



City of Bayonne

LAW DEPARTMENT

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James M. Davis
Mayor

John F. Coffey II, Esq.
Law Director



VIA E-MAIL

December 3, 2024

Ciaran Johnson

Re: OPRA Request # 24-1710

Dear Ms. Johnson:

The City of Bayonne (City) received your Open Public Records Act (OPRA) request on November 22, 2024. The official Records Custodian, Madelene C. Medina, received your OPRA request on November 22, 2024.

In your OPRA request you asked for the "CAD Detail Reports with Officer narratives from 11/08/2024 to 11/15/2024." We are denying your request for documents for several reasons.

First, Officers of the City of Bayonne do not provide narratives with CAD Detail Reports.

Second, approximately 1,800 CAD reports exist for the time period listed in your OPRA request. As such, your inquiry is overly broad. Pursuant to N.J.S.A. 47:1A-5(g), a request made for documents must identify a specific job title or accounts to be searched, a specific subject matter, and must be confined to a reasonable time period. Thus, the City is not required to provide you with 1,800 CAD reports as this would be unduly burdensome.

Finally, you stated in your email that you were also making your request under the "common law right of access." However, we are rejecting this argument.

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," *South Jersey Publishing Co. v. New Jersey Expressway*

Auth., 124 N.J. 478, 487 (1991); and (3) the citizen's right to access "must be balanced against the State's interest in preventing disclosure." *Higg-A-Rella, Inc. v. County of Essex*, 141 N.J. 35, 46 (1995). A common-law record is one that is made by a public official in the exercise of his or her public function, either because the record was required or directed by law to be made or kept, or because it was filed in a public office. *Higg-A-Rella, supra*, 141 N.J. at 46. Respectfully, the documents which you seek are not common law public documents. They were not "made by a public official in the exercise of his or her public function"; nor were they "required or directed by law to be made or kept" or "filed in a public office." Lastly, although you have made a request for the documents, you have not established an interest in the subject matter of the material. As such, we are rejecting your "common law right to access" argument.

Please note that if your request for access to a government record has been denied or unfilled, you have a right to challenge the decision by the City of Bayonne 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 website 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,

/s/ David C. Rosciszewski

David C. Rosciszewski
Assistant City Attorney

cc: Madelene C. Medina, City Clerk & Records Custodian