



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

September 28, 2021

SUBMITTED BY: [Online portal](#)

Office of the Attorney General of Georgia
Government Services & Employment Division
40 Capitol Square, SW
Atlanta, Georgia 30334

Re: Open Government Complaint – Cherokee County Sheriff’s Office Records Request #21-1048

Dear Open Records Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this open government complaint in response to the Cherokee County Sheriff’s Office’s (“Sheriff’s Office”) May 12, 2021 determination to close the above-referenced request for documents made pursuant to the Georgia Open Records Act (“GORA”). Because the Cherokee County Sheriff’s Office failed to conduct an adequate search for responsive records, it should reverse its initial determination, conduct an adequate search, and release the requested records in full.

Background

On May 11, 2021, CREW submitted a records request to the Cherokee County Sheriff’s Office following the March 16, 2021 shooting spree by Robert Aaron Long at several spas in the Atlanta metro area.¹ Specifically, the request sought:

1. All records regarding the shooter’s possible motive for the attacks, including without limitation records relating to the shooter’s alleged statements that he had a “really bad day.”
2. All communications between state and local public officials regarding Captain Jay Baker’s comments at a March 17 press conference that the shooter had a “really bad day,” including without limitation communications relating to the March 18 statement by the Cherokee County Sheriff’s Office addressing Captain Baker’s March 17 comments.

¹ See Attachment 1 (CREW’s Request to the Cherokee County Sheriff’s Office, dated May 11, 2021)



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3. All records relating to any monitoring, review, or investigation of material posted on Captain Baker’s personal social media accounts, including without limitation Captain Baker’s personal Facebook posts promoting xenophobic Covid-19-themed T-shirts.
4. All records reflecting any disciplinary investigations or actions taken against Captain Baker.
5. All records reflecting any policies, procedures, or protocols government the identification and investigation of potential hate crimes, including without limitation crimes motivated by the victim’s perceived or actual race, color, religious, national origin, ethnicity, sexual orientation, gender, gender identify, or disability.²

By email dated May 12, 2021, the Cherokee County Sheriff’s Office provided notice of its decision to close CREW’s records request. The Sheriff’s Office explained that the requested records did “not fall under the control of the Cherokee Sheriff’s Office” and “may fall under the jurisdiction of the Cherokee County District Attorney’s Office.”³

CREW now submits this open government complaint challenging the Cherokee County Sheriff’s Office’s determination.

Argument

Georgia state agencies subject to GORA must provide all requested records to the requesting party for inspection and copying, unless the records are otherwise exempted from production.⁴ When responding to a records request, an agency must conduct a search reasonably calculated to uncover all responsive material within its possession, custody, or control.⁵

Here, the Cherokee County Sherriff’s Office’s apparent determination that it possesses no responsive records is refuted by publicly-available facts. The day after Captain Baker’s comments at the March 17, 2021 press conference, the Cherokee County Sheriff’s Office issued a statement expressing “regret for any heartache Captain Baker’s words may have caused” and confirmed that another member

² On August 27, 2021, CREW submitted an additional GORA request to the Cherokee County Sheriff’s Office, solely concerning record request 5. Because this additional request is currently pending, record request 5 is not at issue in this complaint.

³ See Attachment 2 (Cherokee County Sheriff’s Office Response, dated May 12, 2021).

⁴ Conklin v. Zant, 430 S.E.2d 589 (Ga. 1993).

⁵ Felker v. Lukemire, 447 S.E.2d 23 (Ga. 1996).



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of the Sheriff's Office had replaced Baker as spokesperson for the case.⁶ CREW's request sought records relating to these actions. The notion that the Sheriff's Office does not possess any documents relating to its own press statements and staffing decisions is highly implausible, and, at a minimum, casts doubt on the adequacy of the office's search for responsive records.

