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Pro hac vice application pending

Attorneys for Plaintiffs

DANIEL GOLDEN

and

TRACY LOCKE,

Plaintiffs,

v.

NEW JERSEY INSTITUTE OF
TECHNOLOGY,

and

CLARA WILLIAMS, in her capacity as
Custodian of Records for the New Jersey
Institute of Technology,

Defendants.

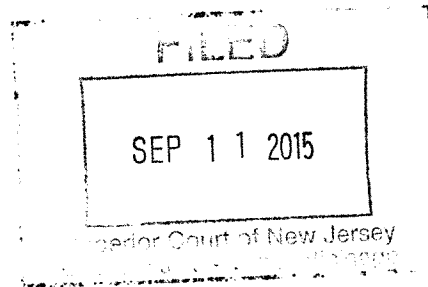
SUPERIOR COURT OF NEW
JERSEY LAW DIVISION,
ESSEX COUNTY

DOCKET NO. L-6392-15

Civil Action

VERIFIED COMPLAINT

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ESSEX COUNTY
FILED
SEP 11 2015



Plaintiffs, by way of verified complaint against Defendants, states as follows:

PRELIMINARY STATEMENT

1. This is an action under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 *et seq.*, (“OPRA”), and the common law right of access regarding the unlawful failure of the New Jersey Institute of Technology (“NJIT”) to provide access to government records requested by Plaintiffs.

2. Plaintiff Daniel Golden is a journalist and a managing editor at Bloomberg News. Mr. Golden is the author of numerous articles on higher education in the United States, as well as *The Price of Admission: How America’s Ruling Class Buys Its Way into Elite Colleges—and Who Gets Left Outside the Gates*, a book about admissions practices at colleges and universities. In 2004, Mr. Golden was awarded the Pulitzer Prize for a series of articles published in the *Wall Street Journal* about university admissions practices. He was also the editor for a series of articles on corporate tax inversions by Zachary Milder of Bloomberg News that was awarded a Pulitzer Prize for Explanatory Reporting this year.

3. Mr. Golden is currently writing a book about the relationship between federal intelligence agencies, including the Federal Bureau of Investigation (“FBI”), and colleges and universities that is slated to be published by Henry Holt & Company (“Henry Holt”).

4. In connection with conducting research for Mr. Golden's forthcoming book, between April and July of 2015, Mr. Golden and Plaintiff Tracy Locke, a publicist with Henry Holt, made requests to NJIT and its record custodian, Clara Williams (collectively, "Defendants") under OPRA and common law for access to email correspondence between employees of NJIT and the FBI.

5. Defendants have improperly and unlawfully withheld, in whole or in part, the vast majority of records responsive to Mr. Golden's requests, and have completely denied access to all of the records requested by Ms. Locke.

6. Not only do Plaintiffs have a specific and particular interest in the records they have requested because they are for use in connection with Mr. Golden's journalistic endeavors, including his forthcoming book, but the public at large also has a significant interest in the disclosure of the records at issue, which relate to government conduct at the federal and state level. Plaintiffs seek this information in order to inform the public as to the nature and extent of the relationship between NJIT, a public institution in this State, and federal law enforcement and intelligence agencies.

7. Defendants' refusal to provide access to the records at issue is contrary to law and this State's commitment to government transparency. By this

action, Plaintiffs seek to vindicate their rights of access to these records under OPRA and the common law.

PARTIES

8. Plaintiff Daniel Golden is an individual who resides in Belmont, Massachusetts.

9. Plaintiff Tracy Locke is an individual who resides in Union City, New Jersey.

10. Defendant New Jersey Institute of Technology is a “public agency” as that term is defined by N.J.S.A. § 47:1A-1.1. It is located at University Heights in Newark, New Jersey 07102-1982.

