

THE BOROUGH OF CLAYTON



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June 29, 2020

Via email only (opra+request-13276-5731cdd4@requests.opramachine.com)

Taeho Kim

Re: Open Public Records Act/Common Law Records Request

Dear Sir/Madam:

The Borough of Clayton Records Custodian received your request for records pursuant to the Open Public Records Act (OPRA) and New Jersey common law on May 28, 2020. Accordingly, the initial seven (7) business day deadline to respond to your request under OPRA was June 8, 2020. Pursuant to N.J.S.A. 47:1A-5(i)(2), effective March 20, 2020, this response is being provided beyond the initial seven (7) business day deadline to respond to your request under OPRA due to the declared state of emergency.

Your records request was as follows:

From: Taeho Kim <opra+request-13276-5731cdd4@requests.opramachine.com>
To: OPRA requests at Clayton Borough <cnewcomb@claytonnj.com>
Date: May 28, 2020 4:17 AM
Subject: OPRA request - OPRA request: police payroll records 2012-2019

Dear Clayton Borough,

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:

For all employees who worked in the police department at any point of time from 2012-2019:

Please provide the name, hire date, current status (whether active or separated), and date of separation.

Yours faithfully,

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The common law right to access public records depends on three requirements: (1) the records must be common law public documents, *Nero v. Hyland*, 76 N.J. 213, 222 (1978); (2) the person seeking access must "establish an interest in the subject matter of the material," *South Jersey Publishing Co. v. New Jersey Expressway Auth.*, 124 N.J. 478, 487 (1991); and (3) the citizen's right to access "must be balanced against the State's interest in preventing disclosure." *Loigman v. Kimmelman*, 102 N.J. 98 (1986).

After consultation with the Borough Solicitor, we have concluded that although you have not identified your interest in the requested records, the Borough has no objection to disclosure of the requested records.

A search of our available records has identified the following as responsive to your request:

Borough of Clayton - Employee Custom Listing - Police Personnel 2012-2019

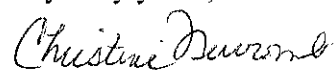
A copy of the identified record is enclosed. Please note that, after consultation with the Borough Solicitor, employee identification numbers have been redacted for the following reasons:

Privacy/Personal Information. Portions of the identified record(s) containing personal information for which identified individuals have a reasonable expectation of privacy have been redacted. N.J.S.A. 47:1A-1; Executive Order No. 21 (McGreevey 2002); *Paff v. Ocean County Prosecutor's Office*, 235 N.J. 1 (2018); *Brennan v. Bergen County Prosecutor's Office*, 233 N.J. 330 (2018); *In the Matter of the New Jersey State Fireman's Association*, 230 N.J. 258 (2017); *Burnett v. County of Bergen*, 198 N.J. 408 (2009); *Nelson v. N.J. Department of Law & Public Safety*, No. 2013-124 (GRC 2014); *Merino v. Borough of Ho-Ho-Kus*, No. 2003-110 (GRC 2004).

Personnel Records. Portions of the identified records constitute personnel records, which are not considered government records under OPRA, with limited exceptions not applicable to your request. N.J.S.A. 47:1A-10; see *North Jersey Media Group, Inc. v. State, Office of Governor*, 2013 WL 1809887 (App. Div. May 1, 2013).

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 Borough of Clayton 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.

Very truly yours,



Christine Newcomb
Municipal Clerk
Borough of Clayton