

CITY OF HACKENSACK

GOVERNMENT RECORDS REQUEST RESPONSE

DATE: December 1, 2017

Via E-mail (opra+request-206-6efd6b66@requests.opramachine.com)

Time to Change – Jersey Style:

The City of Hackensack ("City") records custodian received your Open Public Records Act ("OPRA") request on November 20, 2017. The seven (7) business day deadline to respond to your request is December 1, 2017. As such, the City is timely responding to your request.

Your request seeks:

- 1. Police Department Internal Affairs Annual Summary Reports for the years 2014 to 2017*
- 2. Copy of Police Department's Public Synopsis of Disciplinary Actions for years 2014 to 2017*
- 3. Copy of the police department's Vehicular Pursuit Summary Reports for years 2014 to 2017*
- 4. Police Department's Use of Force Reports from January 1, 2014 to present date*
- 5. Police Department's Police Use of Deadly Force Attorney General Deadly Notification Reports for years 2014 to 2017*
- 6. Annual basic police academy training, annual firearms requalification training, use of force training, vehicular pursuit training, domestic violence training, cultural diversity training, bias intimidation crimes training, Breathalyzer training, 911 dispatcher and call-taker training, K-9 training recertification certificates for all of the police officers in your police department for the year 2017.*

In response to #1, #2, and #3 of your request, the city has provided the requested records for the years 2014, 2015, and 2016. Annual reports for the year 2017 will not be completed until the year 2018 and therefore no records exist at this time.

In response to #4 of your request, the city has provided all Use of Force reports from January 1, 2014 to present date. The City has redacted these records in accordance with New Jersey law. Redactions have been made to remove the following: (1) Names of juveniles; (2) Suspects identified but not arrested; (3) Information relating to a person's medical, psychiatric, or psychological history, treatment, or evaluation; (4) Confidential, personal identifiers; and (5) Names of domestic violence victims.

N.J.S.A. 47:1A-1 provides that "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy." N.J.S.A. 47:1A-9.b allows exemptions from disclosure any grant of confidentiality established or recognized by the Constitution of this State, statute, court rule or judicial case law, to apply to OPRA.

With respect to the identification of juvenile offenders, such information is clearly confidential. See North Jersey Media Group Inc. v. Township of Teaneck, No. BER-L-6375-14, 2014 WL 6634358 at *7-8 (N.J. Super., Nov. 17, 2014). Additionally, Executive Order No. 26 (McGreevy 2002) exempts from disclosure "information relating to medical, psychiatric or psychological history, diagnosis treatment or evaluation." See Rivera v. Town of West New York, GRC Complaint No. 2010-208 (Feb. 2013) (upholding exemption of medical information under Executive Order No. 26). The GRC has also determined that the names of subjects identified but not arrested in cases where there was an arrest made or where charges were made must be redacted. See Rivera v. City of Bayonne, GRC Complaint No. 2012-87 (Aug. 2012).

With respect to OPRA's privacy considerations, N.J.S.A. 47:1A-1, the City is legally required to redact personal identifiers. This includes an individual's social security number and driver's license number. See N.J.S.A. 47:1A-5 ("Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, unlisted telephone number, or driver license number of any person[.]"); Burnett v. Cty. of Bergen, 198 N.J. 408, 415 (2009) (noting that social security numbers must be redacted). Home addresses may also be redacted to protect a citizen's privacy interest. See Wolosky v. Somerset Cty., A-1024-15T4, 2017 WL 1179852, at *3 (N.J. Super. Ct. App. Div. Mar. 30, 2017) (finding that "home addresses do not directly relate to the 'core concern' of OPRA, which is to allow citizens access to records pertaining to the transaction of government business").

Lastly, the City cannot reveal the identities of domestic violence victims. The records of domestic violence victims may be lawfully withheld under OPRA's privacy provision. See North Jersey Media Group v. Borough of Paramus, 2011 WL 9287204 (Law Div. 2015); N.J.S.A. 47:1A-1 ("[A] public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."). Moreover, the records of domestic violence victims are exempt from disclosure under the confidentiality provisions of the Prevention of Domestic Violence Act of 1991. See N.J.S.A. 2C:25-33. In Butala v. Township of Aberdeen, GRC Complaint No. 2014-194 (Feb. 2015), the GRC ruled that the Custodian properly denied access to responsive domestic violence records because same are exempt under the Prevention of Domestic Violence Act of 1991, and no exceptions in the statute provide for exceptions to access for victims. In another case, VanBree v. Bridgewater Twp. Police Dep't, GRC Complaint No. 2014-122 (October 2014), the GRC concluded that the custodian lawfully denied to certain records under the PDVA where the records definitively related to a domestic violence incident, since the PDVA contains a confidentiality clause.

The City does not have any records in their possession responsive to #5 of your request which seeks Use of Deadly Force Attorney General Deadly Notification Reports for the years 2014 to 2017.

In response to #6 of your request, the city has provided 31 pages of police officer training records for the year 2017 including Use of Force training, Vehicle Pursuit training, Handgun and Shotgun Qualification and Training, Breathalyzer training, Domestic Violence training, Racially Influenced Policing Training, and other various police training.

Your request is now deemed answered and closed.

Date: December 1, 2017

City Clerk: Deborah Karlsson, RMC