



**East Brunswick Police Department
OPEN PUBLIC RECORDS ACT (OPRA)
P.O. Box 1081, East Brunswick, NJ 08816
Phone: 732-390-6922 / Email: OPRA@ebpd.net
East Brunswick Police Records Custodian**



Response Date: 12/19/2023

Requestor's Name: Marc Jellinek

Requestor's Address: N/A

Dear Marc Jellinek,

The East Brunswick Police Department received your Open Public Records Act (OPRA) request on December 19, 2023. The official Records Custodian, of the East Brunswick Police Department, received your OPRA request on December 19, 2023. As such, the seven (7) business day deadline to respond to your request is December 29, 2023. This response to your request is being provided to you prior to the 1st business day after the custodian's receipt of said request.

Your request has been assigned Request ID # 2023-435 for tracking purposes.

Your OPRA request sought access to the following:

Mark schelnick has filed several internal affairs requests with the East Brunswick Police department over the past 4 months between the period of October 2023 and December 2023

Please provide an inventory of those requests and the status of each

Response: Your request does not identify any specific government record in existence. Records custodians are also under no obligation to create of a record in response to an OPRA request.

Matthews v. City of Atlantic City (Atlantic), GRC Complaint No. 2008-123 (February 2009): The Council decided that a custodian "was under no obligation to create a list compatible to the Complainant's OPRA request because OPRA does not require a custodian to produce new documents . . ." Id. at 6.

Librizzi v. Twp. of Verona Police Dep't, GRC Complaint No. 2009-213 (August 2010): The Council held that the custodian was under no obligation to create a record in response to the complainant's OPRA request.

Lastly, you should be aware that Internal Affairs records are confidential and are exempt from OPRA requests pursuant to N.J.S.A. 47:1A-1(5) .

The New Jersey Supreme Court held that internal affairs reports are exempt from disclosure under OPRA. The Court noted that the Attorney General's Internal Affairs Policy and Procedures manual (IAPP) requires that police internal affairs reports be kept confidential. N.J.S.A. 40A:14-181 requires all police departments to adopt guidelines consistent with the IAPP. Pursuant to Section N.J.S.A. 47:1A-9(b), OPRA "shall not abrogate or erode any executive or legislative privilege or grant of confidentiality heretofore established or recognized by the Constitution of this State, statute, court rule or judicial case law."

The Appellate Division has held that Attorney General Guidelines have the force of law for police entities. See O'Shea, 410 N.J. Super. at 382. In particular, the IAPP is bound upon all law enforcement agencies in New Jersey pursuant to statute. See N.J.S.A. 40A:14-181. The IAPP explicitly provides that "[t]he nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information." Internal Affairs Policy & Procedures, Office of the Attorney General, pg. 42 (2017).

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 East Brunswick Police Department 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 xxx@xxx.xxxxx.xx.xx, 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.

Regards,

Records Custodian
East Brunswick Police Department
1 Jean Walling Civic Center Drive
East Brunswick, NJ 08816
Email: xxxx@xxxx.xxx