11. Defendant Clara Williams is the NJIT OPRA Custodian of Records. She is the “[c]ustodian of a government record” for NJIT as that term is defined by N.J.S.A. § 47:1A-1.1. Her principal place of business is Fenster Hall, Room 480, NJ Institute of Technology, 323 Dr. Martin L King Blvd, Newark, NJ 07102. She is named as defendant herein in her official capacity.

BACKGROUND & FACTUAL ALLEGATIONS

The First Request

1. On or around April 8, 2015, Mr. Golden sent a request to Defendants via email for access to two categories of records (the “First Request”).

Specifically, Mr. Golden requested access to:

- i. all e-mail communications since January 1, 2010, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief.
- ii. all e-mail communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT.

A true and correct copy of this request is attached hereto as **Exhibit A**, and is incorporated by reference herein.

2. The First Request stated that Mr. Golden was requesting access to the records as a journalist in order “to inform the public about matters of public concern.”

3. In an email received by Mr. Golden on or about April 14, 2015, Defendant Williams acknowledged that NJIT had received Mr. Golden’s First Request on April 8, 2015. Ms. Williams email further stated that an extension of

NJIT's response time until May 28, 2015 was required due to the volume of records requested, and the need for NJIT to review them.

4. By letter dated May 29, 2015, Defendants responded to Mr. Golden's First Request (the "First Response"). A true and correct copy of Defendants' First Response is attached hereto as **Exhibit B**, and is incorporated by reference.

5. Approximately 540 pages of responsive records were provided with Defendants' First Response—the vast majority of which are either fully or heavily redacted.

6. Of the pages that were released in full, six are an article that was written by Mr. Golden and 75 are a copy of a White House task force report on protecting students from sexual assault.

7. Defendants' First Response cites several purported justifications for the many redactions to the records that were produced, including Executive Order No. 21 and N.J.S.A. 47:1A-9.

8. Defendants' First Response also states that approximately 3,949 pages of records responsive to the First Request were being withheld in their entirety pursuant to Executive Order No. 21 (McGreevey 2002), N.J.S.A. 47:1A-1.1, and N.J.S.A. 47:1A-9.

9. Defendants' First Response also states that "no records" responsive to the portion of Mr. Golden's request seeking communications between the CIA or its representatives and specified NJIT employees had been found.

10. Included with the First Response was a letter from the FBI dated May 27, 2015 (the "FBI Letter"). A true and correct copy of the FBI Letter is attached hereto as **Exhibit C**, and is incorporated by reference.

11. The FBI Letter states, *inter alia*, that communications between individuals at NJIT and United States government entities "are not to be released" in response to any public records request. The FBI Letter further states that such "communications are the property of the USG [United States Government] and are not to be further distributed without the FBI's prior written approval" Ex. C.

The Second Request

12. On or about July 28, 2015, Ms. Locke sent a request to Defendants via email seeking access to the same records that Mr. Golden had sought access to through the First Request (the "Second Request"). A true and correct copy of the Second Request is attached hereto as **Exhibit D**, and is incorporated by reference.

13. The Second Request stated that Ms. Locke was requesting access to those records "in connection with ongoing research to inform the public about matters of public concern."

14. By email dated July 29, 2015, Defendants confirmed receipt of the Second Request and denied Ms. Locke access to all records responsive to that request in their entirety (the “Second Response”). A true and correct copy of the Second Response is attached hereto as **Exhibit E**, and is incorporated by reference.

15. The Second Response states that all records responsive to the request are exempt pursuant to Executive Order No. 26 (McGreevey 2002), N.J.S.A. 47:1A-1.1, and Executive Order No. 21 (McGreevey 2002).

16. While Defendants did not provide any documents responsive to the Second Request, it included with its Second Response a copy of the FBI Letter, which it had also attached to its First Response. *See* Ex. C.

The Third Request

17. On or around August 13, 2015, Mr. Golden sent a third request to Defendants via email (the “Third Request”). A true and correct copy of the Third Request is attached hereto as **Exhibit F**, and is incorporated by reference.

