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County of Atlantic



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DAREN J. DOOLEY

Chief of County Detectives

July 26, 2019

Concerned Taxpayer
OPRA Machine

Re: New Jersey Open Public Records Act # 19-90

Concerned Taxpayer:

You recently submitted an OPRA request on July 22, 2019 for: "Disposition or status of the investigation involving employee Ken Anderson from Berkeley Township involving theft of time from the town." On July 26, 2019 you amended your request asking for "any reports completed for the investigation of Ken Anderson involving theft from Berkeley Township." Please let this letter serve as an official response to your request.

As your amended request does not specific, I am assuming by "reports" you means police reports, investigator reports, or other similar documents that would detail the investigation and findings made by law enforcement. Unfortunately, your request must be denied because these types of records are exempt under OPRA from public disclosure. Under the Open Public Records Act (OPRA), criminal investigatory records are not government records and, therefore, are not subject to disclosure. The OPRA statute sets out the following: "[a] government record shall not include...criminal investigatory records." N.J.S.A. 47:1A-1.1. A criminal investigatory record is defined as a record that is: 1) not required to be made by law; and 2) pertains to a criminal investigation. N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 564-65 (2017). A criminal investigatory record possesses its character as such irrespective of the status of the investigation. See Janeczko v. New Jersey Department of Law and Public Safety, No. 2002-79 and 80 (criminal investigatory records are exempt from public inspection regardless of whether a matter is an open or closed investigation). Janeczko described criminal investigatory records as records involving all manner of crimes and includes all information that is part and parcel of the investigation. Ibid. Police reports and investigator reports fall under the definition of criminal investigatory records and therefore cannot be provided to you.

To provide you clarity, however, I will note that the public is able to request copies of any complaints or indictments filed against any criminal defendant. These documents provide some information about the alleged crime and what kind of criminal conduct an individual is being charge with. After a search of our records, however, it does not appear that any arrest has

been made or criminal indictment filed by ACPO against the individual you named, as of the time of this writing. Therefore, ACPO has no responsive records to provide to you.

In the event that you disagree with this determination, you may appeal to the Government Records Council or the Superior Court of New Jersey as provided by N.J.S.A. 47:1A-6 and 7.

Respectfully,

A handwritten signature in black ink, appearing to read 'John J. Lafferty, IV', written over a horizontal line.

John J. Lafferty, IV
Assistant Prosecutor
Custodian of Records