



GARY J. GEMME
CHIEF OF POLICE

DEPARTMENT OF POLICE
CITY OF WORCESTER
MASSACHUSETTS 01608-1172
(508) 799-8600



May 8, 2013

Kade Crockford
ACLU of Massachusetts
211 Congress Street, 3rd Floor
Boston, MA 02110

RE: Public Records Request Received April 30, 2013

Dear Ms. Crockford:

This letter is in response to your public record request, in which you requested voluminous SWAT team records.

With respect to the afore-mentioned public records requests, please be advised that your requests under the Public Records Law have been denied for the following reasons:

- 1) The information that you have requested is prospective in nature. The Massachusetts Public Records Law only applies to information that is in the custody of the governmental entity at the time the request is received¹. Consequently, governmental agencies are not required to create a record for the requester or honor prospective requests.
- 2) The information requested is exempt pursuant to the Public Records Law, exemption (b)². This exemption allows the withholding of those records that are "*related solely internal personnel rules and practices of the government unit, provided however, that such records shall be withheld to the extent that proper performance of necessary government functions require such withholding.*"

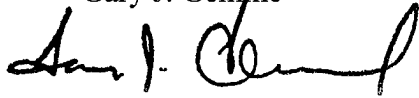
¹ M.G.L. c. 4, § 7 (26) (defining public records as materials which have already been "made or received" by the public entity); see also 32 Op. Att'y Gen. 157, 165 (May 18, 1977) (custodian is not obliged to create a record in response to a request for information)

² M.G.L. c. 4, § 7 (26) (b).

Kade Crockford, ACLU
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Please be advised that if you disagree with the City's and the Police Department's analysis of whether any of the items and documents that you are seeking are public records, or which exemptions and/or costs apply, you may appeal to the Supervisor of Public Records under 950 C.M.R. 32.08 and M.G.L. c. 66, §10(b).

Respectfully,
Gary J. Gemme

A handwritten signature in black ink, appearing to read "Gary J. Gemme". The signature is fluid and cursive, with a large, stylized initial "G".

CHIEF OF POLICE
Chief of Police
GJG/bops