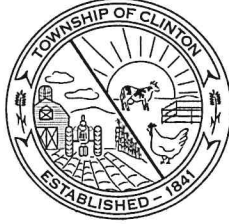


TOWNSHIP OF CLINTON
HUNTERDON COUNTY



Brian Mullay
Mayor

Vita Mekovetz
Administrator

April 8, 2021

William Bailey
Opra+request-21331-9c1535ce@requests.opramachine.com

RE: OPRA Request #21-0120PD

William,

I have attached documents (two letters from the Custodian of Records of the Police Department, Sgt. Bugal, and a copy of the Section 4-52 Ordinance regarding the Division of Police) in response to your OPRA request dated March 25, 2021 referenced above.

This now completes your request.

Sincerely,

Carla Conner
Clinton Township Clerk

CLINTON TOWNSHIP POLICE DEPARTMENT



Serving Since 1962

Sgt. Harry P. Bugal Jr.
Administrative Division Commander

Phone: 908-735-6000
Fax: 908-735-9148

*1370 Route 31 North,
Annandale, NJ. 08801*

To Mr. Bailey,

I am the Custodian of Records for the Clinton Township Police Department. I received your OPRA responses to my request for you to provide clarification on March 26, 2021. As such, the seven (7) business day deadline to respond to your request is April 7, 2021. Due to Executive Order No. 103, responding to OPRA requests at this time will disrupt municipal operations, N.J.S.A. 47:-1A-5(g). Therefore, an additional twenty (20) business days are required to respond to your OPRA request. Please be advised that your consent is not required for this extension Rivera v. City of Plainfield Police Department (Union), GRC Complaint No. 2009-317 (May 2011).

Request: "Dear Clinton Township, This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message. Records requested: I would like a copy of officer Glennon and derosas' email logs from January 1, 2021 through March 25, 2021. I would like a copy of all certification and licenses required by law or ordinance to be a police officer in NJ or Clinton that are active and current as of January 1, 2021 as well as anything that was paid by taxpayers. I would like a copy of all summonses issued for violating the governor's executive order from January 1, 2021 through March 25, 2021. Yours faithfully, William Bailey."

1. **Copy of Sgt. Glennon and Lt. DeRosa's e-mail logs from January 1, 2021 to March 25, 2021:** See attached Special Service Charge Letter.
2. **Copy of all certification and license required by law or ordinance to be a police officer in NJ or Clinton that are active and current as of January 1, 2021 as well as anything that was paid by taxpayers:** Currently, New Jersey does not require Law Enforcement Officers to be licensed. I have provided our township ordinance on the township requirement to become a law enforcement officer.

As it pertains to the last part of your request where you say, "as well as anything that was paid by taxpayers," I am requesting clarification. This request fails to identify with reasonable clarity for a specific government record sought, e.g. what record the tax payers paid, which is required by Bent v. Stafford Police Department, 381 n.j.super.30, 37 (app.div.2005). Please respond in writing and identify this specific government record

sought so that we may process your request. Failure to provide written clarification of your request will result in the closure of this OPRA request.

3. **Copy of all summonses issued for violating the governor's executive order from January 1, 2020 through March 25, 2021:** At this time, we request clarification of your OPRA request. Your request fails to identify with reasonable clarity for a specific government record sought, e.g. violation of what executive order the Governor issued, which is required by *Bent v. Stafford Police Department*, 381 n.j.super.30,37(app.div.2005). Please respond in writing and identify this specific government record sought so that we may process your request. Failure to provide written clarification of your request will result in the closure of this OPRA request.

If you are looking for COVID-19 related violations of Executive Order #103 there have been no summonses issued for this violation from January 1, 2021 to March 25, 2021.

If you need any further information or verification, or should you have questions, feel free to contact me at any time.

Sincerely,



Sgt. Harry P. Bugal Jr.
Administrative Division Commander

CLINTON TOWNSHIP POLICE DEPARTMENT



Serving Since 1962

Sgt. Harry P. Bugal Jr.
Administrative Division Commander

Phone: 908-735-6000
Fax: 908-735-9148

*1370 Route 31 North,
Annandale, NJ. 08801*

To whom it may concern,

The Clinton Township Police Department received your Open Public Records Act (OPRA) request on March 26, 2021. As such, the seven (7) business day deadline to respond to your request is April 7, 2021. Due to Executive Order No. 103, responding to OPRA requests at this time will disrupt municipal operations, N.J.S.A. 47:1A-5(g). Therefore, an additional twenty (20) business days are required to respond to your OPRA request. Please be advised that your consent is not required for this extension Rivera v. City of Plainfield Police Department (Union), GRC Complaint No. 2009-317 (May 2011).

OPRA allows public agencies to impose special service charges whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or when fulfilling a request requires an extraordinary expenditure of time and effort. See N.J.S.A. 47:1A-5.c. Special service charges must be based upon the actual direct cost of providing the copy or copies.

