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December 23, 2019

Via Email – Joseph Iacovonef6295fd@requests.opramachine.com
Joseph Iacovone

Re: Request for Public Records of December 18, 2019

Dear Mr. Iacovone:

The Bergen County Prosecutor's Office received your Open Public Records Act (OPRA) on December 18, 2019. This response to your request is being provided to you on the third business day after the custodian's receipt of said request.

Your OPRA request sought access to the following:

1. (A) Please provide the total number of counts charging 2C: 39-5b Unlawful Possession of a Handgun Without a Permit that were indicted during the above noted time periods. (It is recognized that an indictment can have multiple counts charging the same statute, therefore, the request is for the number of indicted COUNTS that charged 2C:39-5b, not the number of indictments that charged the offense.)

1. (B) Please provide the total number of counts that a defendant was sentenced in the Criminal Division for the crime of 2C:39-5b Unlawful Possession of a Handgun Without a Permit during the above noted time periods. (It is recognized that a sentence can include multiple counts of the same statute; therefore, the request is for the total number of COUNTS charging 2C:39-5b that were sentenced by a court, not how many sentences included the charge.)

2. (A) Please provide the total number of counts charging 2C: 39-4a (1) Possession of a Handgun for Unlawful Purposes - Person or Property that were indicted during the above noted time periods. (It is recognized that an indictment can have multiple counts charging the same statute, therefore, the request is for the number of indicted COUNTS that charged 2C:39-4a (1), not the number of indictments that charged the offense.)



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2. (B) Please provide the total number of times that a defendant was sentenced in the Criminal Division for the crime of 2C:39-4a (1) Possession of a Handgun for Unlawful Purposes - Person or Property during the above noted time periods. (It is recognized that a sentence can include multiple counts of the same statute; therefore, the request is for the total number of COUNTS charging 2C:39-4a (1) that were sentenced by a court, not how many sentences included the charge.)

3. (A) Please provide the total number of counts charging 2C: 39-4a (2) Possession of a Handgun for Unlawful Purposes - Community Gun that were indicted during the above noted time periods. (It is recognized that an indictment can have multiple counts charging the same statute, therefore, the request is for the number of indicted COUNTS that charged 2C:39-4a (2), not the number of indictments that charged the offense.)

3. (B) Please provide the total number of times that a defendant was sentenced in the Criminal Division for the crime of 2C:39-4a (2) Possession of a Handgun for Unlawful Purposes - Community Gun during the above noted time periods. (It is recognized that a sentence can include multiple counts of the same statute; therefore, the request is for the total number of COUNTS charging 2C:39-4a (1) that were sentenced by a court, not how many sentences included the charge.)

4. (A) Please provide the total number of counts charging 2C: 33-29 Gang Criminality that were indicted during the above noted time periods. (It is recognized that an indictment can have multiple counts charging the same statute, therefore, the request is for the number of indicted COUNTS that charged 2C:33-29, not the number of indictments that charged the offense.)

4. (B) Please provide the total number of times that a defendant was sentenced in the Criminal Division for the crime of 2C:33-29 Gang Criminality during the above noted time periods. (It is recognized that a sentence can include multiple counts of the same statute; therefore, the request is for the total number of COUNTS charging 2C:33-29 that were sentenced by a court, not how many sentences included the charge.)

Your request requires additional time beyond the seven (7) business days to fulfill. The Open Public Records Act (OPRA) provides for access to existing records. It generally does not require a government agency to create a record in response to a request. I am endeavoring to determine whether any of the databases to which my office has access already has the capacity to produce a list containing the information you require. If so, we will produce the information for you. OPRA allows custodians to seek extensions of time pursuant to *N.J.S.A. 47:1A-5.i*. Specifically, OPRA states that, "the requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied." Here because the nature of your request requires IT services and/or requires materials potentially in storage, and due to the unavailability of staff as result of holiday vacation schedules and the closing of this office for the Christmas holiday, a short extension of time is required.

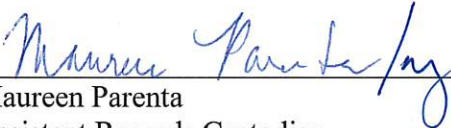
Specifically, your request requires an extension of additional five business days until January 7, 2019 to fully process and reply to, which is the date that I anticipate a response can be provided. If of course a response can be provided earlier to that date, I will so advise you. Unless you advise to the contrary in writing, I will presume that is an acceptable period of time under the statute.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Office of the Bergen County Prosecutor 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 the 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 web site 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,

MARK MUSELLA
Bergen County Prosecutor

By:


Maureen Parenta
Assistant Records Custodian

MP/mf