

**Subject:** Re: Public Record Request

**Date:** Tuesday, April 14, 2020 at 9:42:17 AM Eastern Daylight Time

**From:** Ryan Quimby

**To:** Lori Hall

yes, it has everything

## Ryan Quimby

*IT Director*

East Longmeadow Public Schools & Municipal Offices

180 Maple Street

East Longmeadow, MA 01028

P:(413)525-5400 x1900

C:(413)348-0953

On Tue, Apr 14, 2020 at 9:41 AM Lori Hall <[lori.hall@eastlongmeadowma.gov](mailto:lori.hall@eastlongmeadowma.gov)> wrote:

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On Tue, Apr 14, 2020 at 9:39 AM Ryan Quimby <[ryan.quimby@eastlongmeadowma.gov](mailto:ryan.quimby@eastlongmeadowma.gov)> wrote:

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*IT Director*

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On Tue, Apr 14, 2020 at 9:36 AM Lori Hall <[lori.hall@eastlongmeadowma.gov](mailto:lori.hall@eastlongmeadowma.gov)> wrote:

yes please

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10 minutes

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Thanks

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**Lori Hall**  
Records Clerk  
Parking Clerk  
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160 Somers Road  
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(413) 525-5440 ext 2003

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**Subject:** Re: Public Record Request

**Date:** Tuesday, April 14, 2020 at 9:41:09 AM Eastern Daylight Time

**From:** Lori Hall

**To:** Ryan Quimby

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**Date:** Tuesday, April 14, 2020 at 9:39:43 AM Eastern Daylight Time

**From:** Ryan Quimby

**To:** Lori Hall

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**Subject:** Re: Public Record Request

**Date:** Tuesday, April 14, 2020 at 9:36:45 AM Eastern Daylight Time

**From:** Lori Hall

**To:** Ryan Quimby

yes please

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**Subject:** Re: Public Record Request

**Date:** Tuesday, April 14, 2020 at 9:36:03 AM Eastern Daylight Time

**From:** Ryan Quimby

**To:** Lori Hall

haha do you want me to do it?

## Ryan Quimby

*IT Director*

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**From:** Lori Hall

**To:** Ryan Quimby

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--

**Lori Hall**  
Records Clerk  
Parking Clerk  
East Longmeadow Police Department  
160 Somers Road  
East Longmeadow, MA 01028  
(413) 525-5440 ext 2003



**Subject:** Re: Public Record Request

**Date:** Tuesday, April 14, 2020 at 9:28:53 AM Eastern Daylight Time

**From:** Ryan Quimby

**To:** Lori Hall

**CC:** Jeffrey Dalessio

10 minutes

**Ryan Quimby**

*IT Director*

East Longmeadow Public Schools & Municipal Offices

180 Maple Street

East Longmeadow, MA 01028

P:(413)525-5400 x1900

C:(413)348-0953

On Tue, Apr 14, 2020 at 9:23 AM Lori Hall <[lori.hall@eastlongmeadowma.gov](mailto:lori.hall@eastlongmeadowma.gov)> wrote:

Hi Ryan,

I have a public records request from the ACLU for a whole bunch of things, but what I need from you is a search of Jeff Dalessios email and of ELPD Records email looking for the words "facial recognition" and "clearview" from January 1, 2019 to present.

I know it's a lot but Jeff and I figured this was the only way to know if we have what they are looking for.

Can you let me know how long it will take to get this info so I can keep my time figured out?

Thanks

--

**Lori Hall**

Records Clerk

Parking Clerk

East Longmeadow Police Department

160 Somers Road

East Longmeadow, MA 01028

(413) 525-5440 ext 2003

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**Subject:** Public Record Request

**Date:** Tuesday, April 14, 2020 at 9:23:38 AM Eastern Daylight Time

**From:** Lori Hall

**To:** Ryan Quimby

**CC:** Jeffrey Dalessio

Hi Ryan,

I have a public records request from the ACLU for a whole bunch of things, but what I need from you is a search of Jeff Dalessios email and of ELPD Records email looking for the words "facial recognition" and "clearview" from January 1, 2019 to present.

