



The Commonwealth of Massachusetts

Department of State Police

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Via Email Only:

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May 18, 2015

Mr. Andrew Quemere
The Baystate Examiner
P.O. Box 5171
Framingham, MA 01701

RE: Concerning Your May 13, 2015 Correspondence

Dear Mr. Quemere,

The Massachusetts Department of State Police ("Department") has received your May 13, 2015 correspondence to Shawn Williams, Supervisor of Public Records. Unfortunately, there appears to be some misunderstanding and so I write to clarify the matter for you.

As you know, a partial cost estimate relative to your request for all of the Internal Affairs ("IA") files for forty-nine (49) named Department members was generated in good faith and sent to you on January 12, 2015. As previously indicated, the partial cost estimate accounted for the significant amount of Department time and resources necessary to more precisely estimate the total search and segregation time a response to your request requires.

Following the appeal of the January 12, 2015 estimate and in accordance with Supervisor Williams's directive, however, the Department reasonably and in good faith provided a total estimate on April 15, 2015. As you know, your request for all of the IA files for forty-nine (49) troopers was an expansion of your earlier request for all IA files for one particular trooper. Where the Department had already generated a cost estimate for the response to the request for

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all IA files for one trooper,¹ the Department therefore reasonably and in good faith concluded that the cost of responding to a request for all IA files for forty-nine (49) troopers would be approximately 49 times greater.

Unfortunately, your May 13, 2015 correspondence mistakenly conflates “complaints” with “Internal Affairs files.” As you know, in a request dated June 3, 2014, you made a request which concerned the number of “complaints” filed against certain troopers. Please be advised that “complaints” are but one of various types of IA files. Other “IA files” that are separate and distinct from “complaints” include but are not limited to personnel investigations conducted at the troop level and investigations conducted by the Internal Affairs Section. In other words, while there may be zero complaints against a trooper, there could be one or more other IA files of varying sizes concerning that trooper. Likewise, where some complaints have been filed concerning a trooper, it is possible there are no other IA files pertaining to him or her. Accordingly, your presumption that “it stands to reason that troopers who have received more complaints have, on average, lengthier internal affairs files” is misguided and misleading.

Please note that the Department provided the January 12, 2015 estimate as a courtesy and in an effort to generate a more precise estimate. Although you have indicated that you would like “a new fee estimate that more accurately reflects the actual cost,” records custodians are not obligated to provide cost estimates that are precise, or accurate as to the actual cost. In fact, it is expected that estimates may not be accurate, as conveyed by the instruction from the Division of Public Records that records custodians provide fee estimates that “advis[e] the requester that the actual cost of producing the records might vary.” See *A Guide to the Massachusetts Public Records Law*, page 9. The Department has therefore satisfied its obligations in reasonably and in good faith providing its April 15, 2015 cost estimate. Please keep in mind that, as indicated in the April 15, 2015 response, if the fee estimate is paid and the actual cost of the response is lower than estimated, the Department will refund the unused portion of the fee to you.

Your attention to this matter is appreciated.

Sincerely,



Jaclyn Zawada
Staff Counsel
Massachusetts State Police
(508) 820-2341

JRZ/st

cc: Shawn Williams, Esq., Supervisor of Public Records (*Via Email Only*)

¹ No appeal was filed relative to the Department’s November 12, 2014 cost estimate for the response to the request for all IA files for one (1) trooper.