



# TOWN OF DARTMOUTH POLICE DEPARTMENT

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February 24, 2020

Emiliano Falcon  
Policy Counsel  
Technology for Liberty Program  
ACLU of Massachusetts

Re: records request

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Emiliano Falcon,

The Dartmouth Police Department received your request on Friday, February 14, 2020, pursuant to the Massachusetts Public Records Law c. 66 § 10 for the following records: "...seek records pertaining to Clearview AI and other facial recognition companies and products...".

With respect to your request, please be advised that the Dartmouth Police 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 Dartmouth Police Department is unable to respond to your request and provide you with the requested records.

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.

The estimate of fees and cost associated with this request has been waived.

Should you have any questions, please feel free to contact me directly at 508-910-1774.

Thank you,

Elizabeth Medeiros  
Administrative Clerk  
Keeper of the Records  
Dartmouth Police Department  
c/o Records Division  
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Dartmouth, Massachusetts 02747  
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