18. In the Third Request, Mr. Golden requested access to two categories of records under OPRA and common law. Specifically, Mr. Golden requested access to:

- i. all e-mail communications from January 1, 2010, to the date of this request, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology:

the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief.

- ii. all e-mail communications from January 1, 2010, to the date of this request between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT.

19. The Third Request stated that Mr. Golden was requesting access to the records as a journalist in order “to inform the public about matters of public concern.”

20. By email dated August 17, 2015, Defendants confirmed receipt of the Third Request (the “Third Response”). A true and correct copy of the Third Response is attached hereto as **Exhibit G**, and is incorporated by reference.

21. The Third Response was not accompanied by any responsive records, and cited a number of statutes, including N.J.S.A. 47:1A-1.1, Executive Order No. 21 (McGreevey 2002), and Executive Order No. 26 (McGreevey 2002).

22. The Third Response, like the First and Second Responses, included a copy of the May 27, 2015 FBI Letter stating that communications between individuals at NJIT and United States government entities “are not to be released.”

23. As of the date of the filing of this complaint, no further records have been produced by Defendants with respect to the First Request, Second Request, or Third Request.

CAUSES OF ACTION

First Count: Violation of OPRA

24. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing paragraphs as though fully set forth herein.

25. OPRA's purpose is to "maximize public knowledge about public affairs in order to ensure an informed citizenry and to minimize the evils inherent in a secluded process." *Kovalcik v. Somerset Cty. Prosecutor's Office*, 206 N.J. 581, 588, 21 A.3d 1142, 1146 (2011) (citations and quotations omitted).

26. In denying access to government records, the reasons given by a public entity for withholding documents "must be specific. Courts will simply no longer accept conclusory and generalized allegations of exemptions . . . but will require a relatively detailed analysis in manageable segments." *Newark Morning Ledger Co. v. N.J. Sports & Exposition Auth.*, 423 N.J. Super. 140, 162, 31 A.3d 623, 636 (Super. Ct. App. Div. 2011) (internal quotations and citations omitted).

27. Additionally, any "limitations on the right of access . . . shall be construed in favor of the public's right of access . . .", N.J.S.A. 47:1A-1, and any portion of a government record that is not specifically exempt from disclosure by law must be released, N.J.S.A. 47:1A-5(g).

28. Defendants are entities subject to OPRA.

29. By their First Request, Second Request, and Third Request Plaintiffs properly requested government records, as that term is defined by N.J.S.A. 47:1A-1.1.

30. By their First Response, Defendants denied access to the vast majority of the records requested.

31. By their Second Response and Third Response, Defendants denied access to all of the records requested by Plaintiffs.

32. Pursuant to N.J.S.A. 47:1A-6, Defendants have the burden of proving that their denial of access to the requested records is authorized by law.

33. Some or all of the records requested by Plaintiffs are not subject to any exception or exemption, or otherwise prohibited from being released under OPRA.

34. Accordingly, Defendants are in violation of OPRA for

- a. Failing to provide access to the vast majority of the records Responsive to Plaintiffs' First Request;
- b. Failing to provide access to any records responsive to Plaintiffs' Second Request and Third Request;
- c. Failing to specify with particularity the reasons for withholding any government records or any portion of those records

responsive to Plaintiffs' First Request, Second Request, or Third Request; and

- d. Failing to disclose all nonexempt portions of government records responsive to Plaintiffs' First Request, Second Request, or Third Request.

Second Count: Violation of Common Law Right of Access

35. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing paragraphs as though fully set forth herein.

36. The public enjoys a broad, though qualified, common law right of access to "almost every document recorded, generated, or produced by public officials" *Higg-A-Rella, Inc. v. Cty. of Essex*, 141 N.J. 35, 46, 660 A.2d 1163, 1168 (1995).

37. The news media's "interest in 'keep[ing] a watchful eye on the workings of public agencies is sufficient to accord standing under the common law.'" *Jersey Pub. Co. v. N.J. Expressway Auth.*, 124 N.J. 478, 487, 591 A.2d 921, 926 (1991) (internal quotations and citations omitted).