I know it's a lot but Jeff and I figured this was the only way to know if we have what they are looking for.

Can you let me know how long it will take to get this info so I can keep my time figured out?

Thanks

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**Lori Hall**  
Records Clerk  
Parking Clerk  
East Longmeadow Police Department  
160 Somers Road  
East Longmeadow, MA 01028  
(413) 525-5440 ext 2003

**Subject:** Re: ACLU Public Records Request (04.06.2020)  
**Date:** Wednesday, April 8, 2020 at 11:57:45 AM Eastern Daylight Time  
**From:** Jeffrey Dalessio  
**To:** Lori Hall

Sounds good  
NoTalk, no policies , etc nada  
let ryan research and see what there is or what we may have missed

On Wed, Apr 8, 2020 at 11:25 AM Lori Hall <[lori.hall@eastlongmeadowma.gov](mailto:lori.hall@eastlongmeadowma.gov)> wrote:

So I have been thinking about this and I think the best way to address it, there are seven things they specify, I think we can address 1, 2, and 4 by an email search through elpd records and your email for the words "facial recognition". Those are the two emails that sales people send things to.

3 does apply because we do not have that software so we cant have any contracts etc on it.

5 does not apply because we do not have that software so we wouldn't have training manuals on it

6 I know you are working on policies and procedures, you can just let me know if we have any on facial recognition.

7 I don't think there have been any meetings about this software (let me know if I am wrong) so this one wouldn't apply either.

So, in short I think we need to have Ryan do a search of those two email addresses for the words \*facial recognition\* and then I can use one of the templates from the Mass Chiefs to do my reply.

Thoughts?

On Tue, Apr 7, 2020 at 10:48 AM Jeffrey Dalessio <[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)> wrote:

----- Forwarded message -----

**From:** Info - MA Chiefs of Police Association <[info@masschiefs.org](mailto:info@masschiefs.org)>  
**Date:** Tue, Apr 7, 2020 at 10:40 AM  
**Subject:** ACLU Public Records Request (04.06.2020)  
**To:** <[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)>

## ACLU Public Records Request (04.06.2020)

Dear Chief,

Although I am attempting to keep my updates related to COVID-19, many of you are inquiring about the recent public records request sent out by the ACLU ([attached](#)). As a result, I would like to provide you all with the following guidance. Most of the records they are looking for will need to be disclosed to the extent that they exist. I have created a couple sample response templates below. Also, for your assistance, I am attaching our [Guide to Public Records](#) for Massachusetts Law Enforcement Agencies.

### If you do not have any such records, then use this template:

Dear Emiliano Falcon:

On April 6, 2020, we received your request pursuant to the Massachusetts Public Records Law for the following records:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any facial recognition product or service, including but not limited to Clearview AI;
3. Records evidencing or describing any existing or potential relationship between the police department and all companies that manufacture or sell any facial recognition product, including but not limited to Clearview AI. These records include but are not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, and other contracts;
4. Records referencing the operational effectiveness or accuracy rate of any of facial recognition service or product. These records include but are not limited to e-mails, handouts, PowerPoint presentations, advertisements, audits, and specification documents;
5. Training materials related to facial recognition products or services;
6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, please be advised that this Department does not have possession, custody or control of the records requested. The mandatory disclosure provision of the Public Records Law only applies to information that is in the custody of the Department at the time the request is received. As a result, there is no obligation for a Department to create a record for a requester to honor a request. See G.L. c. 4, section 7(26) (defining "public records" as materials which have already been "made or received" by a 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); see also A Guide to the Massachusetts Public Records Law,

Secretary of the Commonwealth, Division of Public Records, p. 7 (January 2013) (hereinafter Public Records Guide). As a result, the Department is unable to respond to your request.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

---

**If you do have records and intend to provide them:**

Dear Emiliano Falcon:

On April 6, 2020, we received your request pursuant to the Massachusetts Public Records Law for the following records:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any facial recognition product or service, including but not limited to Clearview AI;
3. Records evidencing or describing any existing or potential relationship between the police department and all companies that manufacture or sell any facial recognition product, including but not limited to Clearview AI. These records include but are not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, and other contracts;
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6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, the Department intends to provide the following

requested records in a complete and unredacted format:

