

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 2684CV00477

AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, INC.

vs.

PLYMOUTH COUNTY SHERIFF'S DEPARTMENT

MEMORANDUM OF DECISION AND ORDER ON
DEFENDANT'S MOTION TO DISMISS

The American Civil Liberties Union of Massachusetts ("ACLUM") filed this action pursuant to G. L. c. 66, § 10A (c) against the Plymouth County Sheriff's Department ("PCSD") after PCSD claimed that they were exempted from the ACLUM's public records request. PCSD filed a motion to dismiss, which the ACLUM opposes. This court held a hearing on July 7, 2026. Following a hearing, and for the reasons which follow, PCSD's motion is **DENIED**.

BACKGROUND

The following facts are taken from the complaint.

PCSD has a contract with the federal government to house civil immigrant detainees at the Plymouth County Correctional Facility ("PCCF"). Under the contract, PCCF is required to provide medical care to the detainees as well as maintain certain records of the care provided.

On December 11, 2025, the ACLUM sent a public records request to PCSD, seeking twelve categories of records that were created on or after June 1, 2025, in connection with the detainees. Specifically, the ACLUM requested the following: the current operative agreement between PCCF and the federal government; any amendments, modifications, or changes to it; plans regarding patient safety, risk management, and any corrective actions; all incident reports; all notifications

of serious medical conditions; all notifications of medical emergencies; all requests for approval of emergent medical care; all requests for approval of non-emergency medical care; all notifications of a detainee with a medical condition that renders the detainee unacceptable for detention; all payment authorization requests for off-site medical care; all itemized invoices submitted by PCCF to the federal government; and all written reports addressing corrective or preventative actions taken.

On December 26, 2025, PCSD responded and provided some, but not all documents. The ACLUM objected to this response on February 5, 2026, and renewed the request for documents in a redacted form. Specifically, the ACLUM requested the same documents but with all identifying information of individual detainees redacted. Relying on a decision from the Massachusetts Supervisor of Records in a separate action, on February 17, PCSD notified the ACLUM that the records could not be provided in the redacted format.

DISCUSSION

I. LEGAL STANDARD

A plaintiff's "[f]ailure to state a claim upon which relief can be granted" warrants dismissal. Mass. R. Civ. P. 12 (b) (6). "What is required at the pleading stage are factual allegations plausibly suggesting (not merely consistent with) an entitlement to relief" (quotation and citation omitted). *Ortiz v. Examworks, Inc.*, 470 Mass. 784, 792–793 (2015). "While 'detailed factual allegations' are not required at the pleading stage, mere 'labels and conclusions' will not survive a motion to dismiss." *Burbank Apartments Tenant Assoc. v. Kargman*, 474 Mass. 107, 116 (2016), quoting *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008).

II. PUBLIC RECORDS LAW

The Public Records Act, G. L. c. 66, § 10, controls the public's right to access certain documents and information held by government agencies. "The primary purpose of [the Act] is to give the public broad access to government records." *Worcester Tel. & Gazette Corp. v. Chief of Police of Worcester*, 436 Mass. 378, 382-383 (2002). Under the Public Records Act, "public records" are broadly defined to include "all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee" of any Massachusetts governmental agency. See G. L. c. 4, § 7 (26) (defining public records). Notwithstanding the breadth of such definition, "[n]ot every record or document kept or made by [a] governmental agency is a 'public record.'" *Boston Globe Media Partners, LLC v. Department of Criminal Justice Info. Servs.*, 484 Mass. 279, 281 (2020) (*Department of Crim. Just. Info. Servs.*), quoting *Suffolk Constr. Co. v. Division of Capital Asset Mgt.*, 449 Mass. 444, 454 (2007).

By statute, 26 categories of records are specifically exempt from disclosure. See G. L. c. 4, § 7 (26) (a)-(v). In the present matter, only one exemption is relevant: G. L. c. 4, § 7 (26) (a), records that are "specifically or by necessary implication exempted from disclosure by statute" ("Statutory Exemption A").

