



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

Manza Arthur
Supervisor of Records

September 30, 2026
SPR26/3729

Lt. Peter Mitchell
Assigned Department Records Administrator
Malden Police Department
800 Eastern Avenue
Malden, MA 02148

Dear Lieutenant Mitchell:

I have received the petition of *OpenCommonwealth* (requestor) appealing the response of the Malden Police Department (Department) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On August 16, 2026, the requestor sought “[a]n export of all images as maintained and in their native format specifically including all metadata from all FLOCK SAFETY cameras within the city limits of the City of Malden, for the 24 hour period of August 16, 2026 from 00:00:00 to 23:59:59 Eastern Standard Time.” The Department initially responded on August 27, 2026, assigning the request Public Record Request Number 2026-0374.

Previous Appeal

This request was the subject of a previous appeal. See SPR26/3477 Determination of the Supervisor of Records (September 16, 2026). In my September 16th determination, I ordered the Department to clarify whether it possesses responsive records. The Department responded on September 16, 2026. Unsatisfied with the Department’s response, the requestor petitioned this office and this appeal, SPR26/3729, was opened as a result.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). “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 agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

If there are any fees associated with a response, a written, good faith estimate must be provided. G. L. c. 66, § 10(b)(viii); see also 950 C.M.R. 32.07(2). Once fees are paid, a records custodian must provide the responsive records.

The Department's August 27th and September 16th Responses

In its August 27, 2026 response, the Department stated:

Upon further review of the request, it has been determined that the Malden Police Department does not maintain, store or preserve an existing report, file, or export consisting of all Flock images and associated metadata. The Flock Safety platform available to Department users is an investigative search platform and does not provide Department users with a search or export function that produces all camera captures for a specified 24-hour period in the manner described in your request... Please advise me if there is anything further that I can submit to you regarding this request and please be mindful of the privacy rights of people, and prevent, if necessary, the dissemination of this information.

In its September 16, 2026 response, the Department clarified:

Based on how the system operates, Flock Safety Technologies retains individual ALPR detections/images for the applicable retention period, but the Department does not maintain a preexisting daily report, archive, or Department-side bulk export containing every image captured by every camera for a given day. The platform is an investigative search system rather than a conventional CCTV/DVR archive, and there is no customer-side capability to create a searchable date/time report that simply exports every detection and image for a 24-hour period. Audit/search records are also separate from the underlying detection images.

Current Appeal

In the appeal petition, the requestor argued:

Despite the specific findings and Orders, Malden has failed to answer the specific question and instead offers an editorial about how MPD approaches Flock. Malden fails to admit that they were able to download the requested public records on the day that the public records request was served upon

them and they failed to do so. Currently Malden is able to download any of the images taken by the Flock cameras deployed throughout the City of Malden and all other images which other agencies have granted permission to Malden for the retention period which Malden chooses to maintain on Flock Systems infrastructure.

It is believed that Malden is only maintaining these images for 7 days and then allowing Flock Systems to delete these images on the Flock Systems infrastructure. On the day that the public records request was made and served upon Malden, the specifically requested public records were available to the RAO and the department to download, preserve and provide to the requestor. Whether or not Malden allowed those specifically requested public records to be deleted remains to be understood, as Malden has failed to admit or deny that the specifically requested records still exist today.

Malden has allowed a third party to manage and maintain public records, delete and purge these public records with total disregard for the Massachusetts Municipal Records Retention Schedules and legal requirements of G. L. c. 66, §§ 10-10A. Malden has failed to download and secure specifically requested public records which are illegally and improperly maintained and managed on a third party's systems and platform with no regard for the requirements under Massachusetts Law that Malden regularly download and maintain its own copy of these records...

Agency Relationship

The Department is advised that the duty to comply with requests for records extends to those records that exist and are in the possession, custody, or control of the custodian of records at the time of the request. See G. L. c. 66, § 10(a)(ii). Further, in accordance with the Public Records Law, custodians are expected to use their superior knowledge of the records in their custody to assist requestors in obtaining the desired information. See 950 C.M.R. 32.04(5). Additionally, public records must be maintained and kept in a manner that allows access by the general public, as they are subject to mandatory disclosure upon request. G. L. c. 66, § 10(a); see also Reinstein v. Police Comm'r of Boston, 378 Mass. 281, 289-90 (1979).

Where a public entity contracts with a third party to fulfill its public duties, and the public entity exercises control over that third party, an agency relationship is created. See Fifty-one Hispanic Residents of Chelsea v. Sch. Comm. of Chelsea, 421 Mass. 598, 607 (1996) (while subject to control of a public entity as a principal for purposes of performing public duties, private university is a public agent). Wherever a record custodian keeps original public records in a location other than the government building, he or she has a duty to make the public records available in a location convenient to the general public for inspection and copying.

Based on the information provided in the appeal petition and the Department's responses, it is unclear whether there is an agency relationship between the Department and Flock Safety.

As such, I find that the Department must provide additional information regarding the scope of its relationship with Flock Safety in order to determine whether it has met its burden under G. L. c. 66, § 10(a)(ii) to provide records that are in the possession, custody, or control of the custodian of records at the time of the request.

Records Management

The Department is also advised that public records must be maintained and kept in a manner that allows access by the general public, as they are subject to mandatory disclosure upon request. Id. For further guidance in records management and retention, the Department may contact the Records Management Unit (RMU) at 617-727-2816. The RMU operates under the authority of the Supervisor of Records, assisting state and local government entities in creating, managing, securing, and preserving records needed to conduct business and protect the rights and obligations of citizens and government. Training workshops on records management are conducted upon request. Safeguards must be instituted by the Department to ensure that all records are retained in accordance with both applicable law as well as the retention schedules promulgated by this office. See G. L. c. 66, § 8; G. L. c. 66, § 13 and G. L. c. 66, § 15.

Conclusion

Accordingly, the Department is ordered to provide the requestor with a response to the request 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. The requestor may appeal the substantive nature of the Department's response within ninety (90) days. See 950 C.M.R. 32.08(1).

Sincerely,

A handwritten signature in black ink, appearing to read "Manza Arthur", written in a cursive style.

Manza Arthur
Supervisor of Records

cc: OpenCommonwealth