38. The records requested by Plaintiffs are recorded, generated, produced, kept, or otherwise maintained by Defendants, and therefore are common law public records.

39. Not only do Plaintiffs have a specific and particular interest in the records they have requested because they are for use in connection with Mr. Golden's journalistic endeavors, including his forthcoming book, but the public at large also has a significant interest in the disclosure of the records at issue.

40. Plaintiffs' common law interest in obtaining access to the requested records outweighs any interest in confidentiality that Defendants may have.

41. Accordingly, Defendants' refusal to disclose the requested records violates Plaintiffs' common law right of access.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants:

- a) Declaring Defendants in violation of OPRA and the common law right of access to public records;
- b) Enjoining Defendants from denying access to nonexempt portions of government records requested by Plaintiffs and compelling Defendants to immediately provide access to such nonexempt records;
- c) Granting attorney's fees and costs of suit pursuant to N.J.S.A. 47:1A-6; and
- d) Granting such other relief as the Court deems equitable and just.

Dated:

Respectfully submitted,



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Carvelli, P.C.
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Florham Park, NJ 07932
Tel: 973.635.6300
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Katie Townsend, Esq.
The Reporters Committee for
Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005
Tel: 202. 795.9300
Fax: 202.795.9303
Pro hac vice application pending

Attorneys for Plaintiffs

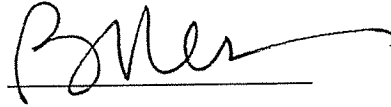
Sept. 11, 2015

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiffs, by their attorneys, hereby certify that the matter in controversy is not the subject of any other pending or contemplated judicial or arbitration proceeding.

Dated:

9/11/15

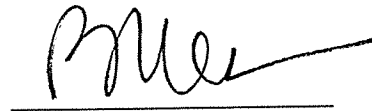
A handwritten signature in black ink, appearing to be "B. Miller", written over a horizontal line.

CERTIFICATION PUSUANT TO R. 4:69-4

There are no necessary transcripts in this case because the review of administrative actions sought does not involve that of agency proceedings at which a stenographic record or sound recording was made.

Dated:

9/11/15

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

VERIFICATION

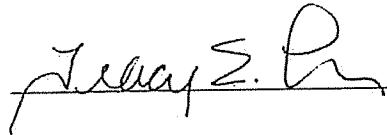
I, Daniel Golden, hereby affirm under the penalty of perjury that the factual statements contained in the foregoing Verified Complaint are, to the best of my recollection and belief, true and accurate.

Daniel P. Golden

Dated: 9/11/15

VERIFICATION

I, Tracy Locke, hereby affirm under the penalty of perjury that the factual statements contained in the foregoing Verified Complaint are, to the best of my recollection and belief, true and accurate.

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

Dated: September 10, 2015

EXHIBIT A

From: Daniel Golden (BLOOMBERG/ NEWSROOM:) At: Apr 8 2015 17:12:04
To: williamsruss@njit.edu
Subject: Fwd:public records request from Dan Golden/Bloomberg News

Clara Williams
Custodian of Records
New Jersey Institute of Technology

Dear Ms. Williams,

How are you? I am a Boston-based managing editor for education and enterprise at Bloomberg News. For Bloomberg articles and a book to be published by Henry Holt, I am researching the relationship between intelligence agencies and universities. Pursuant to New Jersey and federal public records statutes, I am requesting all e-mail communications since January 1, 2010, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief.

Similarly, I am requesting all e-mail communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT.

As a journalist, I request the records to inform the public about matters of public concern.

I agree to pay reasonable fees for the records, including actual costs up to \$250. If you estimate that actual costs will exceed this amount, please contact me so that I may make the appropriate arrangements for payment.

This request is segregable, and your agency may not withhold entire records because of one portion that you believe is exempt from disclosure. Should you deny my request, or any part of it, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial as required under the law.

