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732-389-7640

July 23, 2018

ASK NJ Media Co.

Dear ASK NJ Media Co.,

The Borough of Eatontown received your OPRA request for records on Monday July 16, 2018, the official Police Records Custodian James Rolly, received your request on Tuesday July 17, 2018. This response to your request is being provided to you on the 5th business day after the custodian's receipt of said request.

Your request sought access to the following:

- 1. A copy of policies and/or procedures regulating the Eatontown Police Department's public facebook page, any and all Eatontown Police Department's policies regarding the maintenance and/or content retention of township maintained social media forums.*
- 2. List(s) of names of people who are/were hidden, blocked, banned from the Eatontown Police Department's public facebook page.*
- 3. List(s) of any deleted, hidden, blocked, banned comments that were on the Eatontown Police Department's Office's public facebook page for the time period of 1-1-2018 to 7-13-2018.*
- 4. List(s) of the authors' names of any deleted, hidden, blocked, banned comments that were on the Eatontown Police Department's public facebook page for the time period of 1-1-2018 to 7-13-2018.*
- 5. Copies of all messages and author's names sent via the Eatontown Police Department's facebook messenger and responses for the time period of 1-1-2018 to 7-13-2018.*
- 6. Name and rank and/or position title of the Eatontown Police Department employee(s) responsible for maintaining any and all Eatontown Police Department's social media forums.*
- 7. Any emails sent to/from the employee(s) in question regarding the deleting/removing of content, or the limiting of access to content on any and all social media forums for the time period of 1-1-2018 to 7-13-2018.*

RECORDS

732-389-7635

DETECTIVE BUREAU

732-389-7644

COMMUNITY SERVICE

732-389-7638

TRAFFIC SAFETY

732-389-7830

VISIT US ON THE WEB AT WWW.EATONTOWNNJ.COM/POLICE

The following is in response to your request;

List of all records responsive to your request (include the number of pages for each record).	List of all records provided, <u>with redactions</u> , or denied in their entirety.	If records are disclosed with redactions, give a general nature description of the redactions.	If records were denied in their entirety, give a general nature description of the record.	List the legal explanation and statutory citation for the denial of access to records in their <u>entirety</u> or <u>with redactions</u> .
Item #1: GO 14-CH1-26 Social Media 6 Pages Borough Of Eatontown Employee Handbook, Policies & Procedures Manual 4 Pages				

Item #2: No persons have been hidden, blocked, or banned from the Eatontown Police Department's public Facebook page during the time period of 1/1/2018 to 7/13/2018 therefore no records are responsive to your request.

Item #3: No comments have been hidden, blocked, or banned from the Eatontown Police Department's public Facebook page during the time period of 1/1/2018 to 7/13/2018 therefore no records are responsive to your request.

Item #4: No comments have been deleted, hidden, blocked or banned from the Eatontown Police Department's public Facebook page during the time period of 1/1/2018 to 7/13/2018 therefore no records are responsive to your request for author's names.

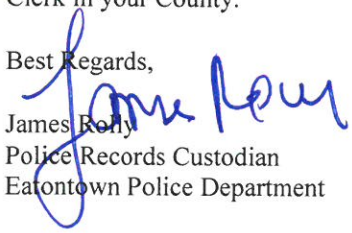
Item #5: No messages have been sent or received via the Eatontown Police Department's Facebook messenger app from the time period of 01/01/2018 to 07/13/2018 therefore no records are responsive to your request.

Item #6: 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. When a request is "complex" because it fails to specifically identify the documents sought, then that request is not "encompassed" by OPRA. See New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J.Super. 166, 180 (App. Div. 2007). 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. See Bent v. Stafford Police Department, 381 N.J.Super. 30, 37 (App. Div. 2005). Custodians are not required to conduct research or create new records in response to an OPRA request.

Item #7: No persons or comments have been deleted, hidden, blocked or banned from the Eatontown Police Department's public Facebook page during the time period 1/1/2018 to 7/13/2018 therefore no emails to/from the employee responsible for maintaining any and all Eatontown Police Department's social media forums exist so no records are responsive to your request.

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 Eatontown Police Department 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.

Best Regards,


James Rohy
Police Records Custodian
Eatontown Police Department

Eatontown Police Department General Order: 14-CH1-26			
Section: The Administrative Function Public Relations		Effective Date: April 21, 2014	
Subject: Social Media		NJSACOP Standard: N/A	
Volume: 1	Chapter: 1	Pages: 6	
Attorney General: N/A Monmouth County Uniform Policy: N/A		References: International Association of Chiefs of Police (IACP)	
Issuing Authority: Michael D. Goldfarb – Chief of Police Distribution: All Employees		Revised On:	Page:
		3/31/2015	All
		Section:	Title # change

I. PURPOSE

The Eatontown Police Department endorses the secure use of social media to enhance communication, collaboration, and information exchange; streamline processes; and foster productivity. This policy establishes this department's position on the utility and management of social media and provides guidance on its management, administration, and oversight. This policy is not meant to address one particular form of social media, rather social media in general, as advances in technology will occur and new tools will emerge.