- [INSERT REQUESTED RECORDS TO BE PROVIDED IN COMPLETE & UNREDACTED FORMAT]

The Department has waived any associated fees due to the disclosure of the requested record being in the public interest.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

---

**If you do have records and intend to withhold/redact them:**

Dear Emiliano Falcon:

On April 6, 2020, we received your request pursuant to the Massachusetts Public Records Law for the following records:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
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6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial

recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, the Department intends to provide the following requested records in a complete and unredacted format:

- [INSERT REQUESTED RECORDS TO BE PROVIDED IN COMPLETE & UNREDACTED FORMAT]

With respect to your request, the Department intends to withhold/redact the following requested records:

- [INSERT REQUESTED RECORDS TO BE WITHHELD/REDACTED]

The Department intends to withhold/redact the above-referenced requested records due to the applicability of the following exemptions and the reasons set forth below [CHOOSE ALL THAT APPLY]:

1. Exemption (f): This exemption applies to "investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." While this exemption is not a blanket exemption it applies to such information, the disclosure of which would prejudice investigative efforts. In particular, it applies to information related to ongoing investigations, confidential investigative techniques and information which directly or indirectly identifies witnesses or informants. The records requested contain [INSERT APPROPRIATE RESPONSE HERE AND EXPLAIN, WITH SPECIFICITY, HOW THIS EXEMPTION APPLIES]. As a result, such information must be redacted under the law.
2. Exemption (n): This exemption applies to "records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety and cyber security." In particular, this exemption is intended to secure the safety of persons and public places by restricting access to records that may have been previously open to public inspection. The nature of the exemption requires a records custodian to make some value judgment regarding the requester in order to decide whether to release the information sought. Pursuant to the decision of the Supreme Judicial Court in [People for the Ethical Treatment of Animals \(PETA\) v. Dep't of Agric. Res.](#), 477 Mass. 280 (2017) exemption (n) is to be construed using the following two prongs: (1) whether, and to what degree, the record is one a terrorist would find useful to maximize damage, and in that sense, jeopardize public safety; and (2) Whether the custodian has provided sufficient factual heft for the supervisor of public records or the reviewing court to conclude that a reasonable person



would agree with the custodian's determination given the context of the particular case. These prongs must be considered together due to the inverse correlation between them. You have advised that you are requesting these records because [INSERT REASON WHY RECORDS HAVE BEEN REQUESTED]. The records requested contain [INSERT APPROPRIATE RESPONSE HERE AND EXPLAIN, WITH SPECIFICITY, HOW THIS EXEMPTION APPLIES]. As a result, such information must be withheld/redacted under the law.

The Department has waived any associated fees due to the disclosure of the requested record being in the public interest.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

---

Please let me know if you have any questions.

Stay safe and remain healthy!

Best,  
Eric

Eric R. Atstupenas, Esq.  
General Counsel  
Massachusetts Chiefs of Police Association, Inc.  
353 Providence Road  
South Grafton, Massachusetts 01560  
Office: (508) 375-7793  
Mobile: (508) 400-3726  
[legal@masschiefs.org](mailto:legal@masschiefs.org)  
Twitter: @MCOPALegal

MCOPA | 353 Providence Road, South Grafton, MA 01560

[Unsubscribe jeffrey.dalessio@eastlongmeadowma.gov](mailto:unsubscribe.jeffrey.dalessio@eastlongmeadowma.gov)

[Update Profile](#) | [About Constant Contact](#)

Sent by [info@masschiefs.org](mailto:info@masschiefs.org)

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Respectfully

*Chief Jeffrey D. Dalessio*

East Longmeadow Police Department  
160 Somers Rd  
East Longmeadow Ma. 01028

Phone (413) 525-5400 x 2002

Fax (413) 486-9003

[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)

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Records Clerk

Parking Clerk

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**Subject:** Re: ACLU Public Records Request (04.06.2020)  
**Date:** Wednesday, April 8, 2020 at 11:24:48 AM Eastern Daylight Time  
**From:** Lori Hall  
**To:** Jeffrey Dalessio

So I have been thinking about this and I think the best way to address it, there are seven things they specify, I think we can address 1, 2, and 4 by an email search through elpd records and your email for the words "facial recognition". Those are the two emails that sales people send things to.