Please contact me if I may assist your office's response to this request. As I am making this request as a journalist and this information is of timely value, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have questions.

Thank you very much for your cooperation.

Yours,

Dan Golden
Managing Editor, Education and Enterprise
Bloomberg News
617-210-4610

EXHIBIT B

Office of General Counsel

May 29, 2015

Dan Golden, Managing Editor
Bloomberg News
100 Summer Street, Suite 2810
Boston, Mass. 02110

Re: OPRA Request Dated April 8, 2015

Mr. Golden:

Thank you for returning my call yesterday and providing your mailing address and for permitting NJIT to mail it's response on May 29th, the date our response is due to you. To expedite receipt it is being sent to you via UPS.

NJIT received your OPRA request via email to me, NJIT Custodian of Records, on April 8, 2015. As such, the seven (7) business day deadline to respond to your request was April 17, 2015.

On April 14, 2015 I requested via email, additional time (until May 29, 2015) to respond to your request due to the volume of records required to be searched. Your April 14th email response stated that you looked forward to hearing from me on May 29th.

On April 28, 2015 I notified you via email that the standard flat rate established by N.J.S.A. 47:1A-5.b of \$0.05 per letter sized page would apply for copies of the records requested which I estimated to be between 1,500 (\$75.00) to 2,000 copies (\$100). Your April 28th email response stated that the fee sounded reasonable and you would be glad to pay it.

Pursuant to N.J.S.A. 47:1A-5.b, the cost associated with this request is \$26.65 (533 pages). Please remit payment payable to NJIT. Please mail the payment to:

Office of General Counsel
Fester Hall Room 480
NJ Institute of Technology
323 Dr. Martin L. King Blvd.
Newark, NJ 07102



Your request sought copies of the following NJIT records:

"....requesting all email communications since January 1, 2010 between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, and the following people at NJIT: the president, chancellor(s), provost(s), vice provosts(s) vice presidents, deans, general counsel, outside counsel and campus police chief. Similarly.....between the Federal Bureau of Investigation using the email domains @ic.fbi.gov, @fbi.gov.....ant the same people....."

RESPONSE

Records Provided

The following records are provided and are responsive to your request: Enclosed hard copies of January 1, 2010 through the April 2015 emails between the FBI and or its representative and NJIT President, Provost, Assistant Provosts, Vice Presidents, Deans, General Counsel and Police Chief, using the email domains @ic.fbi.gov, @fbi.gov.

Redactions

Please note that redactions were made to the emails provided to delete personal identifiable information of FBI personnel and/or FBI information provided to NJIT. See, Executive Order No. 21 (McGreevey 2002) Domestic Security [Pursuant to N.J.S.A. 47:1A-9a – Other laws regulations, privileges unaffected], any government record where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequence of potential acts of sabotage or terrorism are exempt under OPRA. See Also, N.J.S.A. 47:1A-9, The provision s of this act, P.L. 2001, c404 (C.47:1A-5 et al), shall not abrogate any exemption of a public record or government record from public access theretofore made pursuant to P.L. 1963, c 73 (C.47:2A-1 et seq.); any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any Federal Law; or Federal Order. (*Emphasis Added*). Additionally, please see attached letter from the U.S. Department of Justice, Federal Bureau of Investigation dated May 27, 2015.

Exemptions

Please be advised that emails (3,696 pages) from the FBI that have one of the following statements written on them "This document, or any segment thereof, may not be rewritten, posted on the internet, or given to any other public or private entity without prior written or verbal approval from the Federal Bureau of Investigation." Or, "Publication or reproduction prohibited/Unclassified." Or, "This document is Unclassified/For Official Use Only." Or "This document is for Official Use Only and is not to be posted on any external website and limited internal distribution to those who have a need to know." Or, "This email and document are not to be released to the media, general public or posted on any publicly accessible forum, to include



the internet or public websites.” “The attached document is Unclassified/For Official Use Only”. Or, “Although Unclassified, this report is not be released to the media, general public, or posted on any publicly accessible forum, to include the internet or public websites.” and emails (253 pages) about domestic security and/or security measures, are exempt under OPRA. The legal basis for the exemptions as required by N.J.S.A. 47:1A-6 are as follows:

See, Executive Order No. 21 (McGreevey 2002) Domestic Security [Pursuant to N.J.S.A. 47:1A-9a – Other laws regulations, privileges unaffected], any government record where inspection, examination or copying would substantially interfere with the State’s ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequence of potential acts of sabotage or terrorism are exempt under OPRA.