This conclusion is reinforced by a separate response CREW received from the Cherokee County's District Attorney's Office with respect to a materially identical records request.⁷ The District Attorney's Office denied CREW's request, claiming it does not possess responsive records because, among other things, "Captain Baker does not work for the District Attorney's Office."⁸ This response suggests that the Sheriff's Office, Captain Baker's employer, does have possession, custody, or control of the requested records. The District Attorney Office's response also contradicts the Sheriff's Office's determination that the requested records do "not fall under the control of the Cherokee Sheriff's Office" and "may fall under the jurisdiction of the Cherokee County District Attorney's Office."

CREW's request was also specific enough to enable reasonable compliance.⁹ The request seeks documents from a well-defined time period and sufficiently specifies the relevant subject matter. The Sheriff's Office should therefore be readily able to identify responsive records once it conducts an adequate search.

Conclusion

For the foregoing reasons, the Cherokee County Sheriff's Office should reverse its initial determination, conduct an adequate search, and release the requested records to CREW in full. Please direct any communications about this complaint to me at liheanachor@citizensforethics.org.

Sincerely,

Laura Iheanachor
Staff Counsel

⁶ *The Latest: Georgia Sheriff's Spokesman Replaced on Case*, AP (March 19, 2021) <https://apnews.com/article/georgia-coronavirus-pandemic-hate-crimes-spas-atlanta-7e2b2cb767dc51bad0aaa12df9f1d5d3>.

⁷ See Attachment 3 (CREW's Request to the Cherokee County District Attorney's Office, dated May 11, 2021).

⁸ See Attachment 4 (Cherokee County District Attorney's Office Response, dated May 12, 2021).

⁹ See *City of Carrollton v. The Information Age, Inc.*, 703 S.E. 2d 431, 433 (Ga. App. 2010).



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Attachments:

1. CREW's May 11, 2021 Request to the Cherokee County Sheriff's Office
2. Cherokee County Sheriff's Office's May 12, 2021 Response
3. CREW's May 11, 2021 Request to the Cherokee County District Attorney's Office
4. Cherokee County District Attorney's Office May 12, 2021 Response

Attachment 1



May 11th, 2021

SUBMITTED BY: [online portal](#)

Cherokee County Sheriff's Office
498 Chattin Drive
Canton GA, 30115

Re: Open Records Request

Dear Sir/Madam:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this request for records pursuant to the Georgia Open Records Act, [O.C.G.A. § 50-18-70 et seq.](#)

Specifically, CREW requests:

All records from March 16, 2021 to the present concerning the Cherokee County Sheriff's Office's response to the March 16 shootings at three Atlanta-area massage parlors and spas. This request includes without limitation the following records as they relate to the Cherokee County Sheriff's Office's response:

1. All records regarding the shooter's possible motive for the attacks, including without limitation records relating to the shooter's alleged statements that he had a "really bad day."
2. All communications between state and local public officials regarding Captain Jay Baker's comments at a March 17 press conference that the shooter had a "really bad day," including without limitation communications relating to the March 18 statement by the Cherokee County Sheriff's Office addressing Captain Baker's March 17 comments.
3. All records relating to any monitoring, review, or investigation of material posted on Captain Baker's personal social media accounts, including without limitation Captain Baker's personal Facebook posts promoting xenophobic Covid-19-themed T-shirts.
4. All records reflecting any disciplinary investigations or actions taken against Captain Baker.
5. All records reflecting any policies, procedures, or protocols governing the identification and investigation of potential hate crimes, including without limitation crimes motivated by the victim's perceived or actual race, color, religion, national origin, ethnicity, sexual orientation, gender, gender identity, or disability.

This request excludes news articles and other publicly-available materials without any accompanying discussion by government officials.

