

Taylor O'Brien

From: Deborah Karlsson
Sent: Thursday, March 16, 2023 8:12 AM
To: Taylor O'Brien; Allison Saabye
Subject: FW: [External]OPRA request - Overdose Reports

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2023 MAR 16 A 8:19
CITY OF HACKENSACK

-----Original Message-----

From: Anonymous <opra+request-40919-f9a80cde@requests.opramachine.com>
Sent: Thursday, March 16, 2023 8:08 AM
To: Deborah Karlsson <dkarlsson@hackensack.org>
Subject: [External]OPRA request - Overdose Reports

Dear Hackensack City,

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:

Please provide the incident and/or police reports including narratives for all overdoses or possible overdoses that police and/or EMS responded to during the time period of 01/01/2023 - 03/16/2023.

Yours faithfully,

Anonymous

Please deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-40919-f9a80cde@requests.opramachine.com

Is dkarlsson@hackensack.org the wrong address for OPRA requests to Hackensack City? If so, please contact us using this form:

https://opramachine.com/change_request/new?body=hackensack_city

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://opramachine.com/help/officers>

View this OPRA request & responses online:

https://opramachine.com/request/overdose_reports_4

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.

due 3/27/23
ext 4/17/23



DEBORAH KARLSSON, RMC
CITY CLERK

ALLISON R. SAABYE, RMC
DEPUTY CITY CLERK

CITY OF HACKENSACK

OPEN PUBLIC RECORDS REQUEST RESPONSE

City Clerk's Office
65 Central Avenue, 3rd Floor
Hackensack, NJ 07601
(201)-646-3940
Fax: (201) 457-1466

DATE: April 13, 2023

TO: Anonymous

The City of Hackensack ("City") records custodian received your Open Public Records Act ("OPRA") and common law request ("Request") on March 16, 2023. The City obtained an extension of time to respond to your Request until April 17, 2023. This response is therefore being timely submitted in accordance with New Jersey law. See N.J.S.A. § 47:1A-5.

Your Request seeks the following records:

Please provide the incident and/or police reports including narratives for all overdoses or possible overdoses that police and/or EMS responded to during the time period of 01/01/2023 - 03/16/2023.

Please be advised that your Request is overly broad, as it fails to identify with reasonable clarity any particular records sought. OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. § 47:1A-1. New Jersey courts have consistently held that OPRA does not countenance open-ended searches of an agency's files. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div.), cert. denied, 190 N.J. 394 (2007). Consequently, 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 e.g., Spectraserv, Inc. v. Middlesex Cty. Utilities Auth., 416 N.J. Super. 565, 576 (App. Div. 2010); Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA requests may not be a broad generic description of documents that require the custodian to search the agency's files and "analyze, compile, and collate" the requested information. Id.; see also Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2015) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request). Here, your Request is clearly deficient as it purportedly seeks all incident and/or police reports involving overdoses or possible overdoses that police and/or EMS responded to over a 3 ½ month time period, and purports to require the City's records custodian to conduct research with respect to same. See Parreott v. Asbury Park School District, GRC Complaint Nos. 2016-20 & 2016-39 (Sept. 2017) (holding that the portion of the request seeking "all relevant documents" was



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invalid because it sought a class of various records and would have required the records custodian to conduct research in order to locate responsive records); see also Burke v. Ocean Cty., 2013 WL 6169154 (App. Div. 2013) (holding that an OPRA request is not the equivalent of law suit discovery). Accordingly, your Request clearly does not satisfy OPRA's specificity requirements.

