



OFFICE OF THE DISTRICT ATTORNEY
Milwaukee County

JOHN T. CHISHOLM · District Attorney

Chief Deputy Kent L. Lovern, Deputies Lovell Johnson, Jr., Jeffrey J. Altenburg, Karen A. Loebel,
Elisabeth Mueller, Matthew J. Torbenson, Bruce J. Landgraf

April 12, 2021

VIA ELECTRONIC MAIL ONLY AT Jessica.wirightnow@gmail.com

Ms. Jessica McBride
Wisconsin Right Now.com contributor

Re: Public Records Request 2021-117

Dear Ms. McBride,

Our office is in receipt of your emailed request sent to Chief Deputy District Attorney Kent Lovern on March 14, 2021. I am the designated records custodian for the District Attorney's Office. Your e-mail was forwarded for my attention on the same date. In your correspondence with Mr. Lovern, you request:

1. The last 10 felony cases no processed by the Milwaukee Co DA office as of this date
2. The last 5 misdemeanor cases no processed by the office as of this date
3. The last 5 homicide cases no processed by the office as of this date

[I] am requesting, Defendant name, DOB, referred charge, and no process report if available, and ADA or other prosecutor name, and date of no process decision.

I'm also wondering if you still have the sheets where every day each unit lists which cases are no processed and which are charged? If that's the case, could I get the sheets for the homicide unit and gun unit and drug unit from Jan. 1 2021 to present/[?]

If necessary to reduce costs, I'm willing to just come in and inspect the documents.

You request the "the sheets where every day each unit lists which cases are no processed and which are charged," and state that you are "willing to just come in and inspect the documents." I understand this as a request to review the sign-in pages which historically have been maintained, often on clipboards, in the various areas of the office. We ceased using such sheets at the onset of the pandemic.

As to your requests labelled 1, 2 and 3 above, I deny your request under the public records laws for the following reasons. As I wrote in my letter to you dated March 25, 2021, the public records law "does not require an authority to create a new record by extracting information from existing records and compiling the information in a new format." Wis. Stat. § 19.35(1)(l). "The open records law affords the right to inspect or make or receive a copy of a 'record.' A nonexistent record cannot be inspected or copied. The open records law does not require the custodian to collect or compile statistics or create a record for the benefit of the requester." *George v. Record Custodian*, 169 Wis. 2d 573, 578 (Ct. App 1992). Moreover, I note that your request for the "last" five or ten cases "no

Ms. Jessica McBride

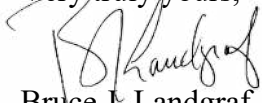
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processed” is nonspecific in the sense that, assuming we maintained such lists, there is no defined way of identifying the meaning of “the last” (*e.g.*, case number, date of last referral, date of no process decision, etc.), emphasizing that yours is essentially a request for us to create or compile a list that we do not otherwise maintain.

Wis. Stat § 19.35(4)(b) provides that you may bring an action for mandamus asking a court to order release of the records to you if you disagree with my decision to withhold any records. Alternatively, you may ask the Attorney General or the Milwaukee County Corporation Counsel to bring an action for mandamus asking a court to order release of the records to you. Pursuant to Wis. Stat. § 59.42(2)(b)4., the Corporation Counsel rather than the District Attorney enforces the public records law in Milwaukee County.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. Landgraf", written over a horizontal line.

Bruce J. Landgraf
Deputy District Attorney

BJL/kj