OPRA mandates that the requestor shall have the opportunity to review and object to the charge prior to it being incurred. See N.J.S.A. 47:1A-5.c. This is for the first part of your request that states, "I would like a copy of officer Glennon and derosas' email logs feom January 1, 2021 through march 25, 2021." As such, a detailed estimate is provided below:

Confidential Secretary's hourly rate = \$22.44

Administrative Division Commander's hourly rate = \$66.86

Confidential Secretary to locate, retrieve and copy records estimated at 1-hour x \$22.44 = \$22.44

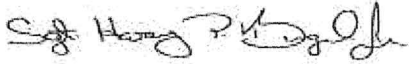
Administrative Division Commander to review for redactions approximately 1800 e-mails
estimated 30 hours x \$66.86 = \$2,005.80

Copy Paper Cost \$0.05 x 440 pages = \$22.00 (If unable to e-mail due to the volume of pages)

Estimated Total: \$2,050.24

Kindly respond in writing with your acceptance or rejection of this estimated charge. We will not begin to process this request until we receive your written acceptance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sgt. Harry P. Bugal Jr.", written in dark ink.

Sgt. Harry P. Bugal Jr.
Administrative Division Commander
Deputy Records Custodian

§ 4-52. Division of Police. [Amended 2-14-2007 by Ord. No. 922-07; 2-27-2008 by Ord. No. 955-08; 5-9-2012 by Ord. No. 1037-12]

A. Division established: appropriate authority.

- (1) Within the Department of Public Safety there shall be a Division of Police known as the Clinton Township Police Department ("Police Department"). The head of the Police Department shall be the Police Director.
- (2) Pursuant to N.J.S.A. 40A:14-118, the Township Council is hereby designated as the appropriate authority to promulgate rules and regulations for the government of the Police Department and for the discipline of its members.
- (3) In the event the position of Police Director is vacant and the appropriate authority has designated the Officer-in-Charge as provided for by the rules and regulations, as used in this section, "Police Director" shall mean the Officer-in-Charge. The designation of an officer as the Officer-in-Charge is an assignment, not a rank, and assignment as Officer-in-Charge is in the sole discretion of the appropriate authority. **[Added 8-10-2016 by Ord. No. 1089-16; amended 2-12-2020 by Ord. No. 1136-20]**

B. Composition.

- (1) The Police Department shall consist of one Police Director, up to one captain, up to three lieutenants, up to six sergeants, and up to 19 patrol officers, all of whom shall be subject to appointment by the Mayor with the advice and consent of the Council. Hereinafter, all officers, i.e., captain, lieutenants, sergeants, and patrol officers, may be referred to as "members." The responsibilities of the members and civilian employees of the Police Department are as set forth in this chapter, and the rules and regulations adopted pursuant to § 4-52C(3) of this chapter. Any member may be assigned to patrol, investigative, traffic, detective/plainclothes, administrative or other tasks as directed by the Police Director.
- (2) As of the effective date of this subsection, no person shall be appointed as a member of the Police Department unless he/she meets one or more of the following requirements: **[Amended 6-27-2012 by Ord. No. 1041-12; 2-12-2020 by Ord. No. 1136-20]**

- (a) The individual has earned a bachelor's degree from an accredited college or university. To meet this requirement, the individual must have completed all academic, financial, and administrative obligations to be conferred a bachelor's degree as of the date the individual submits his or her application for appointment for membership in the Police Department; or
 - (b) The individual has earned, as of the date the individual submits his or her application for appointment for membership in the Police Department, 80 college credits from an accredited college or university, and further will have earned a bachelor's degree no later than one year from the date the individual submits his or her application for appointment for membership in the Police Department, signifying completion of the undergraduate curriculum and graduation from an accredited college or university. To meet the bachelor's degree requirement, the individual must have completed all academic, financial, and administrative obligations to be conferred a bachelor's degree; or
 - (c) The individual has earned an associate's degree or 60 college credits from an accredited college or university and has completed or will have completed at least 24 months of satisfactory employment or military experience as of the date the individual submits his or her application for appointment for membership in the Police Department. Work experience must equate to 104 weeks of employment, including military experience, with a minimum of 20 hours of work per week. The 104 weeks are not required to be consecutive; or
 - (d) The individual has earned 30 college credits from an accredited college or university and has or will have at least 24 months of active duty military service as of the date the individual submits his or her application for appointment for membership in the Police Department.
- (3) All members shall be initially appointed on a probationary basis. Such probationary members shall be appointed to serve in a probationary capacity for a period of one year from the date of appointment except when, pursuant to N.J.S.A. 52:17B-69, said one-year limit may be exceeded. Probationary members shall not be considered permanent members of the Police Department until their appointment has been made

permanent by resolution of the Township Council and shall be deemed removed upon the expiration of their probationary periods if their appointments are not made permanent by resolution of the Township Council on or prior to said expiration. **[Added 2-12-2020 by Ord. No. 1136-20]**

