



Township of Lakewood

231 Third Street
Lakewood NJ 08701
(732) 364-2500
lakewoodnj.gov

Open Records Request

Reference # OPRA-2018-00981

Requestor Details

Name:

Company Name: Ocean County Scanner News

Address:

Phone #

Fax #

Email:

opra+request-27040491be5ac@requests.opramachine.com

Request

Details

- Please be as specific as possible in describing the records being requested.
- Request for "any and all" are generally considered too broad and may be returned for clarification.
- Timeframe for response is seven (7) business days after custodian's receipt of request.
- Day one (1) is the day following the custodian's receipt of your request

Description: Redacted incident and/or police reports for all DUI and/or DWI arrests or summonses in Lakewood police responded to in September 2018.

- A public record under the common law is one required to be kept, or necessary to be kept in discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done, or a writing filed in a public office. The elements essential to constitute a public record are that it be a written memorial, that it be made by a public officer, and that the officer be authorized by law to make it.
- If the information requested is a "public record" under common law and the requester has a legally recognized interest in the subject matter contained in the material, then the material must be disclosed if the individual's right of access outweighs the State's interest in preventing disclosure.

Are you requesting documents under common law?

Delivery Type: Email

Address:

Please set forth your interest in the subject matter contained in the requested material:

- Note that any challenge to a denial of a request for records under the common law cannot be made to the Government Records Council, as the Government Records Council only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court.
- Please note that your preferred method of delivery will only be accommodated if:
 - The custodian has the technological means
 - The integrity of the records will not be jeopardized by such method of delivery

Certificati

on

If you are requesting records containing personal information, please certify the statement below.

Under Penalty of N.J.S.A. 2C-28-3 I certify that I been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

Requesting Access

Requesting Access to Government Records Under the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 et seq)

1. All government records are subject to public access under the Open Public Records Act ("OPRA"), unless specifically exempt.
2. A request for access to a government record under OPRA must be in writing, hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5.g. The seven (7) business day response time does not commence until the records custodian receives the request form. If you submit the request form to any other officer or employee of the **Township of Lakewood**, that officer or employee must either forward the request to the appropriate custodian, or direct you to the appropriate custodian. N.J.S.A. 47:1A-5.h.
3. Requestors may submit requests anonymously. If you elect not to provide a name, address, or telephone number, or other means of contact, the custodian is not required to respond until you reappear before the custodian seeking a response to the original request.
4. The fees for duplication of a government record are located in the Deposit, Fee Schedule & Delivery tab. We will notify you of any special service charges or other

additional charges authorized by the State law or regulation before processing your request. Payment shall be made by cash, check or money order payable to the **Township of Lakewood**.

5. You may be charged a 50% or other deposit when a request for copies exceeds \$25.00. The **Township of Lakewood** custodian will contact you and advise you of any deposit requirements. Anonymous requests, when permitted, require a deposit of 100% of estimated fees. You agree to pay the balance due upon delivery of the records.

6. Under OPRA, a custodian must deny access to a person who has been convicted of an indictable offense in New Jersey, any other state, or the United States, and who is seeking governmental records containing personal information pertaining to the person's victim or the victim's family. This includes anonymous requests for said information.

7. By law, the Township of Lakewood must notify you that it grants or denies a report for access to government records within seven (7) business days after the agency custodian of records receives the request. If the record requested is not currently available or is in storage, the custodian will advise you within seven (7) business days after receipt of the request when the record can be made available and the estimated cost for reproduction.

8. You may be denied access to a government record if you request would substantially disrupt agency operations and the custodian is unable to reach a reasonable solution with you.

9. If the **Township of Lakewood** is unable to comply with your request for access to the government record, the custodian will indicate the reasons for denial on the request form and send you a signed and dated copy or other written correspondence.

10. Except as otherwise provided by law or by agreement with the requester, if the agency custodian of records fails to respond to you within seven (7) business days of receiving a request, the failure to respond is a deemed denial of your request.

11. 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 **Township of Lakewood** 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.

12. Information provided on this form may be subject to disclosure under the Open Public Records Act.

Deposits

- The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the documents requested will cost in excess of \$5.00 to reproduce.
- Where a special service charge is warranted under OPRA, that amount will be communicated to you as required under the statute. You have the opportunity to review and object to the charge prior to it being incurred. If, however, you approve of the fact and amount of the special service charge, you may be required to pay a deposit or pay in full prior to the reproduction of the documents.

