

LAFAYETTE  
CONSOLIDATED  
GOVERNMENT  
CENTRE DE LA CULTURE ACADIENNE ET CREOLE



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LEGAL DEPARTMENT  
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April 11, 2007

Mr. Garo Alexanian  
CAN TV  
Post Office Box 750214  
Forest Hills, New York 11375

Re: Request for Documents

Dear Mr. Alexanian:

This is in response to your letter dated December 16, 2006, wherein you made a public records request for various documents. I responded preliminarily to your request on December 18, 2006, and acknowledged receipt of your letter and advised you as to the then status of our efforts in response thereto. We then spoke by telephone about a month ago to apprise you as to the status of this matter.

Your letter states that you seek certain information pursuant to the Federal Freedom of Information Act, 5 U.S.C.A. § 552. That legislation sets forth the responsibility of each "agency" to make available to the public certain information. However, the police department of a state municipality is not an "agency" within the meaning of that Act and, therefore, that Act is not applicable. The Act does not apply to States or local governments. *Ferguson v. Alabama Criminal Justice Information Center*, M.D.Ala.1997, 962 F.Supp. 1446 (Freedom of Information Act and Privacy Act do not apply to state agencies); *Lathrop v. Juneau & Associates, Inc. P.C.*, S.D.Ill.2004, 220 F.R.D. 330 (The Federal Freedom of Information Act does not apply to state governments and is not applicable to city or its employees); *Osipova v. New York City Dept. of Health*, S.D. N.Y.2002, 2002 WL 31558031, Unreported (City police department was not "agency of federal government," and accordingly was not subject to provisions of Freedom of Information Act).

Mr. Garo Alexanian  
April 11, 2007  
Page 2

Treating your request as one made under the Louisiana Public Records Law, La. R.S. 44:1, *et seq.*, we respond, as follows:

First, LCG maintains a document retention policy which, in some (but not all) instances, dictates that documents are not retained for more than five years. In other instances, the period may be shorter and in still other cases, there is no prescribed retention period. Therefore, in some instances, LCG does not maintain documents going back to January 1, 2001, as you have requested.

Because your request is so voluminous, and seeks copies of documents concerning multiple departments and offices of Lafayette Consolidated Government ("LCG"), in certain (but not all) instances, it might be necessary to review documents in other than regular or normal business hours. La. R.S. 44:32A provides that the custodian is authorized to require "examination of records in other than regular office or working hours. In this event the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public body having custody of such record, out of funds provided in advance by the person examining such record in other than regular office or working hours."

Because we do not know what documents you might wish to merely inspect, as opposed to copy, we are unable to estimate the amount of overtime compensation. With further clarification as to the scope of your request, it might be possible to provide an estimate of costs. In accordance with law, you must provide the estimated sum of money in advance. Further, under LCG's Home Rule Charter, before such funds are recognized and expended, it would be necessary that an ordinance of the Council be prepared and adopted in order to authorize the Finance Department to expend such funds.

Upon receipt of the advance payment, we will proceed as outlined above. In conducting the after-hour production of documents, at such time as seventy-five (75%) of the funds on deposit are expended, LCG reserves the right to suspend the inspection or production of documents until additional funds are placed on deposit.

As a specific example of the broad reach of your request, Paragraph O pertaining to "Personnel Records," asks for "the personnel records, . . . , of ALL employees of . . . the Lafayette Police Department, whether employed by the Animal Control Office or by the Lafayette Police Department." Whether intended or not, this requests information as to approximately 292 police officers and other employees of the Lafayette Police Department, even if their duties or functions have nothing whatsoever to do with the animal control function. To the extent that you seek these public records, certain information will be redacted, such as personally identifying information, information pertaining to juveniles, security information, information pertaining to security techniques and procedures, etc.

Mr. Garo Alexanian  
April 11, 2007  
Page 3

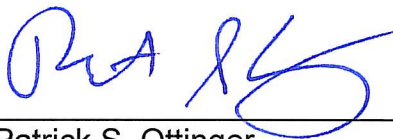
Certain of the requested documents are available for inspection at the office where maintained. Please contact me to discuss the scheduling of inspection as to the documents listed in your letter.

Copies are charged at 25 cents per page.

While I do not inquire into your purpose in making this request, if you could define more precisely or narrow the scope of material which you seek, it might assist in facilitating a more timely response to your request.

Should you have any questions, please feel free to call upon me.

Very truly yours,



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Patrick S. Ottinger  
City-Parish Attorney

PSO/ag

cc: Joey Durel, City-Parish President  
Dee E. Stanley, CAO  
Becky F. Lalumia, CFO  
Chief of Police Jim Craft  
Virginia Lee, Animal Control Office