See Also, N.J.S.A. 47:1A-1.1, security measures and surveillance techniques, which if disclosed, would create a risk to the safety of persons, property, electronic data or software.

See Also, N.J.S.A. 47:1A-9, The provision s of this act, P.L. 2001, c404 (C.47:1A-5 et al), shall not abrogate any exemption of a public record or government record from public access theretofore made pursuant to P.L. 1963, c 73 (C.47:2A-1 et seq.); any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any Federal Law; or Federal Order. (*Emphasis Added*)

Additionally, please see attached letter from the U.S. Department of Justice, Federal Bureau of Investigation dated May 27, 2015.

No Records

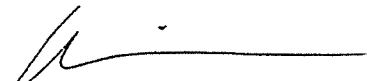
Regarding emails between the CIA or its representatives and NJIT President, Provost, Assistant Provosts, Vice Presidents, Deans, General Counsel and Police Chief using email domains @ucia.gov and @cia.gov, please be advised that no records were found.

Regarding email communications for Chancellor, please be advised that NJIT does not have a Chancellor, therefore copies of records cannot be provided. Lastly, regarding email communications between outside counsel with the CIA and FBI, please be advised that NJIT does not have records of such communication, therefore copies of records cannot be provided.

The records provided to you are being transmitted to you via UPS mail. If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by NJIT to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a



complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.



Clara Williams,
NJIT OPRA Custodian of Records
Office of General Counsel
Fenster Hall, Room 480
NJ Institute of Technology
323 Dr Martin L King Blvd
Newark, NJ 07102
973/596-5461
973/642-4056 FAX

Enclosures/Attachment

EXHIBIT C



U.S. Department of Justice

Federal Bureau of Investigation

Office of the Chief Division Counsel

11 Centre Place, Newark, New Jersey 07102

May 27, 2015

New Jersey Institute of Technology
University Heights
Newark, N.J. 07102-1982
Attn: Clara Williams,
Custodian of Records

Re: United States Government communications

Dear Ms. Williams,

We understand the New Jersey Institute of Technology (NJIT) received a request for e-mail communications between certain individuals at NJIT and certain United States Government (USG) entities. To the extent that the requestor seeks USG e-mail communications, and more particularly those of Federal Bureau of Investigation (FBI) personnel, those communications and attachments, if any, are not to be released. Those communications are the property of the USG and are not to be further distributed without the FBI's prior written approval, in conformance with federal laws and/or regulations including the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and, 28 U.S.C. § 534. Among other things, FOIA and the Privacy Act exempt from disclosure information that is law enforcement sensitive and may implicate criminal and/or national security interests as well as information that is confidential, privileged and/or not authorized for public dissemination/distribution.

Please notify the requestor that he/she may submit a FOIA request for such information either in writing to the FBI or online using www.fbi.gov/foia/.

Thank you for your assistance.

Sincerely yours,

By: 

EXHIBIT D

From: Locke, Tracy
Sent: Tuesday, July 28, 2015 1:27 PM
To: 'clara.b.williams@njit.edu'
Subject: Request for email communications

Clara Williams
Office of General Counsel
Fenster Hall, Room 480
New Jersey Institute of Technology
323 Dr. Martin L. King Blvd
Newark, NJ 07102

VIA EMAIL

July 28, 2015

Dear Ms. Williams,

I am a publicist with Henry Holt & Company and a citizen of New Jersey.