Fee Schedule

- We will notify you of any special charges or other additional charges authorized by the State law or regulation before processing your request. Payment shall be made by cash, check, or money order payable to the **Township of Lakewood**.
- Letter Size Pages (8.5" x 11") @ \$0.05 per page
- Legal Size Pages (8.5" x 14") @ \$0.07 per page
- Delivery: Delivery/Postage additional depending on delivery type
- Other materials (CD, DVD, etc.) \$3.00/CD or DVD
- Extras: Special service charge dependent upon request.

Denial Reasons

YOUR REQUEST FOR RECORDS CAN BE DENIED FOR THE FOLLOWING REASON(S):

N.J.S.A. 47:1A 1.1

- Inter-agency or intra-agency advisory, consultative or deliberative material
- Legislative records
- Law enforcement records:
 - Medical examiner photos
 - Criminal investigatory records (however, N.J.S.A. 47:1A-3.b. lists specific criminal investigatory information which must be disclosed)
 - Victims' records
- Trade secrets and proprietary commercial or financial information
- Any record within the attorney-client privilege
- Administrative or technical information regarding computer hardware, software and networks which, if disclosed would jeopardize computer security
- Emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein
- Security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons, property, electronic data or software
- Information which, if disclosed, would give an advantage to competitors or bidders
- Information generated by or on behalf of public employers or public employees in connection with:
 - Any sexual harassment complaint filed with a public employer
 - Any grievance filed by or against an employee
 - Collective negotiations documents and statements of strategy or negotiating
- Information that is a communication between a public agency and its insurance carrier, administrative service organization or risk management office
- Information that is to be kept confidential pursuant to court order
- Certificate of honorable discharge issued by the United States government (Form DD-214) filed with a public agency
- Social security numbers
- Credit Card numbers
- Unlisted telephone numbers
- Drivers' license numbers
- Certain records of higher education institutions:
 - Research records
 - Questions or scores for exam for employment or academics
 - Charitable contribution information
 - Rare book collections gifted for limited access
 - Admission applications <
 - Student records, grievances or disciplinary proceedings revealing a students' identification
- Biotechnology trade secrets N.J.S.A. 47:1A-1.2

- Convicts requesting their victims' records N.J.S.A. 47:1A-2.2
- Ongoing investigations of non-law enforcement agencies (must prove disclosure is inimical to the public interest) N.J.S.A. 47:1A-3.a. Public defender records N.J.S.A. 47:1A-5.k.
- Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders, Rules of Court, and privileges created by State Constitution, statute, court rule or judicial case law N.J.S.A. 47:1A-9
- Personnel and pension records (however, the following information must be disclosed:
 - An individual's name, title, position, salary, payroll record, length of service, date of separation and the reason for such separation, and the amount and type of any pension received
 - When required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the US, or when authorized by an individual in interest
 - Data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information N.J.S.A. 47:1A-10

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."
- *Burnett v. County of Bergen*, 198 N.J. 408 (2009). Without ambiguity, the court held that the privacy provision "is neither a preface nor a preamble." Rather, "the very language expressed in the privacy clause reveals its substantive nature; it does not offer reasons why OPRA was adopted, as preambles typically do; instead, it focuses on the law's implementation." "Specifically, it imposes an obligation on public agencies to protect against disclosure of personal information which would run contrary to reasonable privacy interests."

Executive Order No. 21 (McGreevey 2002)

- Records where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of sabotage or terrorism.
- Records exempted from disclosure by State agencies' proposed rules.

Executive Order No. 26 (McGreevey 2002)

- Certain records maintained by the Office of the Governor
- Resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing
- Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments
- Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation
- Information in a personal income or other tax return
- Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed
- Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing
- Records in the possession of another department (including NJ Office of Information Technology or State Archives) when those records are made confidential by regulation or EO 9.

Other Exemption(s) contained in a State statute, resolution of either or both House of the Legislature, regulation, Executive Order, Rules of Court, any federal law, federal regulation or federal order pursuant to N.J.S.A. 47:1A-9.a.

- (Please provide detailed information regarding the exemption from disclosure for which you are relying to deny access to government records. If multiple records are requested, be specific as to which exemption(s) apply to each record.)
- Note that any challenge to a denial of a request for records under the common law cannot be made to the Government Records Council, as the Government Records Council only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court.