C. Table of organization; regulations; discipline.

- (1) The Police Department shall be organized according to such table of organization as shall be prescribed by the Township Council after considering the recommendation of the Police Director.
- (2) The operation of the Police Department shall be governed by rules and regulations adopted by the Township Council for the disposition, conduct and discipline of the Police Department.
- (3) The 2010 Clinton Township Police Department Rules and Regulations adopted pursuant to Township Council Resolution No. 034-10 on February 24, 2010, and all amendments thereto (collectively, the "Rules and Regulations") are hereby readopted and incorporated in full as if set forth at length herein. Copies thereof are on file in the offices of the Township Clerk, Township Administrator, Police Director, and in the Squad Room. The Rules and Regulations may be amended and supplemented from time to time by resolution of the Township Council. The Rules and Regulations shall be binding upon the Police Director, each member and civilian employee of the Police Department, and all special law enforcement officers, if any. Each member and civilian employee of the Police Department, and each special law enforcement officer shall be required to sign a certification that he or she has read the Rules and Regulations together with any amendments thereto. In the event of any inconsistency between this chapter and the Rules and Regulations, the provisions of this chapter shall control.
- (4) Removal; suspension; reduction in rank; fines.
 - (a) No member of the Police Department shall be removed, suspended, or reduced in rank from or in office, employment or position, or fined, for political reasons or for any cause other than incapacity, misconduct or disobedience of the Rules and Regulations, or violation of law and then only upon action by the Township Council

and written complaint setting forth the charge or charges against each member, which shall be signed by the person making such charge or charges. This complaint shall be filed in the office of the Police Director, and a copy thereof shall be served upon such member with notice of a designated hearing by the Township Council. The hearing shall be not less than 10 nor more than 30 days after the service of the complaint; and the Township Council and member may agree to reasonable postponements. The member against whom a complaint is made shall be given every reasonable opportunity to make any defense he/she has or chooses to make during the hearing. All witnesses at any hearing shall be duly sworn and present testimony under oath. The Township Council shall have the authority to designate a hearing officer to conduct hearings, receive testimony and other evidence, compile a list of exhibits and make findings and recommendations to the Township Council. The findings and recommendations of the hearing officer acting for the Township Council shall be referred to the Township Council for final determination by the Township Council based upon the record established by the hearing officer. The Township Council shall have the power and authority to affirm, reverse or modify the findings and recommendation of the hearing officer. All determinations by the Township Council shall be final. Review of final determinations may be obtained in accordance with N.J.S.A. 40A:14-150.

- (b) A complaint charging a violation of the Rules and Regulations shall be filed no later than the 45th day after the date on which the person filing the complaint obtains sufficient information to file the matter upon which the complaint is based. The forty-five-day time limit shall not apply if an investigation of a member for a violation of the Rules and Regulations is included directly or indirectly in a concurrent investigation of that member for a violation of the criminal laws of the State of New Jersey, in which case the forty-five-day limit shall begin on the day after the disposition of the criminal investigation. The forty-five-day requirement of this subsection for the filing of a complaint against a member shall not apply to a filing of a complaint by a private individual. The failure to comply with the above provisions as to service of the complaint

and the time within which the complaint is to be filed shall require dismissal of the complaint.

- (c) In any instance involving a complaint charging a minor infraction of the Rules and Regulations, or directive of a superior officer, the member charged may, nevertheless, by writing signed by him/her and filed in the office of the Police Director, admit conduct constituting grounds for disciplinary action against him/her, and request a waiver of his/her right to have a written complaint filed and served upon him/her and to have a hearing thereon by the Township Council, and consent to a summary penalty imposed against him/her by the Police Director or his/her designee, which penalty shall not exceed a suspension of more than five working days without pay, provided further that no such waiver shall be permitted in those instances wherein there is a likelihood that the penalty as may be imposed would exceed said suspension penalty.
 - (d) Anything herein to the contrary notwithstanding, a member of the Police Department may, pursuant to the Rules and Regulations, be suspended without pay pending a hearing as a result of the charge(s) made against him/her, but such hearing, except as otherwise provided by law, shall be commenced within 30 days after the service of the copy of the complaint upon him/her, in default of which the charge(s) shall be dismissed and the member returned to duty. In the event that such charge(s) shall be dismissed, the member so suspended shall be entitled to receive all back pay withheld by reason of such suspension.
- D. Powers and duties. The Police Department shall preserve the public peace; protect life and property; detect, arrest and prosecute violators of the State of New Jersey and the ordinances of the Township of Clinton; direct and control traffic; provide attendance and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; provide training for the efficiency of its members, special police officers and civilian employees; and perform such other duties and have such other authority as may be prescribed by the laws of the United States of America and State of New Jersey for municipal police departments.
- E. Special police; statutory authorization. **[Amended 8-8-2018 by Ord. No. 1117-18]**

- (1) The Township Council may appoint and reappoint special law enforcement officers pursuant to N.J.S.A. 40A:14-146.9 et seq. for terms not to exceed one year. Special law enforcement officers shall have only those duties as are permitted by law and assigned by the Police Director; and their powers, rights, and duties shall immediately cease and terminate at the expiration of the term for which they were appointed, or upon revocation of their appointments.
- (2) No person shall be appointed to serve as a special law enforcement officer in more than one local unit at the same time, nor shall any permanent, regularly appointed full-time police officer of any local unit be appointed as a special law enforcement officer in any local unit. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of the local unit or supervision of the police department of a local unit shall be appointed as a special law enforcement officer.
- (3) Requirements for appointment.
 - (a) A person shall not be appointed as a special law enforcement officer unless the person:
 - [1] Is a resident of this state during the term of appointment;
 - [2] Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
 - [3] Is sound in body and of good health;
 - [4] Is of good moral character;
 - [5] Has not been convicted of any offense involving dishonesty or which would make him unfit to perform the duties of his office;
 - [6] Has successfully undergone the same psychological testing that is required of all full-time police officers in the municipality.
 - (b) Every applicant for the position of special law enforcement officer appointed pursuant to this subsection shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

