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Reply to:

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February 15, 2022

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

Re: OPRA Request Dated February 4, 2022

Dear Mr. Burr:

I am writing on behalf of my client, the Monmouth County Sheriff's Office (the "MCSO"), in response to your February 4, 2022 amended 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. As a reminder, in response to my February 2, 2022 letter seeking clarification regarding the scope of a previous records request that you submitted to the MCSO, on February 4, 2022 you sent me an e-mail clarifying and revising your records request as follows:

"I seek all emails and text message from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrases: "Vaccine Mandates", "Vaccine Requirements", "Mask Mandates", "Anti-vax", "Vaccine Conspiracy Theories", "Vaccine Misinformation", "Covid Conspiracy Theories", "School Mandates", "Anti-vaxxers", "Vax", "Conspiracy Theories", "Extremists". This request should also cover any personal devices that were used for official business. "

The current deadline for the MCSO to provide a response to this amended request is Tuesday, February 15, 2022, and this response is being provided within that deadline.

For ease of reference, I have copied your individual records requests into this letter and have also numbered your requests. The MCSO's responses to these requests are provided following each records request in bold type below:

1. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Vaccine Mandates".

Response: Please see responsive documents attached. Please note, emails from Special Counsel to the County of Monmouth to Sheriff Golden were withheld under the attorney client privilege. See N.J.S.A. 47:1A-1.1(9).

2. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Vaccine Requirements".

Response: Please see responsive documents attached. Please note, emails from Special Counsel to the County of Monmouth to Sheriff Golden were withheld under the attorney client privilege. See N.J.S.A. 47:1A-1.1(9).

3. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Mask Mandates".

Response: The MCSO does not have any documents within its possession responsive to this request.

4. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Vaccine Conspiracy Theories".

Response: The MCSO does not have any documents within its possession responsive to this request.

5. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Vaccine Misinformation".

Response: Please see responsive documents attached.

6. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Covid Conspiracy Theories".

Response: The MCSO does not have any documents within its possession responsive to this request.

7. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "School Mandates".

Response: The MCSO does not have any documents within its possession responsive to this request.

8. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrases: "Anti-vaxxers", "Anti-vax" and "Vax".

Response: Please see responsive documents attached.

9. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Conspiracy Theories".

Response: Please see responsive documents attached. Please note that emails which would reveal security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons have been withheld pursuant to N.J.S.A. 47:1A-1.1(11) and (12). See also Burton v. N.J. Dep't of Law & Pub. Safety, Div. of State Police, GRC Complaint No. 2010-330 (May 2011): The Council held that, "[t]he Custodian has lawfully denied access to the requested payroll records because said records are exempt from public access under N.J.S.A. 47:1A-9(a), which upholds exemptions contained in an Executive Order of the Governor or any regulation promulgated pursuant to an Executive Order of the Governor. Executive Order No. 47 (Christie 2010) permits rules proposed by the NJ Department of Law & Public Safety to remain in full effect. N.J.A.C. 13:1E-3-2(a)3 exempts records which may reveal an agency's surveillance, security, or investigative techniques or procedures.

10. Request: emails from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrase: "Extremists".

Response: Please see responsive documents attached. Please note that emails which would reveal security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons have been withheld pursuant to N.J.S.A. 47:1A-1.1(11) and (12). See also Burton v. N.J. Dep't of Law & Pub. Safety, Div. of State Police, GRC Complaint No. 2010-330 (May 2011).

11. Request: text message from January 1, 2021 through January 30, 2022 from and to Shaun Golden that contains the following phrases: "Vaccine Mandates", "Vaccine Requirements", "Mask Mandates", "Anti-vax", "Vaccine Conspiracy Theories", "Vaccine Misinformation", "Covid Conspiracy Theories", "School Mandates", "Anti-vaxxers", "Vax", "Conspiracy Theories", "Extremists".

Response: Please see responsive documents attached. Please note that the documents contain minor redactions to remove personal identifying information such as medical information which is considered private information not eligible for release under OPRA. This information was redacted in accordance with N.J.S.A. 47:1A-1 "as a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy." See also N.J.S.A. 47:1A-10; and Executive Order No. 26 (McGreevey 2002).

If you believe that your request for access to a government record has been improperly denied, you have a right to challenge the decision to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (“GRC”) by completing a Denial of Access Complaint Form. You may contact the GRC by toll-free 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 website at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Very truly yours,
GluckWalrath LLP

By: David A. Clark
David A. Clark

DAC:dmr
Enclosures

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