

Morris County Sheriff's Office

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Undersheriff

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Undersheriff

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Chief



Christopher E. Klein
Warden

Richard A. Rose
Chief Warrant Officer

February 10, 2020

Via E-Mail [\[opra+request-9343-a16b52ee@requests.opramachine.com\]](mailto:opra+request-9343-a16b52ee@requests.opramachine.com)
Abdul Hai

Re: OPRA Request dated February 3, 2020

Dear Mr. Hai:

The Morris County Sheriff's Office ("Sheriff's Office") records custodian received your Open Public Records Act ("OPRA") request dated February 3, 2020 on the same date. The seven (7) business day deadline to respond to your OPRA request is February 12, 2020. As such, the Sheriff's Office is timely responding to your request.

Your request seeks the following records:

1. Do you use mobile phone extraction technology that includes cloud analytics / cloud extraction capabilities e.g. Cellebrite UFED Cloud Analyser, Magnet Axiom Cloud or Oxygen Forensics Cloud Extractor
2. Do you have other technologies that allow you to access cloud-based accounts and extract this data.
3. Please provide a copy of the relevant Data Protection Impact Assessment.
4. Please provide a copy of the relevant local and/or national guidance/standard operating procedure/policy.
5. Please confirm the legal basis you rely on to conduct cloud analytics/extractions.

With respect to items 1, 2, and 5 of your request, please note that OPRA operates to make identifiable government records “readily accessible for inspection, copying, or examination.” N.J.S.A. 47:1A-1; MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). MAG Entertainment, LLC held “[u]nder OPRA, agencies are required to disclose only ‘identifiable government records not otherwise exempt.’” Id. at 549; see also Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005) (holding that OPRA only allows requests for records as contrasted from information and to qualify under OPRA a request must reasonably identify a record and not generally data, information or statistics). The Appellate Division repeated these principles in holding:

[A]gencies are only obligated to disclose identifiable government records. The statute “only allows requests for records, not requests for information.” A proper request “must identify with reasonable clarity those documents that are desired.” “Wholesale requests for general information to be analyzed, collated and compiled” by the agency are outside OPRA’s scope.

Burke v. Brandes, 429 N.J. Super. 169, 174 (App. Div. 2012) (citations omitted); see also Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2015) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request.

In light of the above, items 1, 2 and 5 of your request clearly constitute requests for information that are outside of the scope of OPRA.

With respect to items 3 and 4 of your request, please be advised that the Sheriff’s Office has conducted a good faith search for the requested records and determined that no responsive records exist.

Your OPRA request is now deemed answered and closed. Thank you for your attention to this matter.

Very truly yours,



Katherine A. Rogers (Shively)
Confidential Assistant to Undersheriff
Records Custodian