



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

Manza Arthur  
Supervisor of Records

March 25, 2024  
**SPR24/0734**

Allison Mondello  
Primary Records Manager  
Massachusetts Department of State Police  
470 Worcester Road  
Framingham, MA 01702

Dear Ms. Mondello:

I have received the petition of Colman Herman appealing the response of the Massachusetts Department of State Police (Department) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On January 15, 2024, Mr. Herman requested, "... copies of communications related to police escorts given to [an identified] celebrity for the period January 1, 2023 to the present."

***Prior Appeal***

The requested records were the subject of a prior appeal. See SPR24/0321 Determination of the Supervisor of Records (February 16, 2024). In my February 16<sup>th</sup> determination, I found it unclear how the Department required 8.85 hours to produce responsive records. Specifically, it was not clear what tasks were involved to prepare responsive records for production, and whether all the specific statutes the Department referenced pertained to the requested records.

The Department responded on March 8, 2024. Unsatisfied with the Department's March 8<sup>th</sup> response, Mr. Herman petitioned this office and this appeal, SPR24/0734, was opened as a result.

***Fee estimate - agencies***

An agency may assess a reasonable fee for the production of a public record except those records that are freely available for public inspection. G. L. c. 66, § 10(d). The fees must reflect the actual cost of complying with a particular request. Id. A maximum fee of five cents (\$.05) per page may be assessed for a black and white single or double-sided photocopy of a public record. G. L. c. 66, § 10(d)(i).

Agencies may not assess a fee for the first 4 hours of employee time to search for, compile, segregate, redact or reproduce the record or records requested. G. L. c. 66; § 10(d)(ii). Where appropriate, agencies may include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce a record requested, but the fee shall not be more than \$25 per hour. Id.

A fee shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the Supervisor of Records under a petition under G. L. c. 66, § 10(d)(iv). See G. L. c. 66, § 10(d)(ii); 950 C.M.R. 32.06(4).

### ***The Department's March 8<sup>th</sup> Response***

In its March 8, 2024 response, the Department advised that the fee has now increased from \$121.25 to \$4,775.00.

The Department advised,

... the Department will be required to review each of the 5,851 pages of items. The Department estimates, conservatively and in good faith, that it will expend an average of 2 minutes to review each of these. Accordingly, the good faith estimates for reviewing the 5,851 pages is calculated at (2 min. x 5,851 = 11,702 minutes; 11,702 minutes/60 minutes = approximately 195 hours-4 hours) =191 hours at a rate of \$25/hour (representing the hourly wage of the lowest paid employee who is capable of performing the task) resulting in a total cost of \$4,775.

The Department further stated, “[g]iven the nature of Department emails and the format in which they are produced, segregation and required redactions are typically completed simultaneously as a review of each email is necessary for both processes. The Department’s good faith estimate is based on prior requests where segregation and redaction were completed on an email-by-email basis and not as separate processes. Separating the process of segregation from redaction would be burdensome on the Department, preclude the efficient processing of requests, and increase the hours necessary to fulfil a request.”

The Department also advised, “... given our office’s and our agencies’ collaboration with other state and federal agencies on criminal investigations and other matters regarding state and national security, the resulting records undoubtedly contain privileged and exempt information such as intelligence and investigative data, personnel, private, and security related information, as well as information related solely to internal personnel rules and practices of government necessary to withhold to ensure the proper performance of the Massachusetts State Police. These categories of information are specifically exempt pursuant to G.L. c. 4, § 7, cl. 26 (a), (b), (c), (f), and/or (n) and are not subject to public disclosure. Accordingly, the information must be segregated and redacted from the records before the records are produced to a third party such as the requestor.”

*Current appeal*

In his appeal, Mr. Herman states, “[o]n March 8, 2024, the [Department] literally increased the fee by 3838 percent, from \$121.25 to \$4,775, for the exact same responsive records.”

Although the Department has estimated that the process of compiling, reviewing, and preparing responsive documents for production will take 191 hours, it is unclear how the Department requires this many hours to produce responsive records. It is not clear from the Department’s response why it requires 2 minutes to segregate or redact each page of the email records. The Department must provide additional information regarding the contents of the emails. See G. L. c. 66, § 10(d)(iv) (requiring the amount of the fee be reasonable).

Further, although the Department explained that redactions are necessary based on Exemptions (b), (c), (f) and/or (n), it is unclear whether the Department’s estimate includes time for segregation or redaction under the cited exemptions. See G. L. c. 66, § 10(d)(iii) (a fee shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law for Exemption (a) or attorney-client privilege or approved by the Supervisor of Records under a petition under G. L. c. 66, § 10(d)(iv)).

I encourage Mr. Herman and the Department to communicate in order to facilitate producing records efficiently and affordably. Mr. Herman may wish to include applicable time periods or factors to enable the search to be processed. G. L. c. 66, § 10(a)(i). The Department must use its knowledge of the records to facilitate providing any responsive records. G. L. c. 66, § 10(a)(vii) (an agency or municipality shall suggest a reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency or municipality to produce records sought more efficiently and affordably).

For the reasons discussed above, I find the Department must revise its fee estimate or provide further explanation of how the fee assessed is expressly provided for and consistent with G. L. c. 66, § 10(d).

***Conclusion***

Accordingly, the Department is ordered to provide a response to Mr. Herman, provided in a manner consistent with this order, the Public Records Law and its Regulations within ten (10) business days. A copy of any such response must be provided to this office. It is preferable to send an electronic copy of the response to this office at [pre@sec.state.ma.us](mailto:pre@sec.state.ma.us). Mr. Herman may appeal the substantive nature of the Department’s response within 90 calendar days. See 950 C.M.R. 32.08(1).

Allison Mondello  
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Sincerely,

A handwritten signature in black ink, appearing to read "Manza Arthur". The signature is fluid and cursive, with the first name "Manza" being more prominent and the last name "Arthur" following in a similar style.

Manza Arthur  
Supervisor of Records

cc: Colman Herman