This request includes but is not limited to communications within the Cherokee County Sheriff's Office, as well as communications with the Atlanta City Council, Office of the Mayor of Atlanta, Atlanta Police Department, Office of the Atlanta Police Chief, Atlanta Citizen Review Board, Georgia Department of Public Safety, Fulton County Sheriff's Office, Fulton County Police, Fulton County Marshal, Fulton County District Attorney, Cherokee County District Attorney's Office, Office of the Attorney General of Georgia, Office of the Governor of Georgia, and Georgia Bureau of Investigation.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, please cite each specific exemption you feel justifies the refusal to release the information and notify CREW of the appeal procedures available under the law. CREW requests that you state in writing and with particularity the reasons for any conclusion that a record is exempt or confidential. If some portions of the requested records are properly exempt from disclosure, you are required to redact those portions and produce the remainder of the requested records.

On March 16, 2021, Robert Aaron Long killed eight people, including six women of Asian descent, in three separate attacks on Atlanta-area massage parlors and spa businesses, for which he was charged with eight counts of murder and one count of aggravated assault.¹ On March 17, the Cherokee County Sheriff's Office held a press conference where Captain Jay Baker stated that Long viewed these businesses as "temptations" for his sex addiction that he wanted to "eliminate," and that Long had told police the shootings were "not racially motivated."² At the same press conference, Baker commented that Long "was pretty much fed up and had been at the end of his rope, and yesterday was a really bad day for him, and this is what he did." Later that day, images from Baker's personal Facebook account surfaced, including posts where he promoted Covid-19-themed T-shirts with the words "Imported Virus from Chy-na."³ His comment and posts sparked national outrage, particularly from the Asian American community, which has faced increased violence and discrimination in the past year stemming from the Covid-19 pandemic. On March 18, the Sheriff's Office issued a statement expressing "regret for any heartache Captain Baker's words may have caused."⁴ The requested records would provide a clearer

¹ Jason Hanna, Amanda Watts and Madeline Holcombe, Suspect in Atlanta-area spa shootings might have intended more shootings in Florida, mayor says, *CNN*, March 18, 2021, available at <https://www.cnn.com/2021/03/17/us/metro-atlanta-shootings-wednesday/index.html>

² Elliott C. McLaughlin, Casey Tolan and Amanda Watts, What we know about Robert Aaron Long, the suspect in Atlanta spa shootings, *CNN*, March 18, 2021, available at <https://www.cnn.com/2021/03/17/us/robert-aaron-long-suspected-shooter/index.html>

³ Jordan Liles, Did Georgia Capt. Jay Baker Promote 'Imported Virus From Chy-na' Shirts? *Snopes*, March 18, 2021, available at <https://www.snopes.com/fact-check/jay-baker-chyna-shirts/>

⁴ Nicole Carr, *Twitter*, March 18, 2021, available at https://twitter.com/NicoleFCarr/status/1372627341457907714?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed

picture of the way the Cherokee County Sheriff's Office responded to these incidents, which suggest the existence of anti-Asian bias in the law enforcement involved with the case. They would also provide a fuller picture of how law enforcement decided to publicly present the shooter's self-described motivations.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and reducing the influence of money on politics. CREW intends to analyze the information responsive to this request and to share its analysis with the public. The release of information obtained through this request is not in CREW's financial interest.

If there are any fees for searching or copying these records, please inform CREW if the cost will exceed \$100. However, CREW also requests a waiver of all fees because the disclosure of the requested information is in the public interest. The public is entitled to information concerning the Cherokee County Sheriff's Office's response to the shootings that took the lives of eight people, including six Asian women. Further, this information is not being sought for commercial purposes. Please advise us if the costs associated with processing this request will exceed \$100.00.

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at ali@citizensforethics.org, and please copy hhammado@citizensforethics.org on all communications. Where possible, please produce records in electronic format. Please send the requested records to me in electronic form to ali@citizensforethics.org and hhammado@citizensforethics.org. If it's not possible to produce them electronically, please contact me at that email, and I will provide a mailing address. Thank you for your assistance.

Sincerely,



Angela Li

Attachment 2



Angela Li <ali@citizensforethics.org>

Fwd: Your Cherokee County, GA public records request #21-1048 has been closed.