Pursuant to New Jersey Open Public Records Act and New Jersey's common law right of access, I am requesting all email communications since January 1, 2010, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief.

I also request all email communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT.

I am requesting these records in connection with ongoing research to inform the public about matters of public concern.

I agree to pay reasonable fees for duplication of records, including actual costs up to \$250. If you estimate that actual costs will exceed this amount, please contact me so that I may make the appropriate arrangements for payment.

Should you deny my request, or any part of it, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial as required under the law.

Please contact me if I may assist your office's response to this request. Thank you very much for your assistance.

Sincerely,

Tracy Locke
500 Central Ave., #610
Union City, NJ 07087
646-232-7687
Locketracy32@gmail.com
NOTE: Letter with signature attached

Clara Williams
Office of General Counsel
Fenster Hall, Room 480
New Jersey Institute of Technology
323 Dr. Martin L. King Blvd
Newark, NJ 07102

VIA EMAIL

July 28, 2015

Dear Ms. Williams,

I am a publicist with Henry Holt & Company and a citizen of New Jersey.

Pursuant to New Jersey Open Public Records Act and New Jersey's common law right of access, I am requesting all email communications since January 1, 2010, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief.

I also request all email communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT.

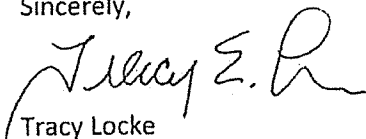
I am requesting these records in connection with ongoing research to inform the public about matters of public concern.

I agree to pay reasonable fees for duplication of records, including actual costs up to \$250. If you estimate that actual costs will exceed this amount, please contact me so that I may make the appropriate arrangements for payment.

Should you deny my request, or any part of it, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial as required under the law.

Please contact me if I may assist your office's response to this request. Thank you very much for your assistance.

Sincerely,



Tracy Locke
500 Central Ave., #610
Union City, NJ 07087
646-232-7687
Locketracy32@gmail.com

EXHIBIT E

From: Williams, Clara B. [mailto:clara.b.williams@njit.edu]
Sent: Wednesday, July 29, 2015 12:38 PM
To: Locke, Tracy
Subject: Re: Request for email communications

Ms. Locke:

NJIT received your OPRA request via email to me, NJIT OPRA Custodian of Records, on July 28, 2015. As such, the seven (7) business day deadline to respond to your request is August 6, 2015. This response to your request is being provided to you on the 1st business day after my receipt of your request.

Your request sought copies of the following NJIT records:

"....I am requesting all email communications since January 1, 2010, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief. I also request all email communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT."

Response

Please be advised that the records requested are exempt from disclosure under OPRA pursuant to Executive Order No. 26 (McGreevey 2002) wherein records in the possession of another department when those records are made confidential by a regulation of that department or agency adopted pursuant to N.J.S.A. 47:1A-1 et seq. and Executive Order No. 9 (Hughes 1963), or pursuant to another law authorizing the department or agency to make records confidential or exempt from disclosure.

See also, N.J.S.A. 47:1A-1.1, security measures and surveillance techniques, which if disclosed, would create a risk to the safety of persons, property, electronic data or software and Executive Order No. 21 (McGreevey 2002) Domestic Security [Pursuant to N.J.S.A. 47:1A-9a – Other laws regulations, privileges unaffected], any government record where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequence of potential acts of sabotage or terrorism are exempt under OPRA; as well as records exempted from disclosure by the State agencies' promulgated rules are exempt from disclosure by this Order.

Additionally, See attached letter from the FBI regarding United States Government e-mail communications.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by NJIT to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at atgrc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Clara Williams, OPRA Custodian of Records
Office of General Counsel
Fenster Hall, Room 480
NJ Institute of Technology
323 Dr Martin L King Blvd

Newark, NJ 07102
973/596-5461
973/642-4056 FAX

Attachment

EXHIBIT F

From: Daniel Golden (BLOOMBERG/ NEWSROOM:) At: Aug 13 2015 16:10:55

To: clara.b.williams@njit.edu

Subject: Fwd:public records request from dan golden, author and bloomberg news editor

Clara Williams
Custodian of Records
New Jersey Institute of Technology

Dear Ms. Williams,

How are you? I am a Boston-based managing editor for education and enterprise at Bloomberg News. For a book to be published by Henry Holt, I am researching the relationship between intelligence agencies and universities.

