



UNION COUNTY PROSECUTOR'S OFFICE
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January 18, 2024

Citizen Voice Media

Via email to opra+request-56899-82f82700@requests.opramachine.com

Re: Response to OPRA Request 017-2024 (Forensic Accreditation and Policies)

Dear Requestor:

This letter is in reply to your correspondence seeking certain records pursuant to the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 to 47:1A-13, and the common law right of access to public documents. The County of Union received your OPRA request on January 8, 2024, and forwarded it to the official Records Custodian of the Union County Prosecutor's Office on the same date. As such, the seven (7) business day deadline to respond is today. We appreciate your patience and understanding in awaiting our response.

Specifically, your request sought the following:

- "1. Accreditation certifications for any digital media, phone, or technology/ digital forensics labs in the sheriff's office, county police, or prosecutor's office.
2. All policies and procedures for handling digital evidence and conducting examination for any county digital forensics lab.
3. List of all digital forensics softwares and hardwares in use by any county entity for law enforcement purposes.
4. What accreditation bodies have a accredited or certified any county digital forensics lab or unit?"

Your requests will be addressed in order, below.

Request #1: This Office has no responsive records.

Request #2: We are in the process of compiling and reviewing our policies to determine what, if anything, may be released. We respectfully request an extension to Friday, February 2, 2024, to complete our response to this item.

Request #3: This request is denied for the following reasons.

First, OPRA requests consisting of general requests for information are invalid in that they fail to seek identifiable government records. *See MAG Entm't, LLC v. Div. of Alcoholic Beverage Control*, 375 N.J. Super. 534, 546 (App. Div. 2005); *Bent v. Stafford Police Dep't*, 381 N.J. Super. 30, 37 (App. Div. 2005); *N.J. Builders Ass'n v. N.J. Council on Affordable Hous.*, 390 N.J. Super. 166, 180 (App. Div. 2007); *Schuler v. Borough of Bloomsbury*, GRC Complaint No. 2007-151 (February 2009); *LaMantia v. Jamesburg Pub. Library (Middlesex)*, GRC Complaint No. 2008-140 (February 2009); *Ohlson v. Twp. of Edison (Middlesex)*, GRC Complaint No. 2007-233 (August 2009).

Second, this item is indistinguishable from a request for "any and all documents" on a specific subject, which is overly broad and invalid. *Spectraserv, Inc. v. Middlesex Cty. Util. Auth.*, 416 N.J. Super. 565, 578 (App. Div. 2010). A custodian may reject a request that is overly broad or vague so as to prevent identification of the records sought. *N.J. Builders Ass'n*, 390 N.J. Super. at 181-82.

Third, OPRA is not a research tool that requestors may use to force government officials "to identify and siphon useful information," *In re N.J. Firemen's Ass'n Obligation*, 230 N.J. 258, 276 (2017) (quoting *MAG Entm't, LLC*, 375 N.J. Super. at 546).

Finally, the materials sought are protected by OPRA's exemptions for security/tactical/investigative techniques and capabilities. OPRA's security exceptions preserve the confidentiality of "emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein;" and "security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software[.]" N.J.S.A. 47:1A-1.1; *Gilleran v. Bloomfield*, 227 N.J. 159, 163-164 (2016) (video footage revealing capabilities of security surveillance systems protecting public buildings not disclosable under OPRA). In addition, Executive Order No. 21, ¶1(a) (McGreevey 2002), exempts from disclosure any information that would substantially interfere with the ability of this Office to protect and defend the State and its citizens against acts of sabotage or terrorism, and/or would materially increase the risk or consequences of potential acts of sabotage or terrorism. Disclosure of the requested information would provide criminals with detailed knowledge of the capabilities of law enforcement, thus arming them with the means to counter and defeat law enforcement efforts to detect and prosecute crime and protect the public.

Request #4: This Office has no responsive records.

I note that you have also requested these materials pursuant to the common law right of access. A person seeking public records under the common law must make a greater showing than that which is required under OPRA. Specifically, the requestor must establish (1) an interest in the subject matter of the materials sought, and (2) that their interest in obtaining the materials outweighs the public interest in preventing disclosure. *See Mason v. City of Hoboken*, 196 N.J. 51, 67-68 (2008) and cases cited therein. *See also North Jersey Media Grp., Inc. v. Township of Lyndhurst*, 229 N.J. 541, 578-81 (2017).

You have not identified your interest in the subject matter of your requests. Nevertheless, we believe your general interest in the materials sought under Request #3 is clearly and convincingly outweighed by the interests of this Office to protect the materials sought.

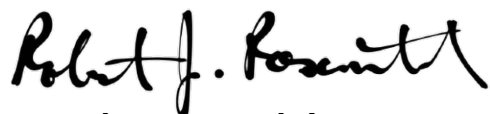
Returning to the subject of your OPRA request, the Union County Prosecutor's Office reserves the right to raise any other ground for denial not raised in this response. The failure of the Union County Prosecutor's Office to assert an exemption or privilege herein does not constitute a waiver of any ground for denial.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you may challenge the decision of this Office to deny access by either instituting a proceeding in the Superior Court of New Jersey or filing a complaint with the Government Records Council ("GRC"). You may contact the GRC by telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc.

Except as to Request #2, for which we have requested an extension, the Union County Prosecutor's Office considers Request Nos. 1, 3, and 4 your OPRA request to be completed and closed.

Very truly yours,

WILLIAM A. DANIEL
Prosecutor of Union County



By: Robert J. Rosenthal
Assistant Prosecutor
Chief OPRA Officer

RJR/

c Marlena M. Russo (via email)
Zoraida Mosquera (via email)

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