

THE TOWNSHIP OF EWING
Municipal Complex
2 Jake Garzio Drive
Ewing, NJ 08628



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Admin. Fax: (609) 538-0729
Clerk Fax: (609) 771-0480
Web Address: www.ewingnj

July 11, 2024

VIA EMAIL

Joey Grieves (opra+request-63156-b4f1be6e@requests.opramachine.com)

Re: Open Public Records Act Request

Dear Mr. Grieves:

On June 26, 2024, you submitted an Open Public Records Act ("OPRA") request to Ewing Township ("Ewing") seeking access to the following:

I would like to know how the officers assigned to the patrol division are assigned vehicles. Is there a policy in place that dictates this? Do officers choose their vehicles by seniority or alphabetical order by name, is there some sort of system the department uses to generate a list that chooses the order officers choose their vehicle in?

Ewing timely responded to your OPRA request on July 8, 2024, providing you with a copy of Ewing Police Department General Order E-4: Use of Department Vehicles (the "Policy").

That same day, you responded with the following:

I previously requested to know how individual officers assigned to patrol are assigned their patrol vehicles. No where did you answer that question. The policy does not specify the answer to my question. So I will ask again.

How does the individual officer assigned to a patrol crew get assigned the vehicles they drive on a daily basis? What process does the captain or shift commander utilize to guide the decision they make when assigning an individual officer the vehicle they drive daily?

Please be advised that OPRA is limited to requests for reasonably identifiable records. *Paff v. Galloway Twp.*, 229 N.J. 340, 355 (2017). "OPRA does not countenance open-ended searches of an agency's files," and "it is not intended as a research tool . . . [used] to force government officials to identify and siphon useful information." *MAG Entm't, LLC v. Div. of Alcoholic Beverage Control*, 375 N.J. Super. 534, 546-49 (App. Div. 2005)). "Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity" are outside the scope of OPRA. *Id.* at 49.

Furthermore, the records custodian is under no obligation to create new records. *Sussex Commons Associates, LLC v. Rutgers*, 210 N.J. 531, 544 (2012). “OPRA permits requests for documents already created or on file with a public entity. . . . [It] does not require a public agency to create documents not already in existence [at the time of a request].” *Owoh o/b/o African Am. Data & Research Inst. v. Maple Shade Police Dep’t (Burlington)*, A-3643-21, 2024 WL 1151710, at *4 (N.J. Super. Ct. App. Div. Mar. 18, 2024).

As a result, “[a] records request must be well defined so that the custodian knows precisely what records are sought.” *Paff*, 229 N.J. at 355. “The request should not require the records custodian to undertake a subjective analysis to understand the nature of the request,” but only to retrieve reasonably identifiable records. *Id.* Records custodians “are not obligated to conduct research in response to a requestor’s vague or poorly described request.” *Conley v. New Jersey Dep’t of Corr.*, 452 N.J. Super. 605, 612 (App. Div. 2018).

Here, both your initial and subsequent request failed to seek a particular record which can be readily and reasonably identified, and instead, sought answers to questions in the form of general information to be provided by the records custodian. Notwithstanding these deficiencies, Ewing conducted a good faith review of its records to accommodate your request—which it understood as seeking the Ewing Police Department policy that dictates how patrol officers are assigned department vehicles. The Policy provided to you satisfies this request. Section IV(I)(1) expressly states that “[t]he shift supervisor may assign any patrol vehicle at his/her discretion to meet objectives and comply with department policy,” which Section II defines as the use and assignment of vehicles “according to the needs of the agency and vehicle availability.”

Should you wish to resubmit your OPRA request, we ask that you please clarify your request by clearly and reasonably describing the specific documents being requested with sufficient identifying information.

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 Ewing Township 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 email 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.

If you should have any questions or need additional assistance, please do not hesitate to contact this office at (609) 538-7609.

Sincerely,



Kim J. Macellaro, CMC
Ewing Municipal Clerk

OPRA request - Clarification of how officers are assigned their vehicles on patrol

Joey Grieves <opra+request-63484-8cef93e8@requests.opramachine.com>

Mon 7/8/2024 12:32 PM

To: Kim Macellaro <kmacellaro@ewingnj.org>

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Dear Ewing 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:

I previously requested to know how individual officers assigned to patrol are assigned their patrol vehicles. No where did you answer that question. The policy does not specify the answer to my question. So I will ask again.

How does the individual officer assigned to a patrol crew get assigned the vehicles they drive on a daily basis? What process does the captain or shift commander utilize to guide the decision they make when assigning an individual officer the vehicle they drive daily?

Yours faithfully,

Joey Grieves



Please deliver records electronically via email to the below UNIQUE address for all replies to this request: opra+request-63484-8cef93e8@requests.opramachine.com

Is kmacellaro@ewingnj.org the wrong address for OPRA requests to Ewing Township? If so, please contact us using this form:

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Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.

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