



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

Manza Arthur
Supervisor of Records

February 15, 2023
SPR23/0307

Michael Kaneb, Esq.
Records Access Officer
Office of the Governor
State House
Boston, MA 02133

Dear Attorney Kaneb:

I have received the petition of Andrew Quemere appealing the response of the Office of the Governor (Office) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On February 5, 2023, Mr. Quemere requested emails and text messages in former Governor Baker's accounts that include the terms "Police" and "Law enforcement."

In a February 13, 2023 response, the Records Access Officer for the Office of the Governor informed Mr. Quemere that:

By law, records held by the Office of the Governor are not subject to the Massachusetts public records law. *See Lambert v. Executive Director of the Judicial Nominating Council*, 425 Mass. 406, 409 (1997). . . .

We are unable to provide records responsive to your request. Governor Healey's public records policy for the Office of the Governor became effective January 5, 2023, but it does not apply retroactively to the records of previous administrations that operated under different policies.

Unsatisfied with the Office's response, Mr. Quemere petitioned this office and this appeal, SPR23/0307, was opened as a result.

The Supervisor is statutorily empowered with the authority to determine the public record status of government records. G. L. c. 66, § 10. "Public records" is broadly defined to include all documentary materials or data, regardless of physical form, made or received by any officer or employee of any department of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26). In examining this definition, and the separation of powers doctrine, the Supreme Judicial Court has concluded that the Public Records Law does not apply to records of

Michael Kaneb
Page 2
February 15, 2023

SPR23/0307

the Office. Lambert, 425 Mass. at 409; see also Mass. Const. Pt. 1, Art. 30 (separation of powers).

Also, please be advised that in a 2017 decision from the Attorney General's Office (AGO) regarding a similar matter, the AGO concluded that "... documents in the possession of the Governor or the Governor's Office are not records that must be disclosed under the Public Records Law." See AGO's November 17, 2017 letter regarding SPR17/0271 (Determination of the Supervisor of Records (March 15, 2017)).

Conclusion

Where the records of the Office have been determined to be outside of the Public Records Law, I am unable to assist Mr. Quemere in this matter. Therefore, I will now consider this administrative appeal closed.

Sincerely,

A handwritten signature in black ink that reads "Manza Arthur". The signature is written in a cursive, flowing style.

Manza Arthur
Supervisor of Records

cc: Andrew Quemere
Olivia Rolnik