- (4) A person shall not commence the duties of a special law enforcement officer unless the person has successfully completed a training course approved by the Police Training Commission, and a special law enforcement officer shall not be issued a firearm unless the officer has successfully completed the basic firearms course approved by the Commission for permanent, regularly appointed police and annual requalification examinations as required by Subsection b of Section 7 of P.L. 1985, c. 439 (N.J.S.A. 40A:14-146.14).
- (5) There shall be three classifications of special officers. The Police Training Commission shall prescribe by rule or regulation the training standards to be established for each classification. Training may be in a Commission-approved academy or in any other training program which the Commission may determine appropriate. The classifications shall be based on the duties to be performed by special law enforcement officers, as follows:
 - (a) Class One. Officers of this class shall be authorized to perform routine traffic direction, spectator control, and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violation of Township ordinances, and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited. A Class One officer shall not be assigned any duties which may require the carrying or use of a firearm.
 - (b) Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.
 - (c) Class Three. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer while providing security at a public or nonpublic school or a county college on the school or college premises during hours when the public or nonpublic school or county college is normally in session or when it is occupied by

public or nonpublic school or county college students or their teachers or professors. While on duty in the jurisdiction of employment, an officer may respond to offenses or emergencies off school or college grounds if they occur in the officer's presence while traveling to a school facility or county college, but an officer shall not otherwise be dispatched or dedicated to any assignment off school or college property. The use of a firearm by an officer of this class shall be authorized pursuant to the provisions of Subsection b of Section 7 of P.L. 1985, c. 39 (N.J.S.A. 40A:14-146.14). An officer of this class shall not be authorized to carry a firearm while off duty unless the officer complies with the requirements set forth in Subsection 1 of N.J.S.A. 2C:39-6 authorizing a retired law enforcement officer to carry a handgun.

F. Policy and administration.

- (1) There is hereby established a civilian position of Police Director, who shall be the head of the Police Department, subject to such rules, regulations and policies as may, from time to time, be prescribed by the Township Council. The Police Director shall report to the Township Council through the Director of Public Safety.
- (2) Appointment; term. The Police Director shall be appointed by the Mayor with the advice and consent of the Township Council and shall serve at the pleasure of the Township Council.
- (3) Qualifications.
 - (a) A Police Director shall:
 - [1] Be a citizen of the United States, and resident of New Jersey;
 - [2] Have held a supervisory position in a law enforcement agency within the United States for at least 10 years;
 - [3] Hold at least a bachelor's degree from a nationally accredited college or university;
 - [4] Have satisfied a background investigation conducted by the Prosecutor of Hunterdon County;
 - [5] Be of good moral character;

- [6] Have a demonstrated record of leadership and ability to manage the members and work of a police department.
- (b) Provided he/she meets the aforesaid eligibility requirements, nothing herein shall preclude a member of the Police Department from also qualifying and serving as the Police Director.
- (4) The Police Director is not empowered with police power unless he/she is also a member of the Police Department. The person who is designated as Police Director does not acquire police powers by virtue of the designation and, unless said person is also a member, shall not exercise police powers or perform police duties, including, but not limited to the following.
- (a) Operate a marked police patrol vehicle, conduct a motor vehicle stop or answer calls for service;
 - (b) Routinely stop, detain or arrest persons;
 - (c) Wear a law enforcement officer uniform;
 - (d) Be issued a Township firearm;
 - (e) Approve permits to carry firearms (firearm identification and permits shall be issued by the officer in charge of the Police Department); or
 - (f) Direct the investigation of criminal matters unless directed to do so by the Hunterdon County Prosecutor.
- (5) Duties and responsibilities. The person who is designated as the Police Director shall:
- (a) Promulgate, administer and enforce procedures, directives and orders for the day-to-day administration and operation of the Police Department as permitted by law;
 - (b) Prescribe the duties and assignments of all members and civilian employees;
 - (c) At the discretion of the Township Council, be issued a Township vehicle, subject to availability of funding;

- (d) Direct day-to-day operations of the Police Department and supervise the performance of law enforcement duties; and
 - (e) Unless prohibited by law, have all other duties and responsibilities provided for a chief of police under N.J.S.A. 40A:14-118 and other authority.
- (6) Unless prohibited by law or applicable Attorney General guideline, any reference in the Code of the Township of Clinton, Rules and Regulations or any other Township agreements or documents referring to the Chief of Police shall be deemed to refer to the Police Director. If so prohibited, the reference shall be deemed to refer to the officer in charge. Determinations with respect to this issue shall be made by the Director of Public Safety in consultation with the Hunterdon County Prosecutor, if necessary.
- (7) Delegation of authority. The duties and responsibilities of the Police Director, as set above, may be delegated by the Police Director to members of the Police Department as may be deemed necessary for the efficient operation of the Police Department to be exercised under the direction and control of the Police Director.