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Thoughts?

On Tue, Apr 7, 2020 at 10:48 AM Jeffrey Dalessio <[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)> wrote:

----- Forwarded message -----

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**Date:** Tue, Apr 7, 2020 at 10:40 AM  
**Subject:** ACLU Public Records Request (04.06.2020)  
**To:** <[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)>

## ACLU Public Records Request (04.06.2020)

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6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, please be advised that this Department does not have possession, custody or control of the records requested. The mandatory disclosure provision of the Public Records Law only applies to information that is in the custody of the Department at the time the request is received. As a result, there is no obligation for a Department to create a record for a requester to honor a request. See G.L. c. 4, section 7(26) (defining "public records" as materials which have already been "made or received" by a 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); see also A Guide to the Massachusetts Public Records Law,

Secretary of the Commonwealth, Division of Public Records, p. 7 (January 2013) (hereinafter Public Records Guide). As a result, the Department is unable to respond to your request.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

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Records Access Officer

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7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, the Department intends to provide the following

requested records in a complete and unredacted format:

- [INSERT REQUESTED RECORDS TO BE PROVIDED IN COMPLETE & UNREDACTED FORMAT]

The Department has waived any associated fees due to the disclosure of the requested record being in the public interest.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

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**If you do have records and intend to withhold/redact them:**

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recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, the Department intends to provide the following requested records in a complete and unredacted format:

- [INSERT REQUESTED RECORDS TO BE PROVIDED IN COMPLETE & UNREDACTED FORMAT]

With respect to your request, the Department intends to withhold/redact the following requested records:

- [INSERT REQUESTED RECORDS TO BE WITHHELD/REDACTED]

The Department intends to withhold/redact the above-referenced requested records due to the applicability of the following exemptions and the reasons set forth below [CHOOSE ALL THAT APPLY]:

1. Exemption (f): This exemption applies to "investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." While this exemption is not a blanket exemption it applies to such information, the disclosure of which would prejudice investigative efforts. In particular, it applies to information related to ongoing investigations, confidential investigative techniques and information which directly or indirectly identifies witnesses or informants. The records requested contain [INSERT APPROPRIATE RESPONSE HERE AND EXPLAIN, WITH SPECIFICITY, HOW THIS EXEMPTION APPLIES]. As a result, such information must be redacted under the law.
2. Exemption (n): This exemption applies to "records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety and cyber security." In particular, this exemption is intended to secure the safety of persons and public places by restricting access to records that may have been previously open to public inspection. The nature of the exemption requires a records custodian to make some value judgment regarding the requester in order to decide whether to release the information sought. Pursuant to the decision of the Supreme Judicial Court in [People for the Ethical Treatment of Animals \(PETA\) v. Dep't of Agric. Res.](#), 477 Mass. 280 (2017) exemption (n) is to be construed using the following two prongs: (1) whether, and to what degree, the record is one a terrorist would find useful to maximize damage, and in that sense, jeopardize public safety; and (2) Whether the custodian has provided sufficient factual heft for the supervisor of public records or the reviewing court to conclude that a reasonable person

would agree with the custodian's determination given the context of the particular case. These prongs must be considered together due to the inverse correlation between them. You have advised that you are requesting these records because [INSERT REASON WHY RECORDS HAVE BEEN REQUESTED]. The records requested contain [INSERT APPROPRIATE RESPONSE HERE AND EXPLAIN, WITH SPECIFICITY, HOW THIS EXEMPTION APPLIES]. As a result, such information must be withheld/redacted under the law.

The Department has waived any associated fees due to the disclosure of the requested record being in the public interest.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

---

Please let me know if you have any questions.

Stay safe and remain healthy!

