

OFFICE OF THE SHERIFF

MICHAEL G. MASTRONARDY
SHERIFF

BRIAN J. KLIMAKOWSKI
UNDERSHERIFF

NILS R. BERGQUIST, JR.
UNDERSHERIFF



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120 HOOPER AVENUE • P.O. BOX 2191 • TOMS RIVER, N. J. • 08754-2191

December 2, 2022

Fratlaw

Good day,

The Ocean County Sheriff's Office received your Open Public Records Act (OPRA) request on or about November 30, 2022. The official Records Custodian, Lt. Adrian Bullock, received your OPRA request on December 1, 2022.

The following records were requested:

1. Any government record as defined by OPRA Policies, Memorandums, Directives, Procedures, relating to Drug tests or positive drug tests, issued by this Department, or the County Prosecutor's Office, subsequent to the Attorney General's Law Enforcement Drug Testing Policy that this Department has on file.
2. Any government record as defined by OPRA that may show the number of applicants from this Department, or any received back for recruits at the OC Police Academy who have failed Law Enforcement Drug Test via the NJ State Toxicology Lab since 2021.
3. Requests for detailed CAD/ detailed Incident Reports for the following Incident numbers:
RPR 22S021505 MV STOP Warren, B 12:10:37 11/02/2022 TOFF
NRR 22S021456 SPECIAL ASSIGN Casullo, C 17:45:26 11/01/2022
RPR 22S021416 COMM POLICING Shelton, G 12:25:34 11/01/2022 NC
CP 22S021279 DVSRT REQUEST Scheuermann, A 10:13:11 10/30/2022
NRR 22S020890 PROPERTY CHECK Braen Jr, Ron 09:24:01 10/24/2022
NRR 22S020826 SEARCH Deane, A 22:20:08 10/22/2022

The following is a line by line response to your requested items.

A. Requested records

I. Any government record as defined by OPRA Policies, Memorandums, Directives, Procedures, relating to Drug tests or positive drug tests, issued by this Department, or the County Prosecutor's Office, subsequent to the Attorney General's Law Enforcement Drug Testing Policy that this Department has on file. **Please see the attached**



SPECIAL ASSISTANCE/ACCOMMODATIONS available, please call (732) 349-2010 (V/TTD).

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II. Any government record as defined by OPRA that may show the number of applicants from this Department, or any received back for recruits at the OC Police Academy who have failed Law Enforcement Drug Test via the NJ State Toxicology Lab since 2021.

This request seeks information or asks questions and does not identify specific government records. As such, your request is an invalid OPRA request and is **denied**. The New Jersey Superior Court has held "[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, **it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records 'readily accessible for inspection, copying, or examination.'**" N.J.S.A. 47:1A-1." (Emphasis added.) MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534, 546 (App. Div. 2005). The Court added that "[u]nder OPRA, **agencies are required to disclose only 'identifiable' government records** not otherwise exempt ... In short, OPRA does not countenance open-ended searches of an agency's files." (Emphasis added.) Id. at 549.

In Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), the Superior Court held a requestor must specifically describe the document sought because OPRA operates to make identifiable government records "accessible." "As such, a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents." supra.

Moreover, in Bart v. Passaic County Public Housing Agency, 406 N.J. Super. 445 (App. Div. 2009) the Appellate Division stated:

"The Act [OPRA] does not, however, require custodians of government records to undertake research for a requestor. The requestor must identify the records sought with specificity. The request may not be a broad, generic description of documents that requires the custodian to search the agency's files and "analyze, compile and collate" the requested information." (citing MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534 (App. Div. 2005) and Bent v. Stafford Police Department, 381 N.J.Super. 30 (App. Div. 2005)).

in the spirit of good faith though, there have been no recruits that have tested positive for marijuana within the requestor's time frame.

III. CAD/ detailed Incident Reports for the following Incident numbers:

22S021505 MV STOP Warren, B 12:10:37 11/02/2022 TOFF

22S021456 SPECIAL ASSIGN Casullo, C 17:45:26 11/01/2022

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22S021279 DVSRT REQUEST Scheuermann, A 10:13:11 10/30/2022



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22S020890 PROPERTY CHECK Braen Jr, Ron 09:24:01 10/24/2022

22S020826 SEARCH Deane, A 22:20:08 10/22/2022

Please see attached

This response is being communicated with you via e-mail as per your request. Future requests should be very precise and narrow in scope in which exact document is being requested.

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 Ocean County Sheriff'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 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.

Sincerely,

Lieutenant Adrian Bullock
Ocean County Sheriff's Office
Abullock@co.ocean.nj.us
(732)506-5393



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