



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Shawn A. Williams
Supervisor of Records

July 2, 2015
SPR15/280

Lieutenant Michael P. McCarthy
Director, Office of Media Relations
Boston Police Department
One Schroeder Plaza
Boston, MA 02120

Dear Lieutenant McCarthy:

I have received the petition of Maya Shaffer, on behalf of the *Baystate Examiner*, appealing the nonresponse of the Boston Police Department (Department) to her request for public records. G. L. c. 66 § 10(b); see also 950 C.M.R. 32.08(2). Specifically, Ms. Shaffer requested records regarding a specifically identified incident.

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10(c); 950 C.M.R. 32.08(4). "Public records" is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any town of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(c); see also *District Attorney for the Norfolk Dist. v. Flatley*, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption).

Despite contact by my office, including correspondence sent on at least five occasions since April 2015, the Department has failed to comply with its mandatory obligations under the Public Records Law to respond to a request for public records. Accordingly, whereas the Department has not overcome the presumption that the requested records are public, the Department is hereby ordered, within ten (10) day of this order, to provide Ms. Shaffer with the requested records. If the Department maintains that any portion of the responsive records are exempt from disclosure it must, within ten (10) days provide to Ms. Shaffer a written explanation, *with specificity*, how a particular exemption applies to each record. To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the

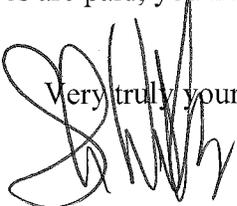
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exemption applies to the withheld or redacted portion of the responsive record. A copy of any such response must be provided to this office. It is preferable to send an electronic copy of this response to this office at pre@sec.state.ma.us.

If there are any fees associated with this response a written, good faith estimate must be provided. G. L. c. 66, § 10(a); see also 950 C.M.R. 32.06(2) (where cost of complying with a request for public records is expected to exceed ten dollars (\$10.00), custodian of records shall provide written good faith estimate). Once the fees are paid, you must provide the responsive records.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Shawn A. Williams', written over the text 'Very truly yours,'.

Shawn A. Williams
Supervisor of Records

cc: Ms. Maya Shaffer