G. Promotions.

- (1) Probationary term. A promotion of any member of the Police Department to a superior position pursuant to N.J.S.A. 40A:14-129 shall have a probationary period of one year. Probationary periods may be extended up to one additional year by the Township Council upon recommendation of the Police Director. A promotion shall not be considered permanent until the appointment has been made permanent by resolution of the Township Council.
- (2) Policy. Promotion denotes upward vertical movement in the organization hierarchy from one rank classification to another. The validity of the promotional process is accomplished through uniform procedures. The purpose of the promotional process herein established is to identify members of the Police Department who have the demonstrated ability to assume greater responsibilities combined with the necessary skills and knowledge to perform competently at a higher organizational level. This policy is established for the positions of sergeant, lieutenant and

captain as said positions may, from time to time, be filled by the Township Council.

- (3) Eligibility. In accordance with N.J.S.A. 40A:14-130, except as otherwise provided by law, a member shall not be promoted until he or she has served at least three years in the Police Department. The following criteria shall be used to determine eligibility for the ranks of sergeant, lieutenant and captain, provided the Township Council has determined to fill said ranks:
- (a) All candidates seeking promotion to the rank of sergeant shall have a minimum of five years' experience (including probationary term) as a Police Training Commission (see N.J.S.A. 52:17B-70) certified police officer, at least three of which shall be as a member of the Police Department. All candidates shall have an associate's degree or a minimum of 60 undergraduate credits from a nationally accredited college or university, except that for promotions posted prior to January 1, 2014, said minimum educational requirement shall be 45 rather than 60 undergraduate credits. **[Amended 6-27-2012 by Ord. No. 1040-12; 6-27-2012 by Ord. No. 1041-12]**
 - (b) All candidates seeking promotion to the rank of lieutenant shall have a minimum of eight years' experience (including probationary term) as a Police Training Commission certified police officer, three of which shall be as a superior officer. All candidates shall have an associate's degree plus a minimum of 30 credits or a minimum of 90 undergraduate credits from a nationally accredited college or university, except that for promotions posted prior to January 1, 2014, said minimum educational requirement shall be 60 rather than 90 undergraduate credits. **[Amended 6-27-2012 by Ord. No. 1040-12; 6-27-2012 by Ord. No. 1041-12]**
 - (c) All candidates seeking promotion to the rank of captain shall have a minimum of 10 years' experience (including probationary term) as a Police Training Commission certified police officer, five of which shall be as a superior officer. All candidates shall have a bachelor's degree from a nationally accredited college or university. **[Amended 6-27-2012 by Ord. No. 1040-12; 6-27-2012 by Ord. No. 1041-12]**

- (d) A potential candidate's years of service and/or years in present rank for eligibility purposes, and minimum educational requirement must be met as of the date the posting of a promotional examination is posted pursuant to § 4-52G(4)(a) and (5)(a). There shall be no exception to this requirement.
- (4) Promotional process for sergeant. The promotional process for the position of sergeant shall consist of four steps, specifically, submission of a resume, lieutenant interview, written examination or oral interview by the New Jersey State Association of Chiefs of Police ("NJSACOP"), and interview with the Police Director and Township Administrator.
- (a) Posting. At least 30 days prior to the date a written examination or oral interview board is scheduled, a notice thereof shall be posted in the Police Department setting forth the date and time the written examination or oral interview board will be conducted, the location of same, and a list of study materials, if any. The posting shall also include a list of desired skills, knowledge and abilities sought.
 - (b) Resume. Members eligible for promotion shall sign the posting announcing the opening and submit a resume within 15 days of the posting. The resume shall include the officer's length of service in the Department, educational accomplishments, strengths, goals/proposed improvements for the Department, and all other items the member would like considered. The resume and any requested attachments shall be submitted to the Police Director or other employee designated by the posted announcement.
 - (c) Lieutenant interviews. All sworn lieutenants shall interview the candidates for the position of sergeant, unless otherwise directed by the Police Director. Prior to the interviews, the lieutenants shall provide the Police Director with a list of prospective questions to be asked of the candidates. The Police Director must approve each question. Of the approved questions, the lieutenants shall choose four to utilize during the interviews. Each of the candidates will be asked the same four questions. Each lieutenant shall score each candidate for sergeant from one to 100. The scores shall be averaged and the

candidates shall be ranked from highest to lowest. These rankings shall then be forwarded to the Police Director.

- (d) Written examination or oral interview board. The Township may use either an oral interview board or written examination as an element of the promotion process. In any case, the oral interview board or written examination shall be administered by the NJSACOP. The posting provided for in § 4-52G(4)(a) shall specify which form shall be used.

