

COMMONWEALTH OF MASSACHUSETTS

Office of

District Attorney Joseph D. Early, Jr.

Worcester County
(Middle District)
(508)-755-8601



Worcester Trial Court
225 Main St. G301 Worcester, MA 01608
www.worcesterda.com

January 27, 2022

Andrew Quemere
Via email: aquemere0@gmail.com

Re: Public Record Request

Dear Mr. Quemere:

The District Attorney's Office has received your January 10, 2022 request for four categories of records relating to Brady information.

The District Attorney's Office has been meeting the requirements of Brady v. Maryland since at least 1963. Virtually all cases will have some Brady material contained in them. The District Attorney's Office does not store Brady material in separate files.

With regards to the first section of your request, for "the office's Brady list," we are unable to satisfy your request because there are no records that meet the parameters of the request.

With regards to the second section of your request, for "all Brady information" that "might need to be, or [has] been disclosed to defendants," we are unable to satisfy your request because that category of materials constitutes discovery provided to defense counsel under Mass. R. Crim. P. 14. Because protective orders may be applicable, dissemination of discovery materials "should follow normal procedures in criminal cases where its availability lies in the discretion of the trial judge under standards developed" by the Supreme Judicial Court. Bougas v. Chief of Police of Lexington, 371 Mass. 59, 64 (1976). See G.L. c. 4, § 7(26)(a); G.L. c. 213, § 3.

With regards to the third section of your request, for "all communications with criminal defendants and/or defense counsel" of the category you describe, we are unable to satisfy your request because there are no identifiable records that meet the parameters of the request, and because the request may call for discovery materials.

The Worcester District Attorney's Office generally maintains files according to defendant name. Such a process facilitates case litigation—the core mission of the District Attorney's Office. The items you request do not comport with the recordkeeping system of the Worcester District Attorney's Office.

The Superior Court and the Secretary of the Commonwealth have concluded that any request for a public record must be specific and not overbroad. See David Project, Inc. v. Boston Redevelopment Authority, 2007 WL 1302605 (Mass. Super. 2007) (before responding to a record request, "a government entity is entitled to more than just a category of what may be thousands of documents"); 950 CMR § 32.05(4) ("Any person seeking access to a public record or any portion thereof shall provide a reasonable description of the requested record to the custodian so that he or she can identify and locate it promptly."). Notably, the recent amendment to the public record law (St. 2016, c. 121, § 1-22 (An Act to Improve Public Records) expressly requires that "the request reasonably describes the record sought." St. 2016, c. 121, § 10 (codified as G.L. c. 66, § 10(a)(i)). Federal courts that have addressed this issue under the cognate Freedom of Information Act (FOIA) have reached the same conclusion. Irons v. Schuyler, 465 F.2d 608 (D.C. Cir. 1972) (sweeping and indiscriminate request for entire category of files does not "come within a reasonable interpretation of 'identifiable' records" contemplated by FOIA); Sears v. Gottschalk, 357 F. Supp. 1327, 1328 (E.D. Va. 1973) (request for "'All [files]' is not sufficiently descriptive").

Additionally, to the extent that this section of your request calls for discovery materials, we are unable to satisfy that request for the same reasons as outlined above.

With regards to the fourth section of your request, for "all communications with police departments" of the category you describe, there are no identifiable records that meet the parameters of your request.

You can find more information on so-called Brady Lists on the website of the District Attorney's Office at the following link: <https://worcesterda.com/prosecution/frequently-asked-questions-brady-list/>.

If you are unsatisfied with this response and you wish to pursue this matter further, you may do so by contacting the Supervisor of Public Records.

Very truly yours,



Mark Relation
Records Access Officer