

Subject: MOTION FOR ACCESS in the hearing on an application for a criminal complaint against buyers in commercial sex ring

Dear Clerk Magistrate:

My name is Ally Jarmanning and I am a reporter with WBUR, Boston's NPR station. I'm requesting that Cambridge District Court allow the news outlet access to the court proceedings for the applications for criminal complaints against a number of defendants. Specifically, I am seeking access to show cause hearings for complaints recently filed by the U.S. Attorney's office against buyers in an alleged commercial sex ring. More narrowly, I am requesting access only to those hearings involving defendants seeking or holding political office or in other key government positions.

I understand that hearings on applications for criminal complaints are presumptively closed in Massachusetts. However, if the application is one of special public significance, and, if, in your opinion as Magistrate, the legitimate interest of the public outweighs the right to privacy of the accused, then the hearing may be open to the public. In this case, according to the U.S. Attorney's charging documents, politicians, are accused of taking part in the alleged prostitution ring. See District Court Standards of Judicial Practice, The Complaint Procedure §§3.15 and 3:16 (2008) and Guidelines On The Public's Right Of Access To Judicial Proceedings and Records, Supreme Judicial Court Judiciary/Media Steering Committee (March 2000).

To quote from the District Court Standards:

"Where an incident has already attracted public attention prior to a show cause hearing, the interest in shielding the participants from publicity is necessarily diminished, while the public's legitimate interest in access is correspondingly stronger. "In deciding whether to allow access to a particular show cause hearing, clerk-magistrates should consider not only the potential drawbacks of public access, but its considerable benefits: 'It is desirable that [judicial proceedings] should take place under the public eye . . . .' "The transparency that open proceedings afford may be especially important if a well-publicized show cause hearing results in a decision not to bring criminal charges, thereby ending the matter. In such cases, the public may question whether justice has been done behind the closed doors of the hearing room. This is not to say that every case that may attract public attention necessarily requires a public show cause hearing . . . ." -- *Eagle-Tribune Pub. Co.*, 448 Mass. at 656-657, 863 N.E.2d at 527 (internal citations omitted).

I believe the facts in this case override the presumption of a closed hearing for the accused individuals, particularly for those who serve as politicians because of the nature of their employment and place of public trust. ("These customers spanned a wide array of different professional disciplines. Some of these professional disciplines included, but are not limited to, politicians, pharmaceutical executives, doctors, military officers, government contractors that possess security clearances, professors, lawyers, business executives, technology company executives, scientists, accountants, retail employees, and students." *USA v. Han Lee*, affidavit for criminal complaint). The U.S. Attorney's office has publicized the case through multiple press

releases, including one announcing the applications for criminal complaints where they noted “there would be accountability for the buyers who fuel the commercial sex industry.” And the accusations have been widely reported in newspapers, broadcast reports and online news stories. The public obviously has great interest in knowing if their elected officials are accused of wrongdoing, particularly criminal activity of this nature, and how the courts handled these types of cases. Furthermore, should the clerk magistrate not find probable cause, the proceedings will remain secret and the public will have no window into how the decision not to charge was made – only that prosecutors sought charges and the courts refused to issue them. Making charging decisions in secret in high-profile cases like these could potentially erode the public trust, as the SJC noted in *Eagle-Tribune*. I believe the facts in this case justify that the public (and thus, the press) be permitted to attend.

If you decide to reject this motion for access, I request that you provide in writing your reasoning. Per the court standards: “When there is a request that the public be permitted to attend, the Supreme Judicial Court has encouraged magistrates to make a written record of the reasons for their decision on that request” (*Eagle-Tribune Pub. Co.*, 448 Mass. at 657 n.17, 863 N.E.2d at 527 n.17).

Thank you for your consideration.

Sincerely,

Ally Jarmanning  
Senior Reporter  
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In re: Show Cause Hearing Request of Boston Globe Media Partners, LLP to Attend Show Cause Hearing Pursuant to Standard 3:15 of the District Court's Revised Standards on the Complaint Procedure Decision

On or about December 18, 2023, the United States Attorney's Office in Massachusetts publicly announced that law enforcement officials had filed paperwork seeking criminal complaints in Cambridge District Court against individuals purportedly accused of sexual conduct for a fee.

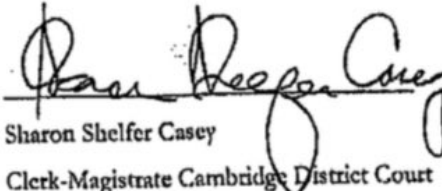
On December 19, 2023, a representative from NBC 10 Boston submitted a request seeking access to any hearings held in connection with these matters. On December 20, 2023, counsel for the Boston Globe filed the above referenced formal request seeking the same relief as NBC 10 Boston. That same day, a representative from WBUR requested access to hearings involving "defendants seeking or holding political office or in other key government positions."

"Presumptively, show cause hearings are private and closed to the public." Standard 3:15, Revised Standards on the Complaint Procedure. The Standard goes on to state that, "[w]hen there is a request that the public be permitted to attend, the magistrate should require that the person or organization making the request show a legitimate reason for access that justifies an exception to the rule. If the application is one of special public significance and the magistrate concludes that legitimate public interests outweigh the accused's right of privacy, the hearing may be opened to the public and should be conducted in the formal atmosphere of a courtroom." "Where an incident has already attracted public attention prior to a show cause hearing, the interest in shielding the participants from publicity is necessarily diminished, while the public's legitimate interest in access is correspondingly stronger." *Eagle-Tribune Pub. Co. v. Clerk-Magistrate of Lawrence Div. of Dis. Court Dept.*, 448 Mass. 647, 656 (2007).

The presumption of show cause hearings being closed and protecting the privacy rights of individuals accused of misdemeanor crimes has been a long standing and important practice of the Court. However, the Court has recognized the very limited exception where legitimate public interest outweighs the individuals' privacy rights. Having considered all of the facts and circumstances and the above referenced request, the request is hereby allowed.

Hearings are in the process of being scheduled and will take place at the Cambridge District Court, 121 Third Street, Cambridge, MA 02141.

Date: December 21, 2023

  
Sharon Shelfer Casey  
Clerk-Magistrate Cambridge District Court

CAMBRIDGE DISTRICT COURT  
CLERK'S OFFICE

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