



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

Alan N. Cote
Supervisor of Records

October 6, 2009
SPR09/211

Mr. David L. Harris
Cambridge Chronicle
20 Holland Street, Suite 404
Somerville, MA 02144

Dear Mr. Harris:

I have received your petition appealing the response of the Cambridge Police Department (Department) to your July 27, 2009 public records request. See G. L. c. 66, § 10(b) (2006 ed.) (Supervisor of Records has authority to resolve public records appeals); see also 950 C.M.R. 32.08(2) (appeal process). Specifically, you requested copies of the police logs between July 1 and July 27 containing inter alia the names of all people arrested within the City of Cambridge (City), ages of all people arrested and addresses of all people arrested. Additionally, you requested "access to all addresses, including street name and number, that police are dispatched to."

In a letter dated September 22, 2009, Attorney Kelly A. Downes, Legal Advisor to the Department, informed this Office that the names of all people arrested within the City, ages of all people arrested and addresses of all people arrested between July 1 and July 27 are available at no cost on the Department's website found at www.cambridgema.gov/cpd. See M.G.L. c. 41, § 98F.

However, the statutory requirements for the creation and release of a police log do not extend to the addresses to which the police respond. M.G.L. c. 41, § 98F (requiring a police department to maintain a publicly available list of all responses to valid complaints received, crimes reported, the names, addresses of persons arrested and the charges against such persons arrested). By email dated August 10, 2009, Attorney Downes provided you with a written estimate of \$1215.00 for the provision of the records relating to "all addresses, including street name and number, that police are dispatched to."

A custodian may charge a fee if complying with a request requires "search time." 950 C.M.R. 32.03 (defining "search time" as the time needed to locate, pull from the file, copy, and re-file a non-computerized public record). A custodian may charge a pro-rated fee based on the hourly rate of the lowest paid employee who is capable of performing the task. 950

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C.M.R. 32.06(1)(a). While the custodian is permitted to charge for search and segregation fees, the fee charged should not serve as a deterrent for the requestor to access public records. See Globe Newspaper Co. v. Boston Retirement Bd., 388 Mass. 427, 436 (1983).

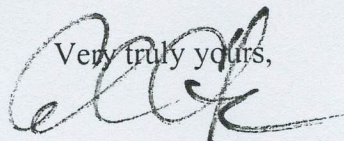
In the September 22, 2009 letter, Attorney Downes stated that the Department does not maintain the addresses to which the police respond in one centralized list, therefore, a number of records must be reviewed in order to provide this responsive information. Attorney Downes estimated that the Department would be required to collect and review approximately 500 police reports and other documents in order to provide the addresses to which the police were dispatched. Given the sensitive information, including identifying details of victims and witnesses, contained in these reports, close scrutiny of the records is required. See G. L. c. 4, § 7(26)(f) (Exemption (f) allows for the withholding of identifying details of victims and witnesses of crimes); G. L. c. 4, § 7(26)(c) (Exemption (c) permits the withholding of records which if disclosed may constitute an unwarranted invasion of personal privacy); G. L. c. 268, § 13B (criminalizing the intimidation of witnesses and others furnishing information in criminal proceedings). Consequently, the Department estimated it would take 25 hours to adequately review these records. An administrative employee would not have the knowledge of the records necessary to perform the review. As a result, the lowest paid employee of the Department capable of reviewing these records is paid the rate of \$40 an hour.

In addition to search and segregation costs, the Department may levy a fee for copying public records. It is estimated there will be 1,075 documents which will be copied at the rate of \$.20 per page. The Department's assessment of \$.20 per copy is in proper compliance with the Public Records Law. 950 C.M.R. 32.06(1)(a); 950 C.M.R. 32.06(1)(b).

Conclusion

Given that a large number of documents, which may contain sensitive information about the identities of victims and witnesses, are required to be properly reviewed, I consider this to be a reasonable fee estimate provided by the Department. Please note that if the actual costs of providing you with the responsive records are less than the estimated fees, the Department is to provide you with a refund of the difference. Accordingly, I will consider this appeal closed.

Very truly yours,



Alan N. Cote
Supervisor of Records

cc: Attorney Kelly A. Downes