II. POLICY

Social media provides a new and potentially valuable means of assisting the Eatontown Police Department and its personnel in meeting community outreach, problem-solving, investigative, crime prevention, and related objectives. This policy identifies potential uses that may be explored or expanded upon as deemed reasonable by administrative and supervisory personnel. The Eatontown Police Department also recognizes the role that these tools play in the personal lives of some department personnel. The personal use of social media can have bearing on departmental personnel in their official capacity. As such, this policy provides information of a precautionary nature as well as prohibitions on the use of social media by department personnel.

III. DEFINITIONS

- a. **Blog:** A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments. The term is short for "Web log."
- b. **Page:** The specific portion of a social media website where content is displayed, and managed by an individual or individuals with administrator rights.
- c. **Post:** Content an individual shares on a social media site or the act of publishing content on a site.
- d. **Profile:** Information that a user provides about himself or herself on a social networking site.

- e. **Social Media:** A category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (eg. Facebook, MySpace), microblogging sites (eg. Twitter, Nixle), photo- and video-sharing sites (eg. Flickr, YouTube, Instagram), wikis (eg. Wikipedia), blogs, and news sites (eg. Digg, Reddit).
- f. **Social Networks:** Online platforms where users can create profiles, share information, and socialize with others using a range of technologies.
- g. **Speech:** Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.
- h. **Web 2.0:** The second generation of the World Wide Web focused on shareable, user-generated content, rather than static web pages. Some use this term interchangeably with social media.
- i. **Wiki:** Web page(s) that can be edited collaboratively.

IV. PROCEDURES

A. ON-THE-JOB USE

1. Department-Sanctioned Presence

a. Determine strategy

- 1. Where possible, each social media page shall include an introductory statement that clearly specifies the purpose and scope of the agency's presence on the website.
- 2. Where possible, the page(s) should link to the department's official website.
- 3. Social media page(s) shall be designed for the target audience(s) such as youth or potential police recruits.

b. Procedures

- 1. All department social media sites or pages shall be approved by the chief executive or his or her designee and shall be administered by the departmental information officer or as otherwise determined.
- 2. Where possible, social media pages shall clearly indicate they are maintained by the department and shall have department contact information prominently displayed.
- 3. Social media content shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies.
 - a. Content is subject to public records laws. Relevant records retention schedules apply to social media content.
 - b. Content must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies.

4. Where possible, social media pages should state that the opinions expressed by visitors to the page(s) do not reflect the opinions of the department.
 - a. Pages shall clearly indicate that posted comments will be monitored and that the department reserves the right to remove obscenities, off-topic comments, and personal attacks.
 - b. Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

c. Department-Sanctioned Use

1. Department personnel representing the department via social media outlets shall do the following:
 - a. Conduct themselves at all times as representatives of the department and, accordingly, shall adhere to all department standards of conduct and observe conventionally accepted protocols and proper decorum.
 - b. Identify themselves as a member of the department.
 - c. Not make statements about the guilt or innocence of any suspect or arrestee, or comments concerning pending prosecutions, nor post, transmit, or otherwise disseminate confidential information, including photographs or videos, related to department training, activities, or work-related assignments without express written permission of the chief of police or his designee.
 - d. Not conduct political activities or private business.
2. The use of department computers by department personnel to access social media is prohibited without authorization from the chief of police or his designee.
3. Department personnel use of personally owned devices to manage the department's social media activities or in the course of official duties is prohibited without express written permission from the chief of police or his designee.
4. Employees shall observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.

2. Potential Uses

- a. Social media is a valuable investigative tool when seeking evidence or information about:
 1. missing persons;
 2. wanted persons;
 3. gang participation;
 4. crimes perpetrated online (i.e., cyberbullying, cyberstalking); and
 5. photos or videos of a crime posted by a participant or observer.
- b. Social media can be used for community outreach and engagement by:

1. providing crime prevention tips;
 2. offering online-reporting opportunities;
 3. sharing crime maps and data; and
 4. soliciting tips about unsolved crimes (i.e., Crimestoppers, text-a-tip).
- c. Social media can be used to make time-sensitive notifications related to:
1. road closures,
 2. special events,
 3. weather emergencies, and
 4. missing or endangered persons.
- d. Persons seeking employment and volunteer positions use the Internet to search for opportunities, and social media can be a valuable recruitment mechanism.
- e. This department has an obligation to include Internet-based content when conducting background investigations of job candidates.
- f. Searches should be conducted by a nondecision maker. Information pertaining to protected classes shall be filtered out prior to sharing any information found online with decision makers.
- g. Persons authorized to search Internet-based content should be deemed as holding a sensitive position.
- h. Search methods shall not involve techniques that are a violation of existing law.
- i. Vetting techniques shall be applied uniformly to all candidates.
- j. Every effort must be made to validate Internet-based information considered during the hiring process.

