



MORRIS COUNTY PROSECUTOR'S OFFICE

Administration & Records Bldg.

P.O. Box 900

Morristown, New Jersey 07963-0900

Robert J. Carroll

Prosecutor

Margaret M. Calderwood

First Assistant Prosecutor

Telephone: 973-285-6200

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morriscountynj.gov/prosecutor

ProsecutorOPRA@co.morris.nj.us

Robert M. McNally

Chief of Detectives

September 3, 2024

VIA Email:

Monica Ciardi

opra+request-66021-460341fe@requests.opramachine.com

RE: MCPO OPRA File Number 24-0133

Dear Ms. Ciardi:

The Morris County Prosecutor's Office received your Open Public Records Act (OPRA) request dated August 30, 2024, on August 30, 2024, and it was received by the records custodian on the same date. As such, the seven (7) business day deadline to respond to your request is September 11, 2024. You requested the following:

Copies of any and all communications, email or otherwise, between
Mendham Township Police Department and Robert J. Carroll.

A request seeking "all emails, memos, texts and any other forms of communication" as it must contain certain required elements. As your request does not comply with these requirements, it is invalid. Aswad Ayinde v PCPO, GRC Complaint No. 2018-52 (Jan 2020), (to be valid, a request for correspondence must contain: (1) the content and/or subject of the correspondence, (2) the specific date or range of dates during which the correspondence(s) were transmitted, and (3) the identity of the sender and/or the recipient thereof); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2007-07 (April 2010). See also Verry v. Borough of South Bound Brook (Somerset), GRC Complaint No. 2009-124 (April 2010); Inzelbuch, Esq. (O.B.O. Ctr. for Educ.) v. Lakewood Bd. of Educ. (Ocean), GRC Complaint No. 2015-68 (September 2016).

You have also requested the records under the common law. Access under the common law requires that "the person seeking access must 'establish an interest in the subject matter of the material'." Mason v. City of Hoboken, 196 N.J. 51, 67 (2008) (quoting Keddie v. Rutgers, 148 N.J. 36, 50 (1997)). As your request fails to declare a particularized interest in the non-supplied requested records, upon which a balancing of interests may be assessed, access to these records is also denied under common law. See O'Boyle v. Borough of Longport, 218 N.J. 168, 200 (2014).

The Office of the Morris County Prosecutor reserves the right to raise any other grounds for denial not raised in this response. Failure of the Office of the Morris County Prosecutor to assert an exception or privilege does not act as a waiver of any grounds for denial. Furthermore, a reviewing Court or the Government Record's Council ("GRC") may deem a denial of access to be authorized on grounds other than those advanced by a custodian. Paff v. Twp. of Plainsboro, A-2122-05T2, 2007 WL 957289, at *2 (N.J. Super. Ct. App. Div. Apr. 2, 2007) affirming, Paff v. Township of Plainsboro, GRC Complaint No. 2005-29 (March 2006).

You have a right to challenge the decision by the Office of the Morris 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 GRC by completing Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at PO Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or on the GRC's website at www.state.nj.us/grc. The Council can also answer other questions about the law.

Note that any challenge to a denial of a request for records under the common law cannot be made to the GRC, as the GRC only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court. All questions regarding complaints filed in Superior Court should be directed to the New Jersey Superior Court Clerk.

This OPRA request is now considered answered and closed.

Sincerely,



Thomas C. Schmid
Assistant Prosecutor || Custodian of Records

Schmid, Thomas

From: Monica Ciardi <opra+request-66021-460341fe@requests.opramachine.com>
Sent: Friday, August 30, 2024 1:16 AM
To: Prosecutors OPRA Requests
Subject: OPRA request - Robert J. Carroll's communications with Mendham Township Police Officers

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Morris County Prosecutor's Office,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

Copies of any and all communications, email or otherwise, between Mendham Township Police Department and Robert J. Carroll.

Thank you.

Yours faithfully,

Monica Ciardi

Please deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-66021-460341fe@requests.opramachine.com

Is ProsecutorOPRA@co.morris.nj.us the wrong address for OPRA requests to Morris County Prosecutor's Office? If so, please contact us using this form:

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Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.
