

Subject: Public records request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A
Date: Monday, April 1, 2024 at 1:58:06 PM Mountain Daylight Time
From: Commonwealth Transparency <info@opencommonwealth.org>
To: Benedon, Carrie (AGO) <Carrie.Benedon@mass.gov>, hanne.rush@mass.gov <hanne.rush@mass.gov>
Priority: High

Greetings:

This is a formal public records request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A:

Please provide the following documents/records for the years 2020, 2021, 2022, 2023, and 2024:

- All data from the published Attorney General's Office Open Meeting Law Pending Complaints, including but not limited to:
 - The dates of the complaint (Filed with the public body and filed with the AGO)
 - The dates assigned to an attorney at the Division of Open Government.
 - The attorney assigned.
 - The date a determination was made (If a determination has been made on or before April 1, 2024)
- All data for the records sought above from any other source for the dates and data sought above.
- All filed complaints for the dates above.
- All determinations for the dates above.
- All alternate outcomes for any complaint filed for the dates above.
- Any and all reports produced which report any of the data sought in this request.

Extraction of such data from a database or electronic record system does not constitute creating a new record. See 950 CMR 32.07(1)(f). Printing these records from a database or electronic system, redacting them with a marker, and then re-scanning them, is generally not consistent with these regulations; this process provides the digital records neither in the preferred form nor in a “searchable machine-readable form.” 950 CMR 32.04(5)(d).

With respect to the form of production, we note that relevant regulations require the production of records in an accessible, commonly used electronic form, to the extent feasible. See 950 CMR 32.04(5)(d).

This requests includes but is not limited to email, email-attachments, text messages, calendar entries, voice mail messages and/or physical documents.

This request seeks responsive documents be delivered in electronic format and in the format in which they are regularly maintained, and specifically includes all electronic mail attachments ***and metadata***.

Record custodians are also required to implement new record keeping systems and databases in such a way as to allow for “retrieval of public portions of records to provide maximum public access.” See 950 CMR 32.07(1)(e).

Where no such records in the above categories exist, please provide a written statement to that effect.

If necessary, we welcome reasonable suggested modifications pursuant to 950 CMR 32.06(2)(g). Per *Attorney Gen. v. Dist. Attorney for Plymouth Dist.*, 484 Mass. 260, 141 N.E.3d 429 (2020), compiling information from a database is not tantamount to creating a new record that would otherwise be precluded under public records law. Specifically: "Where public records are in electronic form, a public records request that requires a government entity to search its electronic database to extract requested data does not mean that the extracted data constitute the creation of a new record, which would not be required, under the public records law. " *Id.* at 442 to 443.

Thus, we request that your department query its database and provide a response to the records request. Should you determine that some portions of the documents are exempt from disclosure, please release any reasonably segregable portions that are not exempt. In addition, please note for any such redactions the applicable statutory exemption and explain why it applies to the redacted or withheld information.

This request and all responsive documents are for express purposes of gathering information to promote citizen oversight and further the public understanding of the operation and activities of our government.

Kindest Regards,

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