

COMMONWEALTH OF MASSACHUSETTS

NANTUCKET, ss

NANTUCKET DISTRICT COURT
Docket No. 2288AC000362

NANTUCKET ENVIRONMENTAL POLICE,)
 Applicant)
)
 v.)
)
 MARK WOLPOW,)
 Defendant)
)

**DECISION ON PETITION FOR REQUEST
FOR COPY OF RECORDING OF SHOW CAUSE HEARING
BY JASON GRAZIADEI AND THE NANTUCKET CURRENT**

On December 27, 2022, the Nantucket Current Editor, Jason Graziadei, made a request via email for access to the recording for the above referenced hearing. It was a simple email request without any further details.

The open and public character of most court proceedings is well known. However, there is no First Amendment or Common Law right of access to show cause hearings that preceded the initiation of criminal proceedings. *Eagle -Tribune Pub. Co. v. Clerk-Magistrate of Lawrence Div. of Dist. Court Department*, 448 Mass. 647, 863 N.E.2d 517 (2007).

The legal considerations which dictate the public character of a trial are not present here. There is no tradition of public access to show cause hearings, which are similar to grand jury proceedings. Such secrecy protects individuals against whom complaints are denied from undeserved notoriety, embarrassment and disgrace. See *Matter of Doe Grand Jury Investigation*, 415 Mass. 727, 615 vN.E.2d567 (1993); *WBZ-TV4 v. District Attorney for Suffolk Dist.*, 408 Mass. 595, 599-600, 562 N.E.2d 817 (1990); *Jones v. Robbins*, 8 Gray 329, 344 (1857). This is particularly significant since there is no libel protection in civil law against accusations made in a criminal complaint application, no matter how scurrilous. *Sibley v. Holyoke Transcript-Telegraph Pub. Co.*, 391 Mass. 468, 461 N.E.2d 823 (1984); *Thompson v. Globe Newspaper Co.*, 279 Mass. 176, 186-187, 181 N.E. 249, 253 (1932); *Kipp v. Kueker*, 7 Mass. App. Ct. 206, 211-212, 386 N. E.2d 1282, 1286 (1979). See also G.L. c.218 s31 (denied applications to be filed separately and destroyed one year after filing).

