

From: [Davis, Jordan](#)
To: [Applegate, Kyle](#)
Cc: [Henry, Faith](#)
Subject: Re: Final Determination - Mezzacappa v. Northampton County (OOR Dkt. AP 2021-1526)
Date: Friday, October 8, 2021 1:04:24 PM

Request for reconsideration in Mezzacappa v. Northampton County (2021-1526).

From: Timothy P. Brennan, Esq. <tim@brennanoffices.com>
Sent: Friday, October 8, 2021 1:00 PM
To: Davis, Jordan <jorddavis@pa.gov>
Cc: Eileen Duddy <EDuddy@northamptoncounty.org>
Subject: [External] Re: Final Determination - Mezzacappa v. Northampton County (OOR Dkt. AP 2021-1526)

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Attorney Davis,

I am writing to request reconsideration of the OOR's failure to address the specificity of the request. The requester made a request for 45 days worth of records between two entire municipal entities, i.e. prisons, including all encompassing words such as "jail," bail, money, property, court, psych exam, drug evaluation. She also made a request for the records of two entire departments for generic words like "mug shot" or "Berks County." These search terms also do not identify any transaction or occurrence. Most importantly these are all from law enforcement agencies which hold highly regulated records and the search terms themselves invoke the privacy interests of potentially thousands of inmates and patients, including related to drug and alcohol treatment and their CHRIA related records. Any response requires a consideration of these interests as well.

Several cases have held that such keyword search could be overly broad. Commonwealth v. Engelkemier, 148 A.3d 522 (Pa. Commw. 2016); Montgomery County v. Iverson, 50 A.3d 281 (Pa. Commw. 2011). Cases have held that the burden on an agency is relevant. Department of Environmental Protection v. Legere, 50 A.3d 260 (Pa. Commw. 2012). Further, the nature of the documents requested and who they are requested from is relevant in determining the burden on the agency and specificity of the request. Keystone Nursing & Rehabilitation of Reading v. Simmons-Ritchie, 222 A.3d 1226 (Pa. Commw. 2020). Obviously the privacy interests and statutorily protected interests should also be a factor in determining the specificity of a request.

In the last several months, this requester had made dozens of similarly broad, repetitive, overlapping, burdensome requests. These requests detract from other important taxpayer funded work, limit the functioning of the solicitor's office and delay responses to those making proper requests. On a recent argument related to a RTK appeal, the County attorney appeared and was advised that the requestor had disrobed and refused to leave her cell to attend a court argument by video. This demonstrates a pattern of abuse that is relevant. The county has maintained its objection

to the specificity of her broad requests in this highly regulated field and this is an issue that is clearly capable of repetition.

On Fri, Oct 8, 2021 at 10:16 AM Davis, Jordan <jorddavis@pa.gov> wrote:

Dear Parties,

Attached, please find the Final Determination of the OOR in the above-captioned matter. If you have any questions, please direct your email to the OOR's resource account at openrecords@pa.gov. Thank you.

Sincerely,



Jordan Davis

Attorney
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Harrisburg, PA 17101-2234
(717) 346-9903 | <http://openrecords.pa.gov>
jorddavis@pa.gov | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

(CC: Tricia Mezzacappa, via US mail)

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Sincerely,

Timothy P. Brennan, Esq.
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Certified as a specialist in the practice of workers' compensation law by the PA Bar Association Workers' Compensation Law Section as authorized by the Pennsylvania Supreme Court.

Brennan Law Offices also serves clients throughout Pennsylvania in personal injury, general practice and business matters and maintains offices in Allentown, Doylestown and Pottsville.

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