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UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF MASSACHUSETTS

ADRIENNE GILANIAN,
Plaintiff,

v.

Civ. No. 01-11580-NG

CITY OF BOSTON, SUFFOLK COUNTY,
RICHARD ROUSE, sheriff, and two
presently unknown Suffolk County
corrections officers: MARY POE and
JANE DOE,
Defendants.

GERTNER, D.J.

ORDER RE: DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)(6)
May 20, 2002

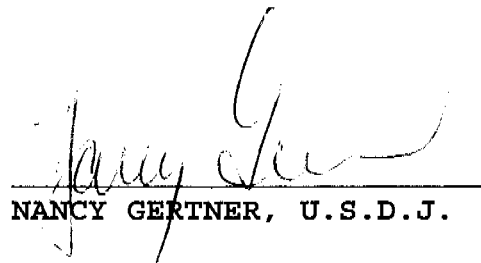
Defendants' motion to dismiss [docket entry # 5] is **GRANTED** IN PART and **DENIED IN PART**. The motion to dismiss Counts One and Three alleging violations of 42 U.S.C. § 1983 against defendants Suffolk County and Sheriff Richard J. Rouse ("Rouse") is **DENIED** at this time on this record. The motion to dismiss Count Five alleging a violation of Mass. Gen. Laws Ch. 12, §11(I) ("MCRA") against defendant Suffolk County is **GRANTED** because under Massachusetts law, a municipality cannot be sued under the MCRA. Chaabouni v. City of Boston, 133 F. Supp. 2d 93, 102 (D. Mass. 2001); McCarthy v. Szostkiewicz, 188 F. Supp. 2d 64, 71 (D. Mass. 2002). The motion to dismiss Count Five alleging a violation of Mass. Gen. Laws Ch. 12, §11(I) against Rouse is also **GRANTED**. A claim against Rouse in his official capacity is

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clearly a claim against the County and therefore is barred. See Fletcher v. Szostkiewicz, 190 F. Supp. 2d 217, 230 (D. Mass. 2002). In addition, because the plaintiff has not alleged that defendant Rouse personally engaged in any acts against her that constituted threats, intimidation, or coercion, a claim against him in his individual capacity is likewise barred. See Martinez v. Wolferseder, 997 F. Supp. 192, 195 (D. Mass. 1998).

SO ORDERED.

Dated: May 20, 2002



NANCY GERTNER, U.S.D.J.