



COUNTY OF ALLEGHENY

OFFICE OF THE DISTRICT ATTORNEY

STEPHEN A. ZAPPALA, JR.
DISTRICT ATTORNEY

303 COURTHOUSE
PITTSBURGH, PENNSYLVANIA 15219-2489
PHONE (412) 350-4401 | FAX (412) 350-4414

June 26, 2023

Val Martin

Request filed via: www.MuckRock.com

Response filed at: www.MuckRock.com/respond/1492659

In re: Open Records Request dated May 19, 2023

To Val Martin,

I am the Open Records Officer for the District Attorney of Allegheny County. On May 19, 2023, I received your May 19, 2023, request asking for:

“Emails for Assistant District Attorney Lisa Borrelli, Emily Shanahan and Rachel Fleming between January 1, 2022 thru current date.”

After further consideration and research, we must deny your request under 65 P.S. § 67.703 because your request is vague, overbroad and does not identify any document with sufficient detail to be fulfilled. See 65 P.S. § 67.703 (providing, in part: “A written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested”).

Upon receiving your request, we conducted a preliminary search of our database based upon the identifiers that you provided of participants names and start date for the search. I was informed by the individual who conducted the search for records that there were approximately 32,000 emails (specifically 31,939 emails as of May 26, 2023) at the time of the search that met the criteria that you stated in your request of participants names and start date for the search.

We determined that we required additional time to consider your request and conduct further research on the matter based upon this result and your request, and thus, as you are aware, we invoked a 30-day extension to respond to your request for this purpose.

After further consideration and conducting legal research based upon the preliminary results of your request, moreover, we have determined that denying your request is consistent with *Mollick v. Township of Worcester*, 32 A.3d 859 (Pa.Cmwlt. 2011), wherein the Court upheld the denial of a request for e-mail



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records as vague and overbroad under 65 P.S. § 67.703. Relevant to the issue in your request, the *Mollick* Court stated:

Moreover, the OOR erred by determining that Requestor's request was sufficiently specific to enable the Township to ascertain which records were being requested. In paragraphs 3, 4, 5, and 6 of the First and Second Requests, Requestor is seeking: (1) all emails between the Supervisors regarding any Township business and/or activities for the past one and five years; and (2) all emails between the Supervisors and the Township employees regarding any Township business and/or activities for the past one and five years. (First Request, R.R. at 4a; Second Request, R.R. at 681a.) In his appeals to the OOR, Requestor simply states that he had to make his requests broad enough to be all-inclusive because he does not know which emails the Township possesses and the Township does not have a catalogue organizing the emails into specific categories. (First OOR Appeal at 6–7, R.R. at 15a–16a; Second OOR Appeal at 7, R.R. at 694a.) However, Requestor fails to specify what category or type of Township business or activity for which he is seeking information. (First OOR Appeal at 6–7, R.R. at 15a–16a; Second OOR Appeal at 7, R.R. at 694a.) While the purpose of the RTKL is to provide access to public records in order to prohibit secrets, allow the public to scrutinize the actions of public officials, and make public officials accountable for their actions, it would place an unreasonable burden on an agency to examine all its emails for an extended time period without knowing, with sufficient specificity, what Township business or activity the request is related.

Therefore, the trial court correctly determined in its September 22, 2010 and October 1, 2010 Decisions that the OOR erred by directing the Township to provide a sampling



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of the information sought in order for Requestor to fashion more specific and detailed requests. (Trial Ct. Op. at 11, September 22, 2010, R.R. at 283a; Trial Ct. Op. at 11–12, October 1, 2010, R.R. at 809a–810a.) As such, the Township properly denied Requestor's request for the emails requested in paragraphs 3, 4, 5, and 6 of Requestor's First and Second Requests.

Mollick, 32 A.3d at 871-872.

While we understand that your request encompasses a shorter timeframe than the upper limit of the timeframe that was at issue in *Mollick*, your request did not include any specific identifiers that would limit the search other than the names of the participants and a start date for the search which, as already noted above, yielded an overly-broad and voluminous result. Also importantly to that end, your request does not provide any specificity concerning the subject matter of the emails that you are seeking or, alternatively, any limiting criteria that would narrow the potential scope of the subject matter that may be produced from a search within your criteria. Additionally, although you provide the names of the participants' emails that you seek, you did not narrow the search by identifying the recipients of these participants' emails that you are requesting.

Instead, as you know, the only limiting criteria that you provided were the names of the participants and a start date for the timeframe of the search, which at the time of your request, was over 16 months prior to your request. Notwithstanding the broad nature of your request, however, we did conduct a preliminary search with the criteria that your provided and, as noted, it produced approximately 32,000 emails that would meet the criteria that you stated in your request. Based upon that and after further consideration and research, we must deny your request under 65 P.S. § 67.703 because it is vague, overbroad and not specific enough to identify any specific record.

Please be advised that under Section 1101 of the Right to Know Law you have 15 days to appeal to Pennsylvania's Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234.



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Sincerely,

/s/ Keaton Carr
Keaton Carr
Assistant District Attorney
Open Records Officer
412-350-4534