B. PERSONAL USE

1. Barring state law or binding employment contracts to the contrary, employees of the Eatontown Police Department shall abide by the following when using social media:
 - a. Department personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this department for which loyalty and confidentiality are important, impede the performance of duties, impair discipline and harmony among coworkers, or negatively affect the public perception of the department.
 - b. As public employees, department personnel are cautioned that speech on- or off-duty, made pursuant to their official duties—that is, that owes its existence to the employee’s professional duties and responsibilities—is not protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the department. Department personnel should assume that their speech and related activity on social media sites will reflect upon their office and this department.
 - c. Department personnel shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment without written permission from the chief of police or his designee.

2. For safety and security reasons, department personnel are cautioned not to disclose their employment with this department nor shall they post information pertaining to any other member of the department without their permission. As such, department personnel are cautioned not to do the following:
 - a. Display department logos, uniforms, or similar identifying items on personal web pages.
 - b. Post personal photographs or provide similar means of personal recognition that may cause them to be identified as a police officer of this department. Officers who are, or who may reasonably be expected to work in undercover operations, shall not post any form of visual or personal identification.
3. When using social media, department personnel should be mindful that their speech becomes part of the worldwide electronic domain. Therefore, adherence to the department's code of conduct is required in the personal use of social media. In particular, department personnel are prohibited from the following:
 1. Speech containing obscene or sexually explicit language, images, or acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.
 2. Speech involving themselves or other department personnel reflecting behavior that would reasonably be considered reckless or irresponsible.
4. Engaging in prohibited speech noted herein, may provide grounds for undermining or impeaching an officer's testimony in criminal proceedings. Department personnel thus sanctioned are subject to discipline up to and including termination of office.
5. Department personnel may not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of this department without express authorization.
6. Department personnel should be aware that they may be subject to civil litigation for
 1. publishing or posting false information that harms the reputation of another person, group, or organization (defamation);
 2. publishing or posting private facts and personal information about someone without their permission that has not been previously revealed to the public, is not of legitimate public concern, and would be offensive to a reasonable person;
 3. using someone else's name, likeness, or other personal attributes without that person's permission for an exploitative purpose; or
 4. publishing the creative work of another, trademarks, or certain confidential business information without the permission of the owner.
7. Department personnel should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.

8. Department personnel should expect that any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the department at any time without prior notice.
9. Reporting violations— any employee becoming aware of or having knowledge of a posting or of any website or web page in violation of the provision of this policy shall notify his or her supervisor immediately for follow-up action.

By Order Of:

A handwritten signature in black ink, appearing to read "Michael D. Goldfarb", with a long horizontal flourish extending to the right.

Michael D. Goldfarb – Chief of Police

BOROUGH OF EATONTOWN EMPLOYEE HANDBOOK, POLICIES & PROCEDURES MANUAL

L Communication Media Policy:

The Borough of Eatontown's Communication Media are the property of the Borough of Eatontown and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communication Media" includes all electronic media forms provided by the Borough of Eatontown, such as: cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, fax, flash drives, and electronic portable storage devices. All data stored on and/or transmitted through Communication Media is the property of the Borough of Eatontown. For purposes of this policy, "data" includes: "electronically stored files, programs, tables, data bases, audio and video objects, spreadsheets, reports and printed or microfiche materials which serve a Borough of Eatontown business purpose, regardless of who creates, processes or maintains the data, or whether the data is processed manually or through any of the Borough of Eatontown mainframe, midrange or workstations; servers, routers, gateways, bridges, hubs, switches and other hardware components of the Borough of Eatontown local or wide-area networks." The Borough of Eatontown respects the individual privacy of its employees. However, employee communications transmitted by the Borough of Eatontown Communication Media are not private to the individual. **All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the Borough of Eatontown* The Borough of Eatontown reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the Borough of Eatontown's Communication Media.** By using the Borough of Eatontown's equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by Borough of Eatontown personnel. The existence of passwords does not restrict or eliminate the Borough of Eatontown's ability or right to access electronic communications. However, the Borough of Eatontown cannot require the employee to provide its password to his/her personal account. All email, voicemail and Internet messages (including any technology-based messaging) found on Borough of Eatontown issued electronic devices are official documents subject to the provisions of the Open Public Records Act (NJSA 47:1A-1). Employees of the Borough of Eatontown are required to use the assigned municipal email account for ALL Borough of Eatontown business and correspondence. The use of private email accounts for ANY Borough of Eatontown business or during business hours is strictly prohibited. Employees can only use the Borough of Eatontown's Communication Media for legitimate business purposes. Employees may not use Borough of Eatontown's Communication Media in any way that is defamatory, obscene, or harassing or in violation of any Borough of Eatontown rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic

