcB.

frequent interactions with police and the criminal justice system can trap people in a homelessness-jail cycle that makes it more difficult for individuals to access housing and services and does nothing to solve homelessness in our communities.⁴ It is critical to understand the connection between homelessness and the criminal justice system to develop strategies that better address homelessness, and to build communities where everyone has access to safe and dignified housing.

To increase public understanding of the interactions between unhoused people, police, and the criminal justice system, we seek public records related to the arrests of unhoused people.

Specifically, we request:

1. any and all records, from January 1, 2025 to present, related to arrests of people with a listed address of “unhoused,” “homeless,” or “transient”.

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).

⁴ Peiffer, *supra* note 1.

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:

Heather L. Zimmerman
ACLU of Maine
P.O. Box 7860
Portland, ME 04112
hzimmerman@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,

A handwritten signature in black ink that reads "Heather L. Zimmerman". The signature is written in a cursive, flowing style.

Heather L. Zimmerman, Esq.
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