

February 4, 2011

Mr. Charles Boddy, Esq.  
City Attorney  
City of Lawrence  
200 Common Street  
Lawrence, Massachusetts 01840

Dear Attorney Boddy:

This office has received correspondence from Mr. Keith Eddings appealing the lack of response of the City of Lawrence (City) Police Department to his December 15, 2010 request for certain felony assault reports, and the lack of response of the City's Licensing Board to his request to view certain records.

"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) (2008 ed.). The statutory exemptions are strictly and narrowly construed. Globe Newspaper Co. v. Dist. Att'y for the Middle Dist., 439 Mass. 374, 380 (2003); Att'y Gen. v. Ass't Comm'r of the Real Prop. Dep't of Boston, 380 Mass. 623, 625 (1980).

Given that the ability to inspect the records of government is fundamental to our democracy, there is a presumption that **all** governmental records are public records. Disclosure of governmental records is favored by the presumption that the record sought is public. G. L. c. 66, § 10(c) (2008 ed.); 950 C.M.R. 32.08(4). See The Harvard Crimson, Inc. v. President & Fellows of Harvard College; Globe Newspaper Co. v. Boston Retirement Bd., 388 Mass. 427, 436 (1983).

Moreover, this office believes that all records made or received by a governmental body, officer or employee of the Commonwealth are public records, subject to redaction, and that the records must be disclosed upon request. G. L. c. 66, § 10(a) (2008 ed.); see also In re Subpoena Duces Tecum, 445 Mass. 685, 687 n.3 (2006).

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Furthermore, a record custodian has a duty to comply with a public records request as soon as is practicable, without unreasonable delay, and always within ten (10) calendar days. G. L. c. 66. § 10(a) (2008 ed.); 950 C.M.R. 32.05(2). The ten-day provision is a maximum, rather than a minimum time frame for complying with a public records request. Boston Globe Newspaper Company v. Commissioner of Education, 439 Mass. 124 (2003).

Within that ten-day time frame, the custodian must use his or her superior knowledge of the records to identify those records that are responsive to the request, conduct a quick search if necessary in order to identify responsive records, and send a written response.

The response must be either an offer to provide the requested materials or a written denial. A denial must detail the specific legal basis for withholding the requested materials. District Attorney for the Norfolk District v. Flatley, 419 Mass. 507, 511 (1995); see also 950 C.M.R. 32.08(1). If the City is planning to charge Mr. Eddings for the costs of complying with his public records request, the City should provide him with an estimate of those costs in its written response.

Accordingly, I find that the City has failed to meet its burden and has not overcome the presumption that the responsive records are public records. The City is hereby ordered to review the records, redact where necessary, and provide Mr. Eddings with the responsive records. Failure to comply with this administrative order within ten (10) days of receipt of it may result in a referral of this matter to the Office of the Attorney General.

Very truly yours,

Alan N. Cote  
Supervisor of Records

Cc: Mr. Keith Eddings