



Franklin Township Police Department

Public Safety Building • 495 Demott Lane • Somerset • New Jersey 08873
Telephone 732-873-5533



June 19, 2019

Charles Kratovil
New Brunswick Today

Dear Mr. Kratovil:

The Franklin Township Police Department is in receipt of your request for records pursuant to the Open Public Records Act and Common Law dated June 19, 2019. Your request was received by the Township's Official Custodian of Records, Ann Marie McCarthy, on June 19, 2019. As such, the seven (7) business day deadline to respond to your request is June 28, 2019. This response to your request is being provided to you on the **first (1st)** business day after the custodian's receipt of said request.

1. **Under section 3(b) of the Open Public Records Act (NJSA 47:1A-3(b)), please provide all required information about the arrest(s) of Matthew D. Ellery in the month of April 2019.**
2. **Under OPRA and the common law right of access, please also provide copies of all criminal complaints, summonses, warrants, CAD reports, incident reports, arrest reports, crash reports, other reports, 911 recordings, radio transmissions, MVR recordings, and other video/audio recordings related to the case.**

Below is a response to this request.

Under section 3(b) of the Open Public Records Act (NJSA 47:1A-3(b)), please provide all required information about the arrest(s) of Matthew D. Ellery in the month of April 2019.

The Franklin Township Police Department is in possession of no records responsive to this request. For this reason, this portion of your request is **denied**.

Under OPRA and the common law right of access, please also provide copies of all criminal complaints, summonses, warrants, CAD reports, incident reports, arrest reports, crash reports, other reports, 911 recordings, radio transmissions, MVR recordings, and other video/audio recordings related to the case

Each section of this portion of your request is addressed individually below:

Criminal Complaints - The Franklin Township Police Department is in possession of no records responsive to this request. For this reason, this portion of your request is **denied**.

Summonses - Records responsive to this request have been located specifically, Franklin Township Municipal Court Summons 1808-G-225625. This record is provided within, please note that personal identifying information has been redacted pursuant to **NJSA 47:1A-1**.

Warrants - The Franklin Township Police Department is in possession of no records responsive to this request. For this reason, this portion of your request is **denied**.

CAD Reports, Incident reports – Records responsive to this request have been located, specifically Franklin Police Incident number 19018012. The Somerset County Prosecutor's Office has an ongoing and active criminal investigation into this matter. Pursuant to **NJSA 47:1A-3a**, "any records pertaining to an investigation in progress by any public agency if disclosure of such record or records shall be detrimental to the public

interest,” shall be exempt from release while the investigation is ongoing. For this reason, this portion of your request is **denied**.

Pursuant to **North Jersey Media Group, Inc v. Township of Lyndhurst (A-35-15) (076184)** the Supreme court held that disclosure of investigatory reports/records could harm the integrity of investigations at their beginning stages, and declined to release those under the common law. As stated above, the Somerset County Prosecutor’s Office has an ongoing and active criminal investigation into this matter. For this reason, your request for these records pursuant to the common law is **denied**.

Arrest reports, Crash reports, Other reports, 911 recordings - The Franklin Township Police Department is in possession of no records responsive to this request. For this reason, this portion of your request is **denied**.

Radio transmissions - Records responsive to this request have been located. The Somerset County Prosecutor’s Office has an ongoing and active criminal investigation into this matter. Pursuant to **NJSA 47:1A-3a**, “any records pertaining to an investigation in progress by any public agency if disclosure of such record or records shall be detrimental to the public interest,” shall be exempt from release while the investigation is ongoing. For this reason, this portion of your request is **denied**.

Pursuant to **North Jersey Media Group, Inc v. Township of Lyndhurst (A-35-15) (076184)** the Supreme court held that disclosure of investigatory reports/records could harm the integrity of investigations at their beginning stages, and declined to release those under the common law. As stated above, the Somerset County Prosecutor’s Office has an ongoing and active criminal investigation into this matter. For this reason, your request for these records pursuant to the common law is **denied**.

MVR recordings, and other video/audio recordings related to the case - The Franklin Township Police Department is in possession of no records responsive to this request. For this reason, this portion of your request is **denied**.

The Open Public Records Act permits a person who believes he or she has been improperly denied access to a government record to file a complaint with the Government Records Council or to file an action in Superior Court to challenge the decision and compel disclosure. See **N.J.S.A. 47:1A-6**. You will find attached to this letter the document that describes the procedures for taking these actions.

If you have any questions, please contact me via e-mail at Philip.rizzo@franklinnj.gov.

Sincerely,

Lt. Philip J. Rizzo

Lt. Philip J. Rizzo
Professional Services Division Commander

C: Ann Marie McCarthy, Twp. Clerk
Louis Rainone, ESQ, Township Attorney
File