Notwithstanding the invalidity of your Request, in the interest of transparency the City conducted a good-faith search and identified the following 11 reports as responsive to your Request:

1. Hackensack Police Department Investigation Report, Case No. 23-001943 authored by P.O. Victor Vasquez, dated January 6, 2023 (1 page);
2. Hackensack Police Department Investigation Report, Case No. 23-004737 authored by P.O. Jeffrey Rodriguez, dated January 15, 2023 (3 pages);
3. Hackensack Police Department Investigation Report, Case No. 23-007091 authored by P.O. Frankie Garrett, dated January 21, 2023 (3 pages);
4. Hackensack Police Department Investigation Report, Case No. 23-008808 authored by P.O. Panagiotis Seretis, dated January 26, 2023 (1 page);
5. Hackensack Police Department Investigation Report, Case No. 23-009109 authored by P.O. Bobby Rivera, dated January 27, 2023 (3 pages);
6. Hackensack Police Department Investigation Report, Case No. 23-009757 authored by S.P.O. Juda DeOliveira, dated January 29, 2023 (3 pages);
7. Hackensack Police Department Investigation Report, Case No. 23-021482 authored by P.O. Alexander Reyes, dated January March 6, 2023 (3 pages);
8. Hackensack Police Department Investigation Report, Case No. 23-022345 authored by P.O. Frank Caneja, dated March 8, 2023 (2 pages);
9. Hackensack Police Department Investigation Report, Case No. 23-024618 authored by P.O. Ryan Conlon, dated March 15, 2023 (3 pages);



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10. Hackensack Police Department Investigation Report, Case No. 23-024618A authored by P.O. Michael Scangarella, dated March 15, 2023 (2 pages);
11. Hackensack Police Department Investigation Report, Case No. 23-024715 authored by P.O. Daniel Francavilla, dated March 16, 2023 (1 page).

Please be advised that N.J.S.A. § 47:1A-9a provides that the provisions of OPRA shall not abrogate any exemption of a public record from public access heretofore made pursuant to . . . Executive Order of the Governor. Executive Order 26 (McGreevey 2002) provides in pertinent part:

The following records shall not be considered to be government records subject to public access pursuant to [OPRA] ... Information concerning individuals as follows ... Information relating to medical, psychiatric or psychological history, diagnosis, treatment, or evaluation [.]

Accordingly, since each of the potentially responsive records pertain to overdoses and/or potential overdoses, the City is withholding the records in order to protect the medical related information reflected in same.

Please also note that report numbers 9 and 10 are exempt from disclosure as they constitute "criminal investigatory records" within the meaning of N.J.S.A. § 47:1A-1.1. See North Jersey Media Group, Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 556 (2017). These records are not required by law to be made, maintained or kept on file, pertain to a criminal investigation, and are being held by a law enforcement agency. Please note that the exemption continues to survive the conclusion of the investigation. See Boyd v. Atlantic County Prosecutor's Office, GRC Complaint No. 2012-253 (2013); Scott v. Red Bank Police Department (Monmouth), GRC Complaint No. 2011-244 (2013); Janeczko v. NJ Department of Law and Public Safety, GRC Complaint Nos. 2002-79 & 2002-80 (2004). As such, the City is legally precluded from releasing these records.

Please further note that N.J.S.A. § 47:1A-3(a) exempts disclosure of records that pertain to an investigation in progress if disclosure of same shall be inimical to the public interest. The City has determined that the potentially responsive records pertaining to the March 15, 2023 incident relate to an active investigation, and their disclosure would be inimical to the public



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interest. As such, the City is also legally precluded from releasing report numbers 9 and 10 pursuant to N.J.S.A. § 47:1A-3(a).

Lastly, to the extent that you are also requesting any of the redacted records under the common law right of access, your Request is also denied. In O'Boyle v. Borough of Longport, 218 N.J. 168, 196 (2014), the Supreme Court of New Jersey held that the party requesting documents under the common law right of access must explain why he seeks access to the requested documents. Here, your Request lacks any explanation with respect to your purported interest in accessing the materials at issue. Accordingly, the City is also denying your Request pursuant to the common law right of access.

In sum, the City is denying your Request in its entirety.

Your Request is now deemed answered and closed.

Thank you for your attention to this matter.

Date: April 13, 2023

City Clerk: Deborah Karlsson, RMC