In determining whether an exemption applies, the court performs a case-specific review. *In re Subpoena Duces Tecum*, 445 Mass. 685, 688 (2006). "[A] presumption shall exist that each record sought is public and the burden shall be on the defendant agency or municipality to prove, by a preponderance of evidence, that such record or portion of the record may be withheld in accordance with state or federal law." G. L. c. 66, § 10A (d) (1) (iv). Statutory exemptions, therefore, "must be strictly and narrowly construed" (citation omitted). *Globe Newspaper Co. v.*

District Attorney for the Middle Dist., 439 Mass. 374, 380 (2003).

PCSD contends that, as a matter of law, the records sought by the ACLUM are preempted by federal law and that the records meet the requirements of Statutory Exemption A. For the reasons outlined below, I disagree.

A. Preemption

PCSD first argues that field preemption prevents PCSD from releasing the records. “The critical question in any pre-emption analysis is always whether Congress intended that federal regulation supersede state law.” *Louisiana Public Serv. Comm’n v. Federal Communications Comm’n*, 476 U.S. 355, 369 (1986). See also *Gilardi v. Board of Health of Pittsfield*, 498 Mass. 32, 36 (2026). Such intent is clear when there exists “a framework of regulation ‘so pervasive . . . that Congress left no room for the States to supplement it’ or where there is a ‘federal interest . . . so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.’” *Arizona v. United States*, 567 U.S. 387, 399 (2012), quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). See also *Marsh v. Massachusetts Coastal R.R.*, 492 Mass. 641, 648 (2023), cert denied, ___ U.S. ___, 144 S.Ct. 2519 (2024) In PCSD’s view, and in reliance on 8 C.F.R. § 236.6, Congress has so thoroughly regulated the field of tracking and documenting immigrants that the state of Massachusetts is preempted from doing so.

The state law at issue is not, however, an attempt by the Commonwealth to regulate the documentation of immigrants. Rather, the question before this court is about the state maintaining records relating to the state’s police powers and oversight of the health and safety of persons held in state facilities.

While Congress has regulated many parts of the federal immigration process so thoroughly that field preemption applies, 8 C.F.R. § 236.6 only restricts the sharing of identifying information

of individual detainees. Consequently, I find that this singular regulation does not prevent the ACLUM from seeking these records under the Public Records Act based upon field preemption. See *Hillsborough County, Florida v. Automated Med. Lab., Inc.*, 471 U.S. 707, 717 (1985) (courts “are even more reluctant to infer pre-emption from the comprehensiveness of regulations than from the comprehensiveness of statutes”). The state maintains its right to reasonably police and ensure the health and safety of its population, and such right is not usurped by the federal regulation at issue here. See *Marsh*, 492 Mass. at 648-649.

Next, PCSD argues that 8 C.F.R. § 236.6 presents a direct conflict with G. L. c. 66, § 10 and thus the federal regulation must preempt the Public Records Act. 8 C.F.R. § 236.6 provides, in relevant part, that:

No person, including any state or local government entity or any privately operated detention facility, that houses, maintains, provides services to, or otherwise holds any detainee on behalf of the Service (whether by contract or otherwise), and no other person who by virtue of any official or contractual relationship with such person obtains information relating to any detainee, shall disclose or otherwise permit to be made public the name of, or other information relating to, such detainee. Such information shall be under the control of the Service and shall be subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations and executive orders. Insofar as any documents or other records contain such information, such documents shall not be public records.

PCSD contends that compliance with both the regulation and the Public Records Act is impossible. See *Arizona*, 567 U.S. at 399 (conflict preemption applicable “where compliance with both federal and state regulations is a physical impossibility . . . and those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress” [internal citations and quotations omitted]).

The court concludes that it is possible for PCSD to comply with both the regulation and the Public Records Act and thus conflict preemption does not apply. Title 8 C.F.R. § 236.6 prevents the disclosure of “the name of, or other information relating to, such detainee.” Most of

the records requested by the ACLUM do not have any individual detainee information, such as the contract and amendments requested. Records that might identify detainees, such as incident reports, can be easily redacted to avoid disclosing individual detainee identified or identities. Thus, compliance with state and federal statutes at the same time is possible and realistically achievable. Therefore, I find both that (1) conflict preemption does not prevent PCSD from disclosing redacted records to comply with the ACLUM's public records request; and (2) PCSD is required by Massachusetts law to disclose the requested records with the appropriate redactions to avoid disclosing the identities of detainees.