- [1] If a written examination is used, any candidate who is not present at the location and time appointed for the examination may be excluded from the process. Whenever reasonably practical, completed answer sheets from the examination shall be manually scored by an NJSACOP representative in the presence of the candidate, but outside the presence of other candidates, at the time the answer sheet is submitted. For the purposes of this subsection, there shall be a presumption that it is reasonably practical to score an answer sheet in the presence of a candidate any time a multiple choice test is utilized and the NJSACOP has an overlay scoring stencil. Scored answer sheets will be checked for accuracy by an individual designated by the Police Director.
- [2] If an oral interview board is utilized, the process shall be constructed in a manner intended to assist the NJSACOP in assessing the candidates' qualifications for the position of sergeant, with focus being placed on the desired skills, knowledge and abilities identified in the posting. The Township Administrator shall have the final decision concerning relevant content for the oral interview board, and must approve the same prior to administration of the oral interview. The NJSACOP shall administer and score the oral interview. Candidates shall be notified in writing of the results of the oral interview.
- [3] Candidates who achieve a minimum score of 70% on the written examination or oral interview, as the case may be, shall be eligible to proceed to the next step of the promotional process, specifically an interview with the Police Director and Township Administrator. Candidates who do not achieve a score of at least 70%

on the written examination or oral interview, as the case may be, shall not be eligible to proceed to the next step of the promotional process.

(e) Interview with Police Director and Township Administrator.

[1] The Police Director and Township Administrator will interview the candidates who have met the eligibility criteria established by § 4-52G(4)(d)[3]. Each candidate will be asked the same set of questions which shall be focused on knowledge of policing, Police Department directives, and guidelines of the New Jersey Attorney General regarding police matters; and past job performance. In particular, factors to be considered in this interview step include, but are not limited to:

- [a] The candidate's performance;
- [b] The candidate's initiative;
- [c] The breadth of the candidate's understanding of Police Department directives;
- [d] The breadth of the candidate's understanding of the New Jersey Attorney General's guidelines regarding policing;
- [e] The breadth of the candidate's knowledge of supervisory responsibilities;
- [f] The candidate's supervisory experience;
- [g] The candidate's compliance with Township policies regarding the use of sick and personal time, and handling of Police Department equipment;
- [h] Effort demonstrated by the candidate in supporting Police Department goals and objectives;
- [i] Whether the candidate maintains a professional and cordial relationship with the public, fellow members and civilian employees of the Police Department;
- [j] Discipline;

- [k] Commendations;
 - [l] Letters or other documented comments from member of the public received by the Police Department prior to the date of the posting provided for in § 4-52G(4)(a);
 - [m] Performance of special assignments; and
 - [n] Additional duties for which the candidate has volunteered.
- [2] The Police Director and Township Administrator shall jointly score each interview from one to 100, and each candidate will be notified in writing of the results of his/her interview. Candidates shall be strictly prohibited from disclosing any interview question until the entire promotional process has been concluded and the Township Council has taken action to appoint a sergeant. Any candidate found to have revealed any interview question prior to this time shall be disqualified from the promotional process and subject to discipline. Any member who is not a candidate and/or any civilian employee found to have revealed any interview question prior to this time shall be subject to discipline.
- (f) Seniority. Seniority, i.e., length of service, shall be considered in the final scoring of the promotional process. Seniority shall be determined by the number of years of service completed as of the date of the posting provided for in § 4-52G(4)(a).
- (g) Scoring methodology. Eligible candidates for promotion to the position of sergeant shall have their qualifications weighted as follows:
- [1] Lieutenant interview: 10%.
 - [2] NJSACOP written examination or oral interview: 40%.
 - [3] Police Director and Township Administrator interview: 40%.
 - [4] Seniority: 10%.
- (h) Appointment. The Police Director and Township Administrator shall submit the name of the candidate attaining the highest final overall score to the Township

Council for appointment. Provided an appointment is to be made by the Council, said candidate shall be appointed by the Mayor, with the advice and consent of the Council.

[Amended 8-10-2016 by Ord. No. 1089-16]

- (5) Promotional process for lieutenant and captain. The promotional process for the positions of lieutenant and captain shall be comprised of three steps; specifically, an oral interview by the NJSACOP, written essay, and personal interview by a police promotional committee.
- (a) Posting. At least 30 days prior to the date an oral interview board is scheduled, a notice thereof shall be posted in the Police Department setting forth the date and time the oral interview board will be conducted, the location of same, and a list of study materials, if any. The posting shall also include a list of desired skills, knowledge and abilities sought.
- (b) Oral interview board. An oral interview board administered by NJSACOP shall be the initial step in the promotional process for the positions of lieutenant and captain. The process shall be constructed in a manner intended to assist the NJSACOP in assessing the candidates' qualifications for the position of lieutenant or captain, with focus being placed on the desired skills, knowledge and abilities identified in the posting. The Township Administrator shall have the final decision concerning relevant content for the oral interview board, and must approve the same prior to administration of the oral interview. The NJSACOP shall administer and score the oral interview. Candidates shall be notified in writing of the results of the oral interview. The maximum attainable score in the oral interview shall be 100%.
- (c) Essay. On a date and time, and location set by the Police Director on at least 14 days' notice, candidates for the position of lieutenant or captain shall be given a written examination consisting of three essay questions. The questions will be designed to test the candidates' written communication skills and elicit their answers to questions regarding the candidates' philosophy of policing and leadership. The same questions shall be given to all of the candidates for a particular rank. The candidates shall provide a printed response to the essay questions within in a two-hour period. The essays shall be scored on a

scale of 100% by a police promotional committee ("Police Promotional Committee") consisting of the Police Director, Township Administrator, Mayor and one additional member of the Township Council, designated by the Mayor, each of whom shall independently read and score the essays, with the results being averaged for each candidate's final score from the essay step of the promotional process.

