



MIDDLESEX COUNTY PROSECUTOR'S OFFICE

Andrew C. Carey
County Prosecutor

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Christopher L. C. Kuberiet
1st Assistant Prosecutor

Gerard P. McAleer
Chief of County Detectives

Deputy 1st Assistants

Christie L. Bevacqua
Brian D. Gillet

May 9, 2018

Ask NJ Media Co.

Via Email: opra+request-1520-15eaf1e5@requests.opramachine.com

To whom it may concern:

The Middlesex County Prosecutor's Office is in receipt of your request under the state's Open Public Records Act and the common law right of access regarding "Copies of email logs..... *Request is for the following records:*

1. "Copies of email logs for Middlesex County Prosecutor Andrew C. Carey from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
2. "Copies of email logs for Middlesex County First Assistant Prosecutor Christopher L.C. Kuberiet from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
3. "Copies of email logs for Middlesex County Deputy First Assistant Prosecutor Christie Bevacqua from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
4. "Copies of email logs for Middlesex County Deputy First Assistant Prosecutor Brian D. Gillet from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
5. "Copies of email logs for Middlesex County Chief of County Detectives, Gerard P. McAleer from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
6. "Copies of email logs for Middlesex County Chief of Staff, Robert Merkler from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
7. "Copies of email logs for Sgt. Adrian Villegas from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."
8. "Copies of email logs for Captain Christopher Penna from February 15, 2018 to April 20, 2018. Please include sender, recipient, date and subject."

In response to your request for the emails logs mentioned above; please note that the Middlesex County Prosecutor's Office does not maintain a log of employees' emails; therefore the records you have requested do not exist. Nor are custodians obligated to create responsive records. See N.J. Builders Assoc. v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 171 (App. Div. 2007) certif. denied, 190 N.J. 394 (2007); Librizzi v. Twp. of Verona Police Department, Government Records Council Complaint No. 2009-213, Analysis (August 24, 2010).

A careful review by a systems analyst has determined that the number of emails between February 15, 2018 to April 20, 2018 with the parameters of sender, recipient, date and subject for the eight employees of the Middlesex County Prosecutor's Office mentioned in your request total 48,721 emails.

In addition, many of these emails are subject to OPRA exceptions, redactions, and exemptions; containing attorney work product, confidential information, deliberative process privileged materials, and inter-agency/intra-agency advisory communications which if revealed would compromise the integrity of investigations, agency security, operational techniques or procedures and legal strategies.

Due to the voluminous nature of your OPRA request please note that pursuant to N.J.S.A. 47:1A-5(c), if the production of the documents "involves an extraordinary expenditure of time and effort to accommodate the request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies."

Based upon your extraordinary request and that statute, the Middlesex County Prosecutor's Office would have to assess a special service charge due to the expenditure of time and effort in order to comply with your request. A systems analyst would first have to create the logs for the 48,721 emails at his/her hourly rate of pay. Once composed, an attorney would have to review the email logs to determine which information is confidential, which portion would have to be redacted, and under which exemption; this would be at an attorney's hourly rate of pay.

In an effort to provide you with the documents which you seek to obtain, the Middlesex County Prosecutor's Office respectfully requests that you narrow and identify the parameters set in your request, for example, by narrowing the dates and identifying the subject and sender or recipient. The Office would then more likely be able to provide a response to your request.

Regards



Andrea Boulton
Public Information Officer / Records Custodian
Middlesex County Prosecutor's Office