Hajar Hammado <hhammado@citizensforethics.org>
To: Angela Li <ali@citizensforethics.org>

Tue, May 18, 2021 at 12:14 PM

----- Forwarded message -----

From: **Cherokee County Open Records** <cherokeecountyga@public-records-requests.com>
Date: Wed, May 12, 2021 at 5:52 AM
Subject: Your Cherokee County, GA public records request #21-1048 has been closed.
To: <hhammado@citizensforethics.org>

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

Cherokee County, GA Public Records

Record request #21-1048 has been closed. The closure reason supplied was:

The records you are requesting do not fall under control of Cherokee Sheriff's Office. It appears that the records you are seeking may fall under the jurisdiction of Cherokee County District Attorney's Office.

View Request 21-1048

<http://cherokeecountyga.nextrequest.com/requests/21-1048>



POWERED BY NEXTREQUEST

The All in One Records Requests Platform

Questions about your request? Reply to this email or sign in to contact staff at Cherokee County, GA.

Technical support: See our [help page](#)

--

Hajar Hammado | Policy Associate

CREW | Citizens for Responsibility and Ethics in Washington

909-524-5035 | [@hajarhammado](#)

Attachment 3



May 11th, 2021

SUBMITTED BY EMAIL: swallace@cherokeega.com

Shannon Wallace
Cherokee County District Attorney
Justice Center, 90 North Street, Suite 390
Canton, GA 30114

Re: Open Records Request

Dear Sir/Madam:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Georgia Open Records Act, [O.C.G.A. § 50-18-70 et seq.](#)

Specifically, CREW requests:

All records from March 16, 2021 to the present concerning the Cherokee County District Attorney’s response to the March 16 shootings at three Atlanta-area massage parlors and spas. This request includes without limitation the following records as they relate to the Cherokee County District Attorney’s response:

1. All records regarding the shooter’s possible motive for the attacks, including without limitation records relating to the shooter’s alleged statements that he had a “really bad day.”
2. All communications between state and local public officials regarding Captain Jay Baker’s comments at a March 17 press conference that the shooter had a “really bad day,” including without limitation communications relating to the March 18 statement by the Cherokee County Sheriff’s Office addressing Captain Baker’s March 17 comments.
3. All records relating to any monitoring, review, or investigation of material posted on Captain Baker’s personal social media accounts, including without limitation Captain Baker’s personal Facebook posts promoting xenophobic Covid-19-themed T-shirts.
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This request excludes news articles and other publicly-available materials without any accompanying discussion by government officials.

This request includes but is not limited to communications within the Cherokee County District Attorney's Office, as well as communications with the Atlanta City Council, Office of the Mayor of Atlanta, Atlanta Police Department, Office of the Atlanta Police Chief, Atlanta Citizen Review Board, Georgia Department of Public Safety, Fulton County Sheriff's Office, Fulton County Police, Fulton County Marshal, Fulton County District Attorney, Cherokee County Sheriff's Office, Office of the Attorney General of Georgia, Office of the Governor of Georgia, and Georgia Bureau of Investigation.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, please cite each specific exemption you feel justifies the refusal to release the information and notify CREW of the appeal procedures available under the law. CREW requests that you state in writing and with particularity the reasons for any conclusion that a record is exempt or confidential. If some portions of the requested records are properly exempt from disclosure, you are required to redact those portions and produce the remainder of the requested records.

On March 16, 2021, Robert Aaron Long killed eight people, including six women of Asian descent, in three separate attacks on Atlanta-area massage parlors and spa businesses, for which he was charged with eight counts of murder and one count of aggravated assault.¹ On March 17, the Cherokee County Sheriff's Office held a press conference where Captain Jay Baker stated that Long viewed these businesses as "temptations" for his sex addiction that he wanted to "eliminate," and that Long had told police the shootings were "not racially motivated."² At the same press conference, Baker commented that Long "was pretty much fed up and had been at the end of his rope, and yesterday was a really bad day for him, and this is what he did." Later that day, images from Baker's personal Facebook account surfaced, including posts where he promoted Covid-19-themed T-shirts with the words "Imported Virus from Chy-na."³ His comment and posts sparked national outrage, particularly from the Asian American community, which has faced increased violence and discrimination in the past year stemming from the Covid-19 pandemic. On March 18, the Sheriff's Office issued a statement expressing "regret for any