(d) Personal interview by Police Promotional Committee.

[1] The Police Promotional Committee shall conduct an interview of each candidate for the position of lieutenant or captain. The Police Promotional Committee shall review, on a confidential basis, the candidate's personnel file. Each candidate shall be provided the opportunity to make a personal statement, if he/she desires to do so. Each candidate will be asked the same set of questions which shall be focused on knowledge of policing, Police Department directives, and guidelines of the New Jersey Attorney General regarding police matters; and past job performance. In particular, factors to be considered in this interview step include, but are not limited to:

- [a] The candidate's performance;
- [b] The candidate's initiative;
- [c] The breadth of the candidate's understanding of Police Department directives;
- [d] The breadth of the candidate's understanding of the New Jersey Attorney General's guidelines regarding policing;
- [e] The breadth of the candidate's knowledge of supervisory responsibilities;
- [f] The candidate's supervisory experience;
- [g] The candidate's compliance with Township policies regarding the use of sick and personal time, and handling of Police Department equipment;

- [h] Effort demonstrated by the candidate in supporting Police Department goals and objectives;
 - [i] Whether the candidate maintains a professional and cordial relationship with the public, fellow members and civilian employees of the Police Department;
 - [j] Discipline;
 - [k] Commendations;
 - [l] Letters or other documented comments from members of the public received by the Police Department prior to the date of the posting provided for in § 4-52G(5)(a);
 - [m] Performance of special assignments;
 - [n] Additional duties for which the candidate has volunteered;
 - [o] Verbal communication skills; and
 - [p] Education and special training.
- [2] Each member of the Police Promotional Committee shall score the candidates' interviews, with 100% being the maximum attainable score. A candidate's overall score for the interview shall be the average of the combined scores of the Police Promotional Committee members. Candidates shall be strictly prohibited from disclosing any interview question until the entire promotional process has been concluded, and the Township Council has taken action to make the appointment for which the interview was conducted. Any candidate found to have revealed any interview question prior to this time shall be disqualified from the promotional process and subject to discipline. Any member who is not a candidate and/or any civilian employee found to have revealed any interview question prior to this time shall be subject to discipline.
- (e) Seniority. Seniority, i.e., length of service, shall be considered in the final scoring of the promotional process. Seniority shall be determined by the number of

years of service completed as of the date of the posting provided for in § 4-52G(5)(a).

(f) Scoring methodology.

[1] Eligible candidates for the position of lieutenant and captain shall have their qualifications weighted as follows:

[a] NJSACOP oral interview: 25%.

[b] Essay: 20%.

[c] Police Promotional Committee interview: 55%.

[2] After this scoring has been completed, seniority shall be credited at 1/2 of a percentage point (based on 100%) for every year of service with the Clinton Township Police Department, up to a maximum of 10%. To determine a candidate's final overall score, the seniority score shall be added to the weighted score, with the maximum possible attainable score being 110%.

(g) Appointment. The Police Director and Township Administrator shall submit the name of the candidate attaining the highest final overall score to the Township Council for appointment. Provided an appointment is to be made by the Council, said candidate shall be appointed by the Mayor, with the advice and consent of the Council.
[Amended 8-10-2016 by Ord. No. 1089-16]

(h) Examination results. Upon completion of the examination process, each candidate shall be provided with the testing results which will include his or her oral examination score, essay score, personal interview score, seniority score and overall ranking.

(6) Examination eligibility list. Candidates who successfully complete the promotional process but do not receive a promotion at the conclusion of the process may be placed on a promotional list for the same rank for which the candidates were examined. Said examination eligibility list shall remain active for two years from the date of final results being published. A candidate on the list may be recommended for promotion to the appropriate rank without further examination within the two-year period. The establishment of the list will be made upon recommendation of the Police

Director to the Township Council and adoption of a resolution by the Township Council establishing the list.

H. Off-duty employment. **[Added 9-14-2016 by Ord. No. 1091-16]**

- (1) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

CONTRACTOR — A person, corporation, partnership, business, or other entity, including nonprofit entities, employing a Clinton Township police officer to provide off-duty police-related services.

OFF-DUTY EMPLOYMENT — Any employment of a Clinton Township police officer for police-related services where the source of compensation to the police officer does not originate from the Township budget line item for police wages and salary.

- (2) Request for off-duty police employee; special assignments.
- (a) A contractor seeking to engage Clinton Township police officers for off-duty employment shall direct its request to the Police Director. Except in the case of an emergency, the request shall be in writing, and shall describe the specific nature of the services desired.
 - (b) The Police Director may assign police officers for off-duty employment based upon a determination that public health, safety and welfare would be advanced through the provision of off-duty employment. The cost for providing off-duty employment shall be the responsibility of the contractor, and all costs shall be paid as set forth in Subsection H(7) below.
- (3) Assignment of police officers. The Police Department shall maintain a list of police officers who have offered to provide off-duty employment. Assignment of off-duty employment shall be made in accordance with a rotation list maintained by the Police Director. When a police officer is assigned off-duty employment, or declines to accept an assignment, the officer's name will be placed at the bottom of the list.
- (4) Emergencies. Off-duty employment may be immediately terminated if the police officer performing the work is required for emergency police duty for the Township, as determined by the Police Director.

