



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

Manza Arthur
Supervisor of Records

August 31, 2026
SPR26/3197

Lieutenant Peter Mitchell
Administration and Operations Division
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 July 14, 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 June 23, 2026 from 00:00:00 to 23:59:59 Eastern Standard Time.”

On July 28, 2026, the City of Malden (City) acknowledged receipt of the request and explained that “[d]ue to the current volume of incoming requests, staffing limitations, and other operational challenges,” the City needed “up to 25 business days from the date of receipt” of the request to “complete [its] review and provide a response[.]” Subsequently, the Department provided a response on August 13, 2026. Unsatisfied with the Department’s response, the requestor petitioned this office and this appeal, SPR26/3197, 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 13th Response

In its August 13, 2026 response, the Department advised that upon, “further review of the request, it has been determined that the Malden Police Department does not maintain, store or preserve this type of specific record. As no such record exist, we are unable to fulfill your record request.”

Current Appeal

In their appeal, the requestor requests that this office order the Department “to provide the requested records” and “manage, maintain, control and provide all public records according to the strict interpretation of M.G.L. c66, §§ 10-10A.” The requestor goes on to assert the following:

Malden deleted, or allowed the deletion of specifically requested public records during the pendency of a properly made public records request. FLOCK SYSTEMS which Malden contracts and pays for with public funding to take images of vehicles and license plates at the time of the request was maintaining the requested records for 30 days.

The request was served on July 14, 2026, the records sought were for June 23rd, 2026 and were available from FLOCK SYSTEMS until July 23, 2026 on FLOCK SYSTEMS infrastructure and were able to be freely downloaded by Malden.

Malden refused to respond until July 28, 2026 and only stated that they would respond within 25 business days. This is not a proper response. Then [o]n August 13, 2026 they allege that they do not have the requested records. Malden has failed to manage, maintain, control and provide public records.

Based on the requestor's claims, in conjunction with the Department's response, it is unclear if the Department possesses any responsive records. 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). However, 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). Consequently, the Department must clarify whether any responsive records exist.

Further, where the requestor asserts that the Department “at the time of the request was maintaining the requested records for 30 days[,]” I find that the Department must explain whether the requested records existed and were permissibly destroyed, or whether the records did not initially exist. See G. L. c. 66, § 10(a)(ii), (b)(ii). If records were destroyed, I find that the Department must demonstrate whether it followed proper records retention protocol. The Department must clarify these matters.

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