information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances. All employees, who have been granted access to electronically-stored data, must use a logon ID assigned by the Borough of Eatontown. Certain data, or applications that process data, may require additional security measures as determined by the Borough of Eatontown. Employees must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords. All employees may access only data for which the Borough of Eatontown has given permission. All employees must take appropriate actions to ensure that Borough of Eatontown data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized. Employees must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the Borough of Eatontown's computing environment. Employees may not install or modify ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Borough of Eatontown. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Borough of Eatontown, or licensed to the Borough of Eatontown. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized. Social Media and its uses in government and daily life are expanding each year however information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media. Only those Employees directly authorized by the Borough Administrator may engage in social media activity during work time through the use of the Borough of Eatontown's Communication Media, as it directly relates to their work and it is in compliance with this policy. Employees must not reveal or publicize confidential Borough of Eatontown information. Confidential proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files. No Borough of Eatontown employee shall post internal working documents to social media sites. This includes, but is not limited to, screenshots of computer stations, pictures of monitors and/ or actual documents themselves without the prior approval of the Borough Administrator. In addition, employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the Borough of Eatontown's Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the Borough Administrator. Except in "emergency situations, employees are prohibited from taking digital images or photographs with media equipment not owned by the Borough of Eatontown. For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate

action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the Borough of Eatontown's Communication Media. If such situation occurs, employee agrees that any images belong to the Borough of Eatontown's and agree to release the image to the Borough of Eatontown and ensure its permanent deletion from media device upon direction from the Borough of Eatontown.

No media advertisement, electronic bulletin board posting, or any other communication accessible via the Internet about the Borough of Eatontown or on behalf of the Borough of Eatontown, whether through the use of the Borough of Eatontown's Communication Media or otherwise, may be issued unless it has first been approved by the Borough Administrator. Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the Borough of Eatontown. Such unauthorized communications may result in disciplinary action. Because authorized postings placed on the Internet through use of the Borough of Eatontown's Communication Media will display on the Borough of Eatontown's return address, any information posted on the Internet must reflect and adhere to all of the Borough of Eatontown's standards and policies. All users are personally accountable for messages that they originate or forward using the Borough of Eatontown's Communication Media. Misrepresenting, obscuring, suppressing, or replacing a user's identity on any Communication Media is prohibited. "Spoofing" (constructing electronic communications so that it appears to be from someone else without a legitimate authorized purpose and authorized by the Borough Administrator) is prohibited. Employees must respect the laws regarding copyrights, trademarks, rights of public Borough of Eatontown and other third-party rights. Any use of the Borough of Eatontown's name, logos, service marks or trademarks outside the course of the employee's employment, without the express consent of the Borough of Eatontown, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications. To the extent that employees use social media outside of their employment and as such employees identify themselves as Borough of Eatontown's employees, or if they discuss matters related to the Borough of Eatontown on a social media site, employees must add a disclaimer on the front page, stating that it does not express the views of the Borough of Eatontown, and the employee is expressing only their personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." Place the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the Borough of Eatontown or the Borough of Eatontown's business. Employees must keep in mind that, if they post information on a social media site that is in violation of Borough of Eatontown policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action. Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. Borough of Eatontown employees have the right to engage in or refrain from such activities.

O. Public Relations Policy

All employees of the Borough of Eatontown are reminded that as public employees their conduct both on and off the job reflects the public relations image of the Borough,

P. Public Information Policy

When representatives of the media contact the Borough of Eatontown personnel for information, these inquiries should be directed to the employee's respective Department Head or to an individual designated by the Department Head who will serve as the Department's Public Information Officer. No department representative shall express personal opinions or provide information that is not directly related to their department. Matters that are of a sensitive nature or deal with Borough Council policies or matters presently before the Borough Council shall be referred to the Borough Administrator.

Q. Facebook Page & Twitter Account

The Borough of Eatontown maintains a facebook page at www.facebook.com/BorouehOfEatontownNJ. The Borough of Eatontown maintains a Twitter account at www.twitter.com/EatontownNJ. Information about emergency or public safety events that affect Borough of Eatontown employees, such as Super Storm Sandy or inclement winter weather, will be posted on these pages.