- (5) Police uniforms, equipment and vehicles. Township police officers providing off-duty employment for contractors shall be in full police uniform while said services are being provided; however, Township police vehicles shall not be used by police officers during the performance of off-duty employment unless specifically authorized by the off-duty agreement.
- (6) Authorizing contracts. The Police Director is hereby authorized to execute contracts with contractors for the services required, which contracts shall set forth, among other things, the specific nature of the services to be performed, the location where said services will be performed, the dates and hours of service, payment arrangements, arrangements for the use of police vehicles, arrangements for insurance coverage, and any other provisions mandated by this chapter or any other applicable law or regulation.
- (7) Payment requirement; escrow accounts.
 - (a) Any contractor requesting the services of an off-duty law enforcement officer in the Clinton Township Police Department shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Police Director, and shall establish an escrow account with the Chief Financial Officer of the Township by depositing an amount sufficient to cover the rates of compensation and administrative fees for the total estimated hours of service. A separate dedicated by rider trust fund shall be established by the Township and all funds collected and disbursed relating to off-duty employment shall be made through said account.
 - (b) Prior to posting any request for services of off-duty police officers, the Police Director shall verify that the balance in the escrow account of the contractor requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Police Director shall not post a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer. No police officer shall provide any such services for more hours than are specified in the request for services.

- (c) In the event the funds in such an escrow account should become depleted, services by police officers for off-duty employment shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.
 - (d) The contractor requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption of services.
 - (e) Salary and fee schedule. Contractors hiring Township police officers for off-duty employment shall be charged pursuant to the following schedule, which includes an hourly rate of pay for the police officer, the cost for the use of a police vehicle, plus a fair and reasonable sum representing the administrative costs, overhead and out-of-pocket expenses to the Township for providing this service:
 - [1] Personnel: \$75 per hour per full-time police officer at any site.
 - [2] Vehicles: \$50 per car. This fee shall not apply to any public-school-sponsored event on public school property within Clinton Township.
 - [3] Administration fee: 20% of the total fee as outlined above. If said service is requested within eight hours of the desired start time, an additional \$75 shall apply.
 - (f) If a contractor's escrow account shall become deficient, the contractor shall submit payment to Clinton Township within two business days of notification of deficiency. Failure of the contractor to make payment within said two days shall result in the immediate cessation of the police services being provided, and this agreement shall be deemed terminated. In the event this contract is terminated, the contractor shall forfeit all sums paid in advance and Clinton Township shall have the right to pursue any remedy at law for the collection of any amounts that may be due and owing for the services provided prior to termination.
- (8) Payment to officers.

- (a) Police officers providing off-duty employment for contractors shall be paid for said services by the Township at the rate set forth in Subsection H(7)(e) above.
 - (b) All sums due a police officer performing off-duty employment shall be paid subsequent to the submission of a voucher which is approved by the Police Director. No officer shall be paid until such time as the contractor's account with the Township has enough funds in it to at least cover the payments requested by the officer(s).
- (9) Insurance. The contractor shall be responsible for providing all necessary insurance coverages as required by law, including but not limited to workers' compensation and general liability insurance. Coincidental with the execution of the contract referred to in Subsection H(6) above, entitled "Authorizing contracts, the contractor shall provide the Township with appropriate insurance binders insuring that the police officer and Clinton Township are provided general liability coverage with respect to the services to be provided and that the police officer is covered by appropriate workers' compensation insurance.
- (10) Indemnification.
- (a) To the fullest extent permitted by law, the contractor shall indemnify, defend, and hold harmless the Township of Clinton, its agents and employees, from and against all claims, damages, losses, liabilities and expenses, including but not limited to attorney's fees and court costs, arising out of, resulting from or in any way relating either directly or indirectly to:
 - [1] The performance of the work;
 - [2] Any and all claims made by said police personnel for injuries and/or illnesses while performing the off-duty employment;
 - [3] The breach by the contractor of any of the terms and conditions of the agreement;
 - [4] The negligent or intentional acts or omissions of the police and/or the contractor, its employees, agents, and/or subcontractors;

- [5] Bodily injury, sickness and/or disease, including death at any time resulting from such bodily injury, sickness or disease, sustained by any person while in, on or about the site and surrounding areas where such injury, sickness, disease and/or death arose out of or was in any way connected with the work;
 - [6] Any liability based upon the contractor's negligence imputed to the Township of Clinton;
 - [7] Damage to property of the contractor, the Township of Clinton or any other person or entity arising out of, incident to, or in connection with the performance of the work;
 - [8] Laborers, mechanics and materialmen's liens, and all other liens and charges of every character whatsoever, arising out of work to be performed by this agreement; and/or
 - [9] Any other cause of action which may be brought against the Township of Clinton arising out of or in any way relating to the work and the contractor's obligations hereunder.
- (b) This indemnification and hold harmless agreement shall apply in all instances, whether the Township of Clinton is a plaintiff or is made a direct party to the initial action or claim or is subsequently made a party to the action by third-party in-pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues from the original cause of action or claim.