



BOROUGH OF SHREWSBURY

419 SYCAMORE AVENUE
SHREWSBURY, NJ 07702
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March 31, 2022

VIA E-MAIL opra+request-30445-e331c2ef@requests.opramachine.com
Scott Reed

Re: OPRA Request

Dear Mr. Reed:

The Borough of Shrewsbury ("Borough") records custodian received your Open Public Records Act ("OPRA") request on March 28, 2022. As such, the seven (7) business day deadline to respond to your request is April 6, 2022. This response is therefore being timely submitted in accordance with New Jersey law. See N.J.S.A. 47:1A-5.

Your OPRA requests seek the following records listed below. The Borough's response follows the requests.

1. Salary and personnel file for Kerry Quinn Municipal Clerk Borough of Shrewsbury.

Response: Enclosed please find record(s) responsive to your request for the "salary" of Kerry Quinn. Your request for a personnel file is denied as personnel records are exempt under OPRA. N.J.S.A. 47:1A-10 provides that "the personnel or pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access, except that:

an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record;

personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the United States, or when authorized by an individual in interest; and

data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information, shall be a government record.”

If you are seeking any specific personnel records that are not exempt under OPRA, please clarify your request.

2. Salaries, personnel files, and internal affairs files for EVERY police officer on the payroll for 2021 and 2022.

Response: Enclosed please find records responsive to your request for the salaries of police officers in 2021 and 2022. Your request for personnel files is denied as personnel records are exempt under OPRA. N.J.S.A. 47:1A-10 provides that “the personnel or pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access, except that:

an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record;

personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the United States, or when authorized by an individual in interest; and

data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information, shall be a government record.”

If you are seeking any specific personnel records that are not exempt under OPRA, please clarify your request.

As it relates to your request for internal affairs files for every police officer on the payroll for 2021 and 2022, this request is denied under OPRA as internal affairs files are exempt under OPRA as personnel records. N.J.S.A. 47:1A-10. In addition, this request is vague and overly broad. 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); See 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 Cnty. 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 is not intended to be used as a research tool used to force government officials to manually search, analyze, identify and siphon useful information. MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (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. 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); 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).

Requests such as these seeking all records of a certain type are held to be overly broad and unclear. Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 3 (App. Div. 2005) (holding that request for "any and all" records did not amount to a request for an identifiable government record); see also New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) (holding that request for "any and all documents and data used or considered...supporting, demonstrating, justifying or verifying" determinations relevant to COAH's determinations about fair-share housing was overly broad). This request is therefore overly broad.

While courts have recognized that the common law may permit the disclosure of redacted "internal affairs reports" in certain situations, the request here seeks all internal affairs files for every police officer on the payroll for 2021 and 2022, a request that is seemingly seeking all internal affairs files for the entire careers of such officers, an overly broad request. Please clarify the specific documents that you are seeking, and set forth your interest in the subject matter contained in the requested material so that a proper common-law balancing of the interests may be done to determine if such documents are subject to disclosure.

3. I need to know who or whom investigated every use of force incident for former officer Buddy Fitzgerald and the findings of those investigations.

I need to know who or whom investigated every use of force incidents for former officer Danny Lloyd and all of those findings.

These requests are seeking information rather than a specific record, and thus constitute impermissible requests for information. See Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005) (noting that OPRA allows requests for specific records, not requests for general information, data or statistics). "While OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information." MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546-7 (App. Div. 2005) ("[u]nder OPRA, agencies are required to disclose only 'identifiable' government records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein"). As such, this request is denied at this time, pending clarification of any specific documents sought.

Thank you for your attention to this matter.

Very truly yours,

Kerry Quinn, RMC, CMR
Municipal Clerk
Borough of Shrewsbury
732-741-4200 *108