



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

Shawn A. Williams  
*Supervisor of Records*

March 25, 2015  
**SPR15/071**

Ms. Jaclyn R. Zawada, Esq.  
Department of State Police  
Office of the Chief Legal Counsel  
470 Worcester Road  
Framingham, MA 01702

Dear Attorney Zawada:

I have received the petition of Andrew Quemere of the *Bay State Examiner* appealing the response of the Department of State Police (Department) to his request for public records. G. L. c. 66 § 10(b); see also 950 C.M.R. 32.08(2). Specifically, Mr Quemere requested copies of Internal Affairs (IA) files for forty-nine (49) Department employees.

In a response dated January 12, 2015 the Department informed Mr. Quemere that due to the extreme breadth of his request it would not be possible to provide a fee estimate. Drafting a good faith fee estimate as to the time needed to gather, review, and redact the responsive records would require first a considerable amount of coordination with the IA section and many hours of research. Instead of providing a good faith estimate, the Department proposed a nonrefundable research fee of \$710.50 to prepare a good faith estimate. The basis of Mr. Quemere's appeal is that the Public Records Law does not permit fees to prepare a fee estimate.

***Fees***

A custodian of records may assess a reasonable fee for complying with a request for public records. G. L. c. 66, § 10(a); see also 950 C.M.R. 32.06(2) (where cost of complying with a request for public records is expected to exceed ten dollars (\$10.00), custodian of records shall provide written good faith estimate). Absent specific statutory authority to the contrary, the fees to be charged for complying with requests for public records are established by the Public Records Access Regulations (Regulations). See 950 C.M.R. 32.06 (fees for public records). Under the Regulations, a custodian of records may assess a maximum fee of twenty cents (\$.20) per page for a photocopy of a public record and fifty cents (\$.50) per page for a computer print out of a public record. See 950 C.M.R. 32.06(1)(a).

In addition to the copying fee, the Regulations provide that in cases where search or segregation time is necessary a custodian of records may charge a pro-rated fee based on the hourly rate of the lowest paid employee who is capable of performing the task. 950 C.M.R. 32.06(1)(c). The Regulations define "search time" as the time needed to locate, pull from the

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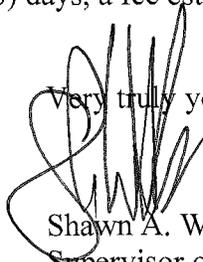
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file, copy and refile public records, and "segregation time" as the time used to redact data that is exempt from non-exempt material. 950 C.M.R. 32.03. The search and segregation fees must reflect the actual cost of complying with a particular request. G. L. c. 66, § 10(a).

A records custodian must maintain all records in an orderly fashion; therefore, a records custodian may not recover fees associated with record organization. A records custodian is permitted to require payment of the fees not referenced in the Regulations. The Department's proposed nonrefundable fee is merely for the preparation of the fee estimate.

Accordingly, I will consider this administrative appeal closed with the proviso that the Department provide Mr. Quemere, within ten (10) days, a fee estimate prepared in compliance with the Public Records Access Regulations.

Very truly yours,



Shawn A. Williams  
Supervisor of Records

cc: Mr. Andrew Quemere