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October 7, 2024

Open Public Records Act (OPRA) Requestor
Identified as "Mountain dew Lightning"

Dear Requestor:

Please be advised that I am the attorney for the Borough of Old Tappan, and, accordingly, I am in receipt of your OPRA request dated October 2, 2024.

Your request states that you would like to "receive any accident reports, incident reports, aided reports, operations reports, internal affairs records, vehicle reports, investigation reports, citations, summonses issued, charge sheets, disposition of charges, court records, legal actions, lawsuits filed, settlement agreements, judgements, CAD / dispatcher / police journal entry records, ambulance reports, patient care reports, fire department response reports, sobriety test results, total station diagrams, accident reconstruction diagrams and reports, 911 tapes, any dispatch calls, images, recordings, video recordings, surveillance video, dashboard camera video, body worn camera video of the crash itself or the driver or any other persons being interviewed by the police, and email or other written communications relating to any accident or incident involving a police vehicle, fire vehicle, ambulance, paramedic vehicles, supervisor vehicle, emergency response vehicles, first responder, police officer, EMT, paramedic, firefighter, code enforcement officer, law enforcement officer, REGARDLESS OF PAY OR VOLUNTEER STATUS OR IF THE CRASH WAS WHILE RESPONDING TO EMERGENCY, NOT DURING AN EMERGENCY RESPONSE, "ON DUTY", OR "OFF DUTY", or wherein the box stating "Resp to Emergency" or "Responding to Emergency" is checked off on an accident or crash investigation report, and for the original situation or emergency that resulted in the dispatching of the resources and personnell in the first place that are in your possession from January 1, 2012 until the December 31, 2023."

Please be advised that your request is invalid under the Open Public Record Act.

Considering a very similar request, the Superior Court of New Jersey, Appellate Division, in the case of MAG Entertainment, LLC v. Division of Alcoholic Beverage Control (375 N.J. Super 534 (App Div. 2005) held that "under OPRA, agencies are required to disclose only "identifiable" governmental records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and complied by the responding government entity are not encompassed therein. In short, OPRA does not contenance open-ended searches of an agency's files." Id.

In addition, your request would require the Records Custodian to conduct research amongst more than a decades worth of documents and determine which, in any, were responsive to your request. This is not valid under OPRA and, once again, the Court has stated that "OPRA does not require records custodians to conduct research among its records for a requestor and correlate data from various government records in the custodians possession. Reda v. Twp. of West Milford GRC Complaint No. 2002-58 (January 17, 2003).

If you have any questions or wish to discuss how to narrow your request so that it complies with OPRA, please do not hesitate to contact me directly.

Very truly yours,

GIBLIN & GANNAIO, LLC

A handwritten signature in black ink, appearing to read "Brian T. Giblin, Sr.", written in a cursive style.

Brian T. Giblin, Sr.
Borough Attorney

BTG:mg

C: Chief Joseph Tracy
Anna Haverilla, Borough Administrator
Jean Donch, Borough Clerk