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³ Jordan Liles, Did Georgia Capt. Jay Baker Promote 'Imported Virus From Chy-na' Shirts? *Snopes*, March 18, 2021, available at <https://www.snopes.com/fact-check/jay-baker-chyna-shirts/>

heartache Captain Baker's words may have caused."⁴ The requested records would provide a clearer picture of the way the Cherokee County District Attorney responded to these incidents, which suggest the existence of anti-Asian bias in the law enforcement involved with the case. They would also provide a fuller picture of how law enforcement decided to publicly present the shooter's self-described motivations.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and reducing the influence of money on politics. CREW intends to analyze the information responsive to this request and to share its analysis with the public. The release of information obtained through this request is not in CREW's financial interest.

If there are any fees for searching or copying these records, please inform CREW if the cost will exceed \$100. However, CREW also requests a waiver of all fees because the disclosure of the requested information is in the public interest. The public is entitled to information concerning the Cherokee County District Attorney's response to the shootings that took the lives of eight people, including six Asian women. Further, this information is not being sought for commercial purposes. Please advise us if the costs associated with processing this request will exceed \$100.00.

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at ali@citizensforethics.org, and please copy hhammado@citizensforethics.org on all communications. Where possible, please produce records in electronic format. Please send the requested records to me in electronic form to ali@citizensforethics.org and hhammado@citizensforethics.org. If it's not possible to produce them electronically, please contact me at that email, and I will provide a mailing address. Thank you for your assistance.

Sincerely,



Angela Li

⁴ Nicole Carr, *Twitter*, March 18, 2021, available at https://twitter.com/NicoleFCarr/status/1372627341457907714?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1372627341457907714%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.snopes.com%2Ffact-check%2Fbad-day-atlanta-shooting%2F

Attachment 4



May 13, 2021

Citizens for Responsibility & Ethics in Washington (CREW)
C/O Angela Li
Sent via email to ali@citizensforethics.org

RE: Open Records Request – State vs. Robert Aaron Long
Case No. 21CR0547

Dear Ms. Li:

I received your request for records pursuant to the Open Records Act concerning the above referenced case on May 11, 2021, via email. Pursuant to O.C.G.A. § 50-18-72 (a)(4), records in our file are not public records subject to the Open Records Act until all matters have been concluded and are final. The prosecution of this case is still pending in our office and therefore items contained in our case file cannot be released at this time. Concerning each of your specific, numbered requests, our responses are as follows:

- (1) Any record contained in our file regarding the possible motives of Robert Aaron Long are not subject to disclosure at this time pursuant to O.C.G.A. §50-18-72(a)(4);
- (2) No records responsive to this request were located in this office;
- (3) No records responsive to this request were located in this office. Captain Baker does not work for the District Attorney's Office and thus no "monitoring, review or investigation of material posted on Captain Baker's personal social media accounts" has been conducted by this office;
- (4) No records responsive to this request were located in this office. Captain Baker does not work for the District Attorney's Office and thus this office would not conduct any "disciplinary investigations or actions" of this Cherokee County Sheriff's Office employee. To the extent any disciplinary investigation or action against Captain Baker have been pursued by any other agency or organization, this office has not received any records relating to any disciplinary investigations or actions of Captain Baker.
- (5) No records responsive to this request were located in this office. Our office does not have any written policies, procedures, or protocols governing the identification and investigation of potential hate crimes.

This letter shall serve to satisfy the requirements of O.C.G.A. §50-18-70 et seq. as to your request. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Sham Wallace".

Shannon G. Wallace
District Attorney
Blue Ridge Judicial Circuit