B. Statutory Exemption A

A government agency “may invoke [Statutory Exemption A] as the basis for withholding requested records where another statute – the ‘exempting statute’ – expressly prohibits disclosure.” *Department of Crim. Just. Info. Servs.*, 484 Mass. at 282. Here, PCSD argues that the federal regulation, 8 C.F.R. § 236.6, prohibits disclosure. As explained above, PCSD is prohibited from disclosing identifying information of detainees. PCSD can, however, comply with this regulation by redacting such information so that individual identifying information and identities of detainees are not disclosed.

Additionally, 8 C.F.R. § 236.6 is a regulation, not a statute. Statutory Exemption A makes abundantly clear that it is applicable when the request is “exempted from disclosure *by statute*.” G. L. c. 4, § 7 (26) (a) (emphasis added). See *Commonwealth v. Williams*, 481 Mass. 799, 807-808 (2019), quoting *Commissioner of Correction v. Superior Court Dep't of the Trial Court for the County of Worcester*, 446 Mass. 123, 126 (2006) (courts “do not read into the statute a provision which the Legislature did not see fit to put there, nor add words that the Legislature had an option to, but chose not to include”). Had the Legislature wanted to include regulations under

Statutory Exemption A, it was fully capable of doing so. Statutory Exemption A is, therefore, not applicable here.

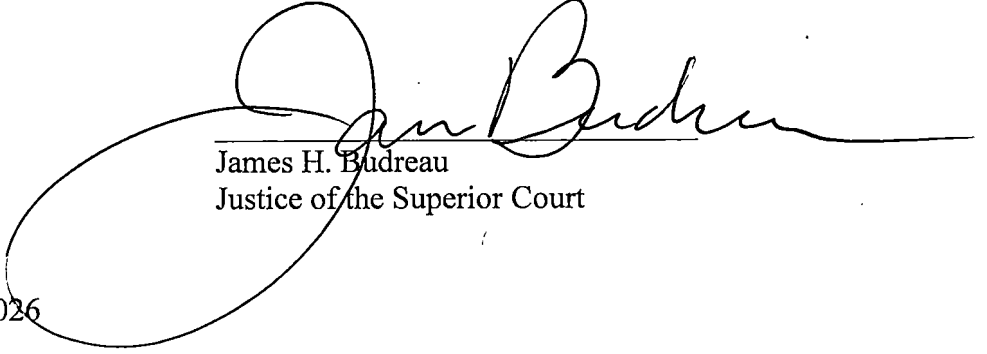
Lastly, PCSD directs the court to the Supervisor of Records' repeated determinations that Statutory Exemption A applies. Importantly, this court's review is de novo. See G. L. c. 66, § 10A (d) (l) (ii) ("the superior court shall determine the propriety of any agency or municipal action de novo"). Additionally, the regulation at issue here is a federal regulation, not a state regulation within the Supervisor's expertise. *Reinstein v. Police Comm'r of Boston*, 378 Mass. 281, 287 n.13 (1979) (declining to determine "the precise weight to be given the Supervisor's view"). In any event, the Supervisor of Records' analysis is not consistent with a plain reading of the regulation and is, therefore, owed no deference. See *Sutton v. Jordan's Furniture, Inc.*, 493 Mass. 728, 739 (2024) ("no deference is given to an agency's interpretation of a statute if it is contrary to plain language of the statute and its underlying purpose" [internal quotation and citation omitted]). I reject the Supervisor of Records' determinations and find that Statutory Exemption A does not apply to the ACLU's public records' request.

CONCLUSION AND ORDER

For the foregoing reasons, PCSD's motion to dismiss is **DENIED**. I find that (1) field preemption does not usurp the state's power to police the health and safety of its population and consequently, does not preclude the disclosure of the records at issue here to ACLUM; (2) conflict preemption does apply here as PCSD can reasonably fulfill ACLUM's public records request pursuant to G. L. c. 66, § 10 while contemporaneously satisfying the requirements of 8 C.F.R. § 236.6 to redact the identifying information about all detainees from such documents; (3) "Statutory A Exemption" does not apply to this request; and (4) the requested records must be produced consistent with the above decision. This Court will enter judgment on the pleadings consistent

with this decision within 30 days of issuing this Order unless either party requests a hearing on the motions for summary judgment before that date.

SO ORDERED on this 11th day of August 2026,



James H. Budreau
Justice of the Superior Court

Dated: August 11, 2026