Pursuant to New Jersey Open Public Records Act and New Jersey's common law right of access, I am seeking all e-mail communications from January 1, 2010, to the date of this request, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief.

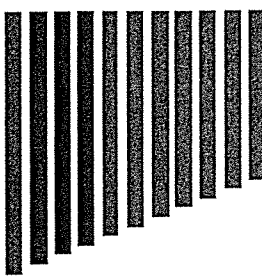
Similarly, I am seeking all e-mail communications from January 1, 2010, to the date of this request between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT. As a journalist, I request the records to inform the public about matters of public concern.

I agree to pay reasonable fees for the records, including actual costs up to \$250. If you estimate that actual costs will exceed this amount, please contact me so that I may make the appropriate arrangements for payment.

This request is segregable, and your agency may not withhold entire records because of one portion that you believe is exempt from disclosure. Should you deny my request, or any part of it, please state in writing the basis for the denial, including the exact statutory citation authorizing the denial as required under the law.

Please contact me if I may assist your office's response to this request. As I am making this request as a journalist and this information is of timely value, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have questions. Thank you very much for your cooperation.

Yours,



Dan Golden
Managing Editor, Education and Enterprise
Bloomberg News
617-210-4610

EXHIBIT G

From: clara.b.williams@njit.edu At: Aug 17 2015 09:45:14

To: Daniel Golden (BLOOMBERG/NEWSROOM:)

Subject: Fwd:Re: public records request from dan golden, author and bloomberg news editor

Mr. Golden:

Thank you for the clarification. Your OPRA request was received August 13, 2015. As such, the seven (7) business day deadline to respond to your request is August 24, 2015. This response to your request is being provided to you on the 2nd business day after my receipt of your request.

Your request sought copies of the following NJIT records:

"....I am seeking all email communications since January 1, 2010 to the date of this request, between the Central Intelligence Agency or its representatives using the email domains @ucia.gov, @cia.gov, or any other address, and the following people at the New Jersey Institute of Technology: the president, chancellor(s), provost(s), vice provost(s), vice presidents, deans, general counsel, assistant general counsel, outside counsel, and campus police chief. Similarly, I am seeking all email communications since January 1, 2010, between the Federal Bureau of Investigation or its representatives using the email domains @ic.fbi.gov, @fbi.gov, or any other email address, and the same people at NJIT."

Response

Please be advised that pursuant to N.J.S.A. 47:1A-1.1, security measures and surveillance techniques, which if disclosed, would create a risk to the safety of persons, property, electronic data or software. See also, Executive Order No. 21 (McGreevey 2002) Domestic Security [Pursuant to N.J.S.A. 47:1A-9a – Other laws regulations, privileges unaffected], any government record where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequence of potential acts of sabotage or terrorism are exempt under OPRA; as well as records exempted from disclosure by the State agencies' promulgated rules are exempt from disclosure by this Order.

See also Executive Order No. 26 (McGreevey 2002) wherein records in the possession of another department when those records are made confidential by a regulation of that department or agency adopted pursuant to N.J.S.A. 47:1A-1 et seq. and Executive Order No. 9 (Hughes 1963), or pursuant to another law authorizing the department or agency to make records confidential or exempt from disclosure.

Please see attached letter from the FBI regarding United States Government e-mail communications.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by NJIT to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Clara Williams, OPRA Custodian of Records

Office of General Counsel

Fenster Hall, Room 480

NJ Institute of Technology

323 Dr Martin L King Blvd

Newark, NJ 07102

973/596-5461

973/642-4056 FAX