



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

Rebecca S. Murray
Supervisor of Records

July 1, 2022
SPR22/1427

Joshua D. Reilly, Esq.
Office of Chief Legal Counsel
Department of State Police
470 Worcester Road
Framingham, MA 01702

Dear Attorney Reilly:

I have received the petition of Andrew Quemere appealing the response of the Department of State Police (Department) to a request for public records. G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On March 29, 2022, Mr. Quemere requested the following records:

- The [D]epartment's current use-of-force policies;
- A blank copy of each form used to report use-of-force incidents (if the form is part of a computer program and is not easily exportable, please provide screenshots);
- All data on use-of-force incidents that are stored by the [D]epartment's use-of-force tracking software; please provide the data as a spreadsheet, preferably in Excel format;
- All numerical/statistical reports that can be exported from the [D]epartment's use-of-force tracking software (e.g., reports showing the total number of incidents per year, the total number of incidents involving each officer, etc.); and,
- All annual use-of-force committee reports.

Prior appeals

The requested records/information were the subject of prior appeals. See SPR2022/0905 and SPR2022/0923 Determinations of the Supervisor of Records (Supervisor) (April 27, 2022 and May 2, 2022).

The Department provided responsive records. In its June 13th response, it noted:

"...[request] 2, the Department has extracted and provided the attached machine readable PDFs which [the Department] understands it is the format produced by the database. It is

the Department's position that the production of an [E]xcel spreadsheet would require the Department to create a new record which it is not obligated to do under the Massachusetts Public Records Law. While the Department is obligated to and has conducted a search of its electronic databases to extract responsive information, it is not required to create a record which does not presently exist...Furthermore, requiring the Department to manually transcribe, edit, convert, and/or copy documents from their existing formats into a new format such as an [E]xcel spreadsheet would be unduly burdensome for the Department."

As a result of the production of records and the Department's June 13th response, Mr. Quemere petitioned the Supervisor, and the current appeal was opened. In his June 19th petition, Mr. Quemere asserts:

"...the data [was] provided as a PDF. I requested that the [D]epartment provide this data as a spreadsheet, preferably in Excel format. The [D]epartment has not provided an explanation as to why it is not feasible to export the data to an Excel spreadsheet or another data format, such as CSV."

Preferred format

A records access officer must, to the extent feasible, provide public records to a requestor in electronic format unless the record is not available in electronic form or the requestor does not have the ability to receive or access the records in electronic format and if feasible, in the requestor's preferred format. In the absence of a preferred format, the records must be provided in a searchable machine-readable form. See 950 C.M.R. 32.04(5)(d).

Pursuant to 950 C.M.R. 32.07(1)(c), "[t]he records access officer shall presume that a requestor prefers copies provided in machine-readable electronic form, when electronic form is available . . ." Also, "[a] records access officer shall presume a requestor prefers electronic copies and must provide electronic records in native form when possible." 950 C.M.R. 32.07(1)(d). Based on Mr. Quemere's claim, it is unclear whether it is possible for the Department to provide the records in a machine-readable format such as an Excel spreadsheet, or CSV, or in their native form. The Department must clarify this issue.

Conclusion

Accordingly, the Department is ordered to provide Mr. Quemere with a response to the request, in a manner consistent with this order, the Public Records Law and its Regulations within 10 business days. 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.

Joshua D. Reilly, Esq.
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Sincerely,

A handwritten signature in black ink that reads "Rebecca Murray". The signature is written in a cursive style with a large, looping 'R' and 'M'.

Rebecca S. Murray
Supervisor of Records

cc: Andrew Quemere