

Borough of Cliffside Park

MAYOR
THOMAS CALABRESE

BOROUGH ADMINISTRATOR
JOSEPH RUTCH

BOROUGH CLERK
SERCAN ZOKLU, RMC



Municipal Complex
525 Palisade Avenue
Cliffside Park, New Jersey 07010
Tel. (201) 945-3456 • Fax (201) 945-9823

COUNCIL
DANA MARTINOTTI
KENNETH CORCORAN
PETER COLAO
SELVIE NIKAJ
JOHN CHMIELEWSKI
EURICE ROJAS

October 28, 2024

via electronic mail

Sallie

Opra+request-67667-cc132094@requests.opramachine.com

**RE: OPRA request dated October 6, 2024
Log # 24-500**

Your request pursuant to the Open Public Records Act (OPRA) and common law dated October 6, 2024 was received by the Records Custodian of the Borough of Cliffside Park. The time for response is seven business days, or fourteen business days if the request is made for a commercial purpose, unless the Custodian informs you that an extension of time is required to comply with your request. N.J.S.A. 47:1A-5.

Your OPRA request sought access to the following:

All documents/reports/BWC pertaining to Officer Teddy Tarabokija's DWI arrest from NJ State Police, including actions taken by the Borough Of Cliffside Park in regards to any suspension or loss of time.

OPRA RESPONSE: Records pertaining to arrests made by the New Jersey State Police are created and maintained by the New Jersey State Police and you are directed to make your request to that agency. A records custodian of a public agency that receives a request for a record created or maintained by another public agency shall not be obligated to provide the record to the requestor. N.J.S.A. 47:1A-5(i). Insofar as your request seeks records pertaining to any administrative disciplinary action taken by the Borough of Cliffside Park against Officer Tarabokija as a result of an arrest by the New Jersey State Police, your request seeks personnel records. Personnel records maintained by a public agency, including records relating to any grievance filed by or against an individual employee, are not "government records" thus are not accessible pursuant to OPRA. N.J.S.A. 47:1A-10.

COMMON LAW RESPONSE: The common law right of access to public records is not absolute. South Jersey Pub. v. N.J. Expressway, 124 N.J. 478, 488 (1991). If the material sought are public records and the requestor has established an interest in the subject matter of the records, the Records Custodian must assess whether the requestor's asserted interest in disclosure of the

materials outweighs the governmental interest in nondisclosure. Among the factors which will guide the Records Custodian's balance of these competing interests are:

- The extent to which disclosure will impede agency functions by discouraging citizens from providing information to the government;
- The effect disclosure may have upon persons who have given such information and whether they did so in reliance that their identities would not be disclosed;
- The extent to which agency self-evaluation, program improvement, or other decision-making will be chilled by disclosure;
- The degree to which the information sought includes factual data as opposed to evaluative reports of policymakers;
- Whether any findings of public misconduct have been insufficiently corrected by remedial measures instituted by the investigative agency;
- Whether any agency disciplinary or investigatory proceedings have arisen that may circumscribe the individual's asserted need for the materials;
- Whether any statutory or regulatory provisions address disclosure or non-disclosure;
- Whether any executive or legislative policy addresses disclosure or non-disclosure;
- Whether there are other considerations present which heighten the public interest in transparency.

Loigman v. Kimmelman, 102 N.J. 98 (1986); Rivera v. Ocean Cty. Pros. Office, 250 N.J. 124 (2022); Gannett Satellite Information Network, LLC v. Tp. of Neptune, 254 N.J. 242, 257 (2023).

In order to evaluate your request for public records pursuant to the common law, the Records Custodian requires that you explain in detail your interest in the subject matter of the material requested and address the other factors relevant to the Records Custodian's determination regarding access to those materials. Gannett Satellite Information Network, LLC v. Tp. of Neptune, 254 N.J. 242, 266 (2023). Kindly provide your response in writing and the Records Custodian will respond. In the event we do not receive your response within seven (7) business days, the Records Custodian will close your request and take no further action thereon.

If your request for access to a government record pursuant to OPRA has been denied or unfilled within the time required by law, you have a right to challenge the decision 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,



SERCAN ZOKLU
Borough Clerk

cc: Joseph Rutch, Borough Administrator