Best,  
Eric

Eric R. Atstupenas, Esq.  
General Counsel  
Massachusetts Chiefs of Police Association, Inc.  
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Respectfully

*Chief Jeffrey D. Dalessio*

East Longmeadow Police Department  
160 Somers Rd  
East Longmeadow Ma. 01028

Phone (413) 525-5400 x 2002

Fax (413) 486-9003

[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)

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**Lori Hall**

Records Clerk

Parking Clerk

East Longmeadow Police Department

160 Somers Road

East Longmeadow, MA 01028

(413) 525-5440 ext 2003

**Subject:** Fwd: ACLU Public Records Request (04.06.2020)  
**Date:** Tuesday, April 7, 2020 at 10:47:56 AM Eastern Daylight Time  
**From:** Jeffrey Dalessio  
**To:** Lori Hall

----- Forwarded message -----

From: **Info - MA Chiefs of Police Association** <[info@masschiefs.org](mailto:info@masschiefs.org)>  
Date: Tue, Apr 7, 2020 at 10:40 AM  
Subject: ACLU Public Records Request (04.06.2020)  
To: <[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)>

## ACLU Public Records Request (04.06.2020)

Dear Chief,

Although I am attempting to keep my updates related to COVID-19, many of you are inquiring about the recent public records request sent out by the ACLU ([attached](#)). As a result, I would like to provide you all with the following guidance. Most of the records they are looking for will need to be disclosed to the extent that they exist. I have created a couple sample response templates below. Also, for your assistance, I am attaching our [Guide to Public Records](#) for Massachusetts Law Enforcement Agencies.

### If you do not have any such records, then use this template:

Dear Emiliano Falcon:

On April 6, 2020, we received your request pursuant to the Massachusetts Public Records Law for the following records:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any facial recognition product or service, including but not limited to Clearview AI;
3. Records evidencing or describing any existing or potential relationship between the police department and all companies that manufacture or sell any facial recognition product, including but not limited to Clearview AI. These records include but are not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, and other contracts;
4. Records referencing the operational effectiveness or accuracy rate of any of facial recognition service or product. These records include but are not limited to e-mails, handouts, PowerPoint presentations, advertisements, audits, and specification documents;
5. Training materials related to facial recognition products or services;
6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, please be advised that this Department does not have possession, custody or control of the records requested. The mandatory disclosure provision of the Public Records Law only applies to information that is in the custody of the Department at the time the request is received. As a result, there is no obligation for a Department to create a record for a requester to honor a request. See G.L. c. 4, section 7(26) (defining "public records" as materials which have already been "made or received" by a 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); see also A Guide to the Massachusetts Public Records Law,

Secretary of the Commonwealth, Division of Public Records, p. 7 (January 2013) (hereinafter Public Records Guide). As a result, the Department is unable to respond to your request.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

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**If you do have records and intend to provide them:**

Dear Emiliano Falcon:

On April 6, 2020, we received your request pursuant to the Massachusetts Public Records Law for the following records:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any facial recognition product or service, including but not limited to Clearview AI;
3. Records evidencing or describing any existing or potential relationship between the police department and all companies that manufacture or sell any facial recognition product, including but not limited to Clearview AI. These records include but are not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, and other contracts;
4. Records referencing the operational effectiveness or accuracy rate of any of facial recognition service or product. These records include but are not limited to e-mails, handouts, PowerPoint presentations, advertisements, audits, and specification documents;
5. Training materials related to facial recognition products or services;
6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, the Department intends to provide the following

requested records in a complete and unredacted format:

- [INSERT REQUESTED RECORDS TO BE PROVIDED IN COMPLETE & UNREDACTED FORMAT]

The Department has waived any associated fees due to the disclosure of the requested record being in the public interest.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

---

**If you do have records and intend to withhold/redact them:**

Dear Emiliano Falcon:

On April 6, 2020, we received your request pursuant to the Massachusetts Public Records Law for the following records:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any facial recognition product or service, including but not limited to Clearview AI;
3. Records evidencing or describing any existing or potential relationship between the police department and all companies that manufacture or sell any facial recognition product, including but not limited to Clearview AI. These records include but are not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, and other contracts;
4. Records referencing the operational effectiveness or accuracy rate of any of facial recognition service or product. These records include but are not limited to e-mails, handouts, PowerPoint presentations, advertisements, audits, and specification documents;
5. Training materials related to facial recognition products or services;
6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial

recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

With respect to your request, the Department intends to provide the following requested records in a complete and unredacted format:

