

STEUBEN COUNTY LEGISLATURE
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VIA EMAIL

October 23, 2020

Elena Sassower, Director
Center for Judicial Accountability, Inc.
PO Box 8101
White Plains, NY 10602

RE: FOIL REQUEST – STEUBEN COUNTY DISTRICT ATTORNEY’S OFFICE

Ms. Sassower,

We have completed an extensive review of your Freedom of Information request as it pertains to the District Attorney’s performance related to public corruption complaints filed by members of the public from 2016 to present.

Please be advised that the District Attorney is in compliance with County Law §700 wherein he maintains a record of all indictments. These records are maintained in a central database system wherein searches can be made by name and date of birth, indictment number or charge.

Regarding items numbered 1 through 6 and 9 of your request pertaining to records reflecting the number of public corruption complaints under different scenarios as well grand jury indictments for the same, this portion of your request is denied as it is not specific enough. Public Officers Law §89(3) requires you to “reasonably describe” the record in which you are interested. Whether a request reasonably describes records often relates to the nature of an agency’s filing or recordkeeping system. For example, if records are kept alphabetically, a request for records involving an event occurring on a certain date might not reasonably describe the records. Locating the records in that situation might involve a “search for the needle in the haystack” and an agency is not required to engage in that degree of effort.

As previously indicated, database searches can be done by name and date of birth, indictment number or charge. When a search is conducted and the case is pulled up, it does not indicate in the database whether or not the individual is or was a public official. Additionally, any number of charges could be made against a public official depending upon the alleged illegal act (i.e., theft, filing a false instrument, etc.) so while the end result from these types of charges would be a public official’s removal from office due to misconduct, malfeasance or neglect in public office, the charge itself might not reflect the same. The only way to know if the individual was a current or prior public official would be to run a search covering a myriad of possible charges that could lead to a public official being removed from their position, then pull each file and review them individually to see if anything in the file indicates the individual was a public official and pursuant to Public Officers Law §89(3), we aren’t required to engage in that degree of effort.

Regarding item 7 of your request pertaining to manuals, guides and other records setting forth the policies and procedures of the district attorney's office in instances of conflicts of interest of the district attorney or assistant district attorneys, please be advised that the District Attorney and ADAs are members of the District Attorney's Association of the State of New York (DAASNY) and adhere to the association's ethics handbook entitled "The Right Thing - Ethical Guidelines for Prosecutors"; a copy of which is attached to this email. Additionally, Steuben County has an Ethics Local Law which all employees must follow and receive annual training regarding the same. The Ethics local law was recently updated by the Steuben County Legislature so a copy of the original law currently in effect and the newly adopted law, which is scheduled to be filed with the Secretary of State on November 20, 2020, have also been attached to this email.

Regarding item 8 of your request pertaining to manuals, guides or other records setting forth procedures for handling public corruption complaints, this portion of your request is denied as these records do not exist. Steuben County is a rural county located in the Southern Tier and does not have the resources or need for a separate 'public integrity/corruption' unit in the District Attorney's Office. Any public corruption complaints raising to the level of criminality are handled by the District Attorney's Office in the same manner as other prosecutions as set forth in New York State law and without 'special requirements'. Additionally, the records for the same are retained in accordance with the requirements of New York State Archives Local Government Schedule (LGS-1).

Under Freedom of Information Law you do have the right to appeal a denial of any portion of your application within thirty (30) days from the date hereof to the head of this agency:

Chairman, Steuben County Legislature
3 East Pulteney Square
Bath, NY 14810

Thank you.

Sincerely,



BRENDA K. SCOTCHMER
RECORDS ACCESS OFFICER

Attachments