

LA CORTE, BUNDY, VARADY & KINSELLA  
ATTORNEYS AT LAW

NICHOLAS S. LA CORTE (1911-1978)  
GARY A. BUNDY  
ROBERT F. VARADY\*†  
CHRISTOPHER J. KINSELLA\*

989 BONNEL COURT  
UNION, NJ 07083  
(908) 810-0500  
FAX: (908) 810-0513

---

CHRISTINA M. DIPALO\*

---

97 APPLE STREET • SUITE 7  
TINTON FALLS, NJ 07724

OF COUNSEL  
JOHN F. MALONE  
ANNE K. FRAWLEY

PLEASE FORWARD ALL MAIL  
TO THE UNION OFFICE

E-Mail: RVarady@LBVKlaw.com

\*NY BAR

†CERTIFIED CIVIL TRIAL ATTORNEY

July 13, 2020

Taeho Kim

Dear Mr. Kim:

Please be advised that this firm has been retained by the City of Elizabeth with regard to your request pursuant to the State's Open Public Records Act ("OPRA") and the common law which was received on May 29, 2020 by Custodian Yolanda Roberts. The City of Elizabeth then requested additional time to respond to said request due to the March 16, 2020 legislation which modifies the deadline by which a public agency is required to respond to a request for government records during a period of emergency.

Your OPRA request sought access to the following:

1. A list of all lawsuits and cases in which any officer of the police department was involved between 2012 and 2019. For each lawsuit/case, please provide the date (month and year) of the alleged incident at issue, whether the alleged incident was excessive force, settlement amount (if any), and final compensation amount ruled (if any).
2. Please provide copies of the complaint in any lawsuits or cases described in above.

OPRA requests "must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of any agency's documents." *Bent v. Twp. of Stafford Police Dep't, Custodian of Records*, 381 N.J. Super. 30, 37 (App. Div. 2005). A proper OPRA request must state "a specific subject matter that [is] clearly and reasonably described with sufficient identifying information." *Burke v. Brandes*, 429 N.J. Super. 169, 176 (App. Div. 2012). Custodians are not required to conduct research or create new records in response to an OPRA request. OPRA only allows requests for records, not requests for information. In this regard, OPRA "is not intended as a research tool . . . to force government officials to identify and siphon useful information." *MAG Entm't, LLC v. Div. of Alcoholic*

*Beverage Control*, 375 N.J. Super. 534, 546 (App. Div. 2005). In other words, a records custodian is not required “to conduct research among its records . . . and correlate data from various government records in the custodian's possession.” *Ibid*. To qualify under OPRA then, the request must reasonably identify a record and not generally data, information or statistics. Nor does OPRA “authorize a party to make a blanket request for every document” a public agency has on file. Rather, a party requesting access to a public record under OPRA must specifically describe the document sought. *Bent, supra*, 381 N.J. Super at 37 (internal citations omitted); *see also N.J. Builder's Ass'n v. N.J. Council on Affordable Hous.*, 390 N.J. Super. 166, 172 (App. Div. 2007) (denying a request for “any and all documents and data” for asking the agency to identify the documents rather than specifically describing the documents sought).

Your request no. 1 is not limited to particularized identifiable government records. Your request requires the custodian to exercise discretion, survey employees, conduct research and/or create new records. As such, your request is denied as it is overly broad and invalid under OPRA as it fails to properly identify the records being sought and the custodian is not required to compile or create such a list in response to an OPRA request.

With respect to your no. 2 request, copies of Complaints filed in state and federal court between 2012-2019 which include an Elizabeth Police Officer as a named defendant are attached.

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 City of Elizabeth 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](mailto:grc@dca.state.nj.us), or at their web site at [www.state.nj.us/grc](http://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.

Very Truly Yours,

LA CORTE, BUNDY, VARADY, & KINSELLA

/s/Robert F. Varady, Esq.  
Robert F. Varady, Esq.

cc: William R. Holzapfel, Esq., City Attorney  
Grace Sequeira, Deputy Municipal Clerk  
Deputy Chief Giacomo Sacca  
Earl J. Graves, Police Director