- [INSERT REQUESTED RECORDS TO BE PROVIDED IN COMPLETE & UNREDACTED FORMAT]

With respect to your request, the Department intends to withhold/redact the following requested records:

- [INSERT REQUESTED RECORDS TO BE WITHHELD/REDACTED]

The Department intends to withhold/redact the above-referenced requested records due to the applicability of the following exemptions and the reasons set forth below [CHOOSE ALL THAT APPLY]:

1. Exemption (f): This exemption applies to "investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest." While this exemption is not a blanket exemption it applies to such information, the disclosure of which would prejudice investigative efforts. In particular, it applies to information related to ongoing investigations, confidential investigative techniques and information which directly or indirectly identifies witnesses or informants. The records requested contain [INSERT APPROPRIATE RESPONSE HERE AND EXPLAIN, WITH SPECIFICITY, HOW THIS EXEMPTION APPLIES]. As a result, such information must be redacted under the law.
2. Exemption (n): This exemption applies to "records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety and cyber security." In particular, this exemption is intended to secure the safety of persons and public places by restricting access to records that may have been previously open to public inspection. The nature of the exemption requires a records custodian to make some value judgment regarding the requester in order to decide whether to release the information sought. Pursuant to the decision of the Supreme Judicial Court in [People for the Ethical Treatment of Animals \(PETA\) v. Dep't of Agric. Res.](#), 477 Mass. 280 (2017) exemption (n) is to be construed using the following two prongs: (1) whether, and to what degree, the record is one a terrorist would find useful to maximize damage, and in that sense, jeopardize public safety; and (2) Whether the custodian has provided sufficient factual heft for the supervisor of public records or the reviewing court to conclude that a reasonable person

would agree with the custodian's determination given the context of the particular case. These prongs must be considered together due to the inverse correlation between them. You have advised that you are requesting these records because [INSERT REASON WHY RECORDS HAVE BEEN REQUESTED]. The records requested contain [INSERT APPROPRIATE RESPONSE HERE AND EXPLAIN, WITH SPECIFICITY, HOW THIS EXEMPTION APPLIES]. As a result, such information must be withheld/redacted under the law.

The Department has waived any associated fees due to the disclosure of the requested record being in the public interest.

Please be advised that pursuant to 950 CMR 32.00 and G.L. c. 66, section 10A(a) you have the right to appeal this decision to the Supervisor of Public Records within 90 calendar days. Such appeal shall be in writing, and shall include a copy of the letter by which the request was made and, if available, a copy of the letter by which the custodian responded. The Supervisor shall accept an appeal only from a person who had made his or her record request in writing. Pursuant to G.L. c. 66, section 10A(c), you also have the right to seek judicial review by commencing a civil action in the superior court.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Records Access Officer

---

Please let me know if you have any questions.

Stay safe and remain healthy!

Best,  
Eric

Eric R. Atstupenas, Esq.  
General Counsel  
Massachusetts Chiefs of Police Association, Inc.  
353 Providence Road  
South Grafton, Massachusetts 01560  
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Respectfully

*Chief Jeffrey D. Dalessio*

East Longmeadow Police Department  
160 Somers Rd  
East Longmeadow Ma. 01028

Phone (413) 525-5400 x 2002

Fax (413) 486-9003

[jeffrey.dalessio@eastlongmeadowma.gov](mailto:jeffrey.dalessio@eastlongmeadowma.gov)

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**Subject:** ACLU Public Records Request  
**Date:** Monday, April 6, 2020 at 5:07:06 PM Eastern Daylight Time  
**From:** on behalf of Emiliano Falcon-Morano  
**To:** Kade Crockford, Taisha Lazare  
**Attachments:** ACLU Records Request Clearview 4-6.pdf



Good Afternoon,

Please see attached.

Best,

Emiliano

-----

**Emiliano Falcon-Morano**

Pronouns: he, him, his

Policy Counsel  
Technology for Liberty Program  
American Civil Liberties Union of Massachusetts  
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