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June 29, 2021

Mr. H. Stevens

C/O OPRAmachine.com

By email only to opra+request-23940-819a556d@requests.opramachine.com

**RE: Request for Access to Public Records pursuant to N.J.S.A. 47:1A-1.1
Request by H. Stevens dated June 28, 2021**

Dear Requestor:

Your request for access to public records pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1.1, et seq., was received by the Custodian of Records of the Borough of Lavallette on Monday, June 28, 2021. This Law Firm serves as General Counsel to the Borough of Lavallette. Your request has been referred to this office for a response.

Your request was a follow up question regarding your prior request of June 14, 2021 for:

In accordance with the recently passed bill (#S2656), I'm requesting a list of all disciplined police officers within the past five years. Included in this list should be their names, offense & the outcome / punishment (if any).

The response to that request on June 28, 2021 was:

In accordance with the New Jersey Supreme Court's decision in *In Re Attorney General Law Enforcement Directive Nos. 2020-5 and 2020-6*, ___ N.J. ___, 2021 WL 2303462 (June 7, 2021), the Custodian of Records of the Borough of Lavallette Police Department indicates that there are no records which satisfy this request.

Your follow up question regarding this OPRA request and response was:

In accordance with that letter that was sent; does that mean no records exist or those records cannot be released.

In response to your question, there are no records which satisfy the requirement set out in *In Re Attorney General Law Enforcement Directive Nos. 2020-5 and 2020-6*, ___ N.J. ___, 2021 WL 2303462 (June 7, 2021), which supersedes any prior Attorney General directives regarding

release of police disciplinary records. The current requirement is now for release of all disciplinary record information for incidents after the date of the New Jersey Attorney General's Directive of June 2020 involving major discipline, defined as discipline involving demotion or suspension of six (6) days or more. There are no such records in the possession of the Custodian of Records of major discipline involving demotion or suspension of six (6) days or more under the New Jersey Supreme Court's ruling of June 7, 2021.

As to your request for all disciplinary records for a period of five (5) years, such do not have to be disclosed if they arose prior to June 2020 at the present time, as the New Jersey Supreme Court remanded that question to the trial courts. The Courts have not decided whether records of major discipline prior to the Attorney General's Directive have to be released. However, there are no such records in the possession of the Custodian of Records of major discipline involving demotion or suspension of six (6) days or more for a period of five (5) years.

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 Borough of Lavallette 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.

Very truly yours,
Eric M. Bernstein & Associates, L.L.C.

By: *Philip G. George*
Philip G. George, Esquire
NJ Bar ID 015061982
Of Counsel to the Law Firm

CC: by email only, Personal & Confidential
Chief Colin Grant
Police Records Custodian
Robert Brice, Borough Administrator
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