

MAYOR

James P. Mehaffey

TOWNSHIP COMMITTEE

Megan Kerr
Ashley Morrell
Adam Reid
Jim Robinson

**WEST DEPTFORD TOWNSHIP****Municipal Building**

400 Crown Point Road
West Deptford, New Jersey 08086
Phone (856) 845-4004

Township Administrator

Lee Ann DeHart

Chief Finance Officer

Michael Kwasizur

Registered Municipal Clerk

Lee Ann DeHart

March 27, 2023

Via email only (opra+request-40912-8fd01c99@requests.opramachine.com)

Thomas

Re: Open Public Records Act/Common Law Records Request

Dear Thomas:

The West Deptford Township Records Custodian received your request for records pursuant to the Open Public Records Act (OPRA) and New Jersey common law right of access dated March 15, 2023, on March 16, 2023. Accordingly, the initial seven (7) business day deadline to respond to your request under OPRA is March 27, 2023. This response is being provided on the seventh business day after receipt of your request.

Your records request was as follows:

From: Thomas opra+request-40912-8fd01c99@requests.opramachine.com
Sent: Wednesday, March 15, 2023 4:54 PM
To: Lee Ann DeHart lDeHart@westdeptford.com
Subject: OPRA request - Arrest Reports

Dear West Deptford Township,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

Arrest reports authored by Officer Badge # 4146 from January 8, 2017 to January 14th, 2017.

The requested subject matter, namely, the public arrest reports with required redactions, are of interest to me due to the subject officer having been the subject of criminal action involving his arrests while employed with your department. Obtaining the requested records are essential in maintaining the public trust and ensuring an open government, especially when a member of that government has been the subject of criminal action involving that government agency.

I am not seeking personal information pertaining to the any victim or of a victim's family, including but not limited to a victim's home

address, home telephone number, work or school address, work telephone number, social security account number, medical history or any other identifying information, thus the semi-anonymous nature of the request is permitted. It is noted that other requests to you utilizing the OpraMachine website have been fulfilled with only a first name, as well.

Yours faithfully,

Thomas

A search of our available records has identified the following as responsive to your request:

01/10/17	Incident Report 17-000687	(incident date: 01/10/17)
01/13/17	Incident Report 17-000942	(incident date: 01/13/17)

Response to OPRA Request

After consultation with the Township Solicitor, your request is denied for the following reason(s):

Criminal Investigatory Record(s). The requested record(s) or parts thereof are not required by law to be made, maintained or kept on file and pertain to a criminal investigation and are therefore exempt from disclosure pursuant to the criminal investigatory records exception of OPRA. N.J.S.A. 47:1A-1.1; *Paff v. Ocean County Prosecutor's Office*, 235 N.J. 1 (2018); *North Jersey Media Group, Inc. v. Township of Lyndhurst*, 229 N.J. 541 (2017); *Schulz v. N.J. State Police*, Complaint No. 2014-390 (GRC 2015).

Response to Common Law Request

The common law right to access public records depends on three requirements: (1) the records must be common law public documents; (2) the person seeking access must establish an interest in the subject matter of the material; and (3) the citizen's right to access must be balanced against the State's interest in preventing disclosure. *Richard Rivera v. Union County Prosecutor's Office*, 250 N.J. 124, 143-44 (2022); *South Jersey Publishing Co. v. New Jersey Expressway Auth.*, 124 N.J. 478, 487 (1991); *Loigman v. Kimmelman*, 102 N.J. 98 (1986); *Nero v. Hyland*, 76 N.J. 213, 222 (1978).

After consultation with the Township Solicitor, your request is denied for the following reason(s):

Insufficient Interest. The expressed generalized public interest in the requested records is outweighed by the State's interest in the confidentiality of the requested records. *Rivera v. Union County Prosecutor's Office*, 250 N.J. 124 (2022); *Loigman v. Kimmelman*, 102 N.J. 98 (1986).

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 the Township of West Deptford Clerk's office 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.

Sincerely,



Jill S. Magill, RMC

Deputy Clerk

jmagill@westdeptford.com

856-845-4004 ext. 174