



BOROUGH of PAULSBORO

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May 28, 2020

Via electronic mail only to opra+request-12861-be9b373a@requests.opramachine.com
Taeho Kim/ UC Research

RE: May 27, 2020 9:20 pm - OPRA Request to Borough of Paulsboro

Dear Sir or Madam,

The Borough of Paulsboro received your Open Public Records Act (OPRA) request after business hours on May 27, 2020. The official Records Custodian, Kathy A. VanScoy, received your OPRA request on May 28, 2020. As such, the seven (7) business day deadline to respond to your request is June 8, 2020. This response to your request is being provided to you on May 28, 2020.

Your OPRA request sought access to the following:

Records requested:

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 and cases described in above.

Please be advised that item #1 of this request seeks information and does not identify specific government records. As such, your request is an invalid OPRA request and is denied. 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. The Borough of Paulsboro does not maintain "A list of all lawsuits and cases in which any officer of the police department was involved between 2012 and 2019" as you have requested and would therefore have to create the record you are requesting which is not required under OPRA. If you wish, please clarify your request in order to clearly identify the government record you are seeking. With regard to item #2, without clarification on request #1, the records custodian is unable to fulfill this request as a specific document has not been identified.

"OPRA requires a party requesting access to a public record to specifically describe the document sought." New Jersey Builders Assoc. v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 176 (App. Div. 2007), citing Gannett New Jersey Partners, L.P. v. County of Middlesex, 379 N.J. Super. 205, 211-212 (App. Div. 2005). This is because "OPRA only allows for requests for records, not requests for information." See MAG Entertainment, Inc. v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005). Therefore, the records custodian is not required to respond to requests for general information. *Id.* Moreover, the records "[c]ustodian is not required to research the files to figure out which records, if any, might be responsive to a broad or unclear OPRA request" DeAppolonolia v. Borough of Deal, GRC Complaint 2008-62 dated September 30, 2009.

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. 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. To qualify under OPRA then, the request must reasonably identify a record and not generally data, information or statistics.

Bent v. Twp. of Stafford Police Dep't, Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005) (internal citations and quotations omitted).

Your request fails to specifically identify any document sought and instead requires deployment of limited public entity resources to identify, analyze and select potentially relevant and responsive records, an obligation which is not imposed upon government custodians under OPRA. See Spectraserv, Inc. v. Middlesex Cty. Utilities Auth., 416 N.J. Super. 565, 577-578 (App. Div. 2010). As such, your request, as stated, is an invalid OPRA 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 [insert name of agency] 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.

Sincerely,

Kathy A. VanScoy
RMC/CMC/CMR
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