



GluckWalrath LLP
4 Paragon Way
Suite 400
Freehold, New Jersey 07728
(732) 530-8822 (Phone)
(732) 530-6770 (Facsimile)

Reply to:

David A. Clark

Direct Dial: 609-278-3906

Dclark@glucklaw.com

glucklaw.com

February 2, 2022

Via Email - opra+request-28989-2060ccb7@requests.opramachine.com
Lonny Burr

Re: OPRA Request Dated January 25, 2022

Dear Mr. Burr:

I am writing on behalf of my client, the Monmouth County Sheriff's Office (the "MCSO"), in response to your January 25, 2022 records request submitted under the Open Public Records Act ("OPRA") and the common law right to access to government records. This records request was forwarded to our office, as special County Counsel for OPRA matters, to assist the MCSO with the provision of a response. The current deadline for the MCSO to provide a response to this request is Thursday, February 3, 2022, and this response is being provided within that deadline.

As a reminder, your January 25, 2022 e-mail sought copies of the following:

"All Emails, Text Messages, Internal and External Communications, Internal Memos and Documents to and from Sheriff Golden that contain the following phrases.

"Vaccine Mandates", "Vaccine Requirements", "Mask Mandates", "Anti-vax", "Vaccine Conspiracy Theories", "Vaccine Misinformation", "Covid Conspiracy Theories", "School Mandates", "Anti-vaxxers", "Vax"

Please include any personal emails or cell phones that were used in official capacities from Sheriff Golden."

Your document request is overly broad and cannot be answered as phrased for a number of reasons. First, and most significantly, your document request does not provide any date range for the records being sought and is therefore unlimited in time. The New Jersey Appellate Division has held that "[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, **it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records 'readily accessible for**

inspection, copying, or examination.’ N.J.S.A. 47:1A-1. "(Emphasis added.) MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534, 546 (App. Div. 2005). The Court further held that "[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt ... In short, OPRA does not countenance open-ended searches of an agency's files.” Id. at 549. Please clarify the specific date range for the records that you are seeking to obtain.

Additionally, your records request does not adequately identify the categories of documents that you are asking the MCSO to search. While we understand that you are asking the MCSO to search e-mails, texts, and memos which contain certain cited phrases, the other categories that you are seeking (i.e. “communications” and “documents”) are overly broad and not defined. The OPRA only requires public entities to make “government records” accessible for inspection and copying. Thus, for example, while oral conversations would appear to fall within your request for “communications”, they would not be subject to the OPRA as there are no government records reflecting oral conversations. If you want the MCSO to search any categories of documents other than e-mails, texts, and memos, you need to identify with specificity those other categories of written documents to be searched and you also need to provide a specific date range for the search. The more specific you are with regard to your document requests, the better the chances will be that the MCSO will be able to provide you with the documents that you are seeking so long as such documents are non-exempt government records.

For these reasons, your document request is overly broad and cannot be answered as phrased. Rather than denying the request, the MCSO is willing to keep this records request open so that you may provide written clarification to the MCSO as to exactly what documents you are seeking. Please provide me with this clarification within seven (7) business days of the date of this letter. Once you provide me with this clarification, the MCSO will be better able to understand the scope of what is being sought and to advise you as to how long it will take for a response to be provided. Please be aware that if you do not provide the requested clarification within seven (7) business days of the date of this letter, the MCSO will consider this request to be abandoned and will close this matter.

Very truly yours,
GluckWalrath LLP

By: David A. Clark
David A. Clark

DAC:dmr

cc: Michael D. Fitzgerald, Monmouth County Counsel
Cynthia Scott, Monmouth County Sheriff’s Office