



UNION COUNTY PROSECUTOR'S OFFICE
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October 16, 2024

Mx. Chaz Michaels

Via email to opra+request-66891-d7d0e148@requests.opramachine.com

Re: Response to OPRA Request 924-2024 (Former Berkeley Heights Police Chief Massimino)

Dear Mx. Michaels:

This letter is in reply to your correspondence seeking certain records pursuant to the Open Public Records Act ("OPRA"), *N.J.S.A.* 47:1A-1 to 47:1A-13, and the common law right of access to public documents. We appreciate your patience and understanding in awaiting our response.

Specifically, your request read as follows:

- “1. Was there an official Internal Affairs investigation involving Chief Jason Massimino prior to his resignation from Berkley Heights?
2. Official findings of any such internal affairs investigations and current charges or pending charges against Chief Jason Massimino from that investigation.
3. Any and all public disclosure of alleged charges, sustained offenses, and recommended discipline which is supposed to be made public as per NJ Attorney General's reporting procedures.

From January 1, 2023 - Present:

3. [sic] Length of suspension prior to resigning from the position of Chief of Berkley Heights.”

Your request in Item 1, above, is denied. A valid OPRA request must identify with reasonable clarity the records sought. *Burke v. Brandes*, 429 *N.J. Super.* 169, 174 (App. Div. 2012). A request for

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general information, or one framed as an open-ended demand requiring analysis and evaluation, or one seeking a custodian's response to questions or allegations of misconduct, does not meet this standard and is, therefore, invalid. *Bent v. Twp. of Stafford Police Dep't.*, 381 N.J. Super. 30, 39-40 (App. Div. 2005).

As to your requests for public disclosures and length of suspension, this Office has no responsive records.

As to the materials sought in Item 2, as required by § 9.6.2(a)(1) of the Attorney General's Internal Affairs Policy & Procedure (November 2022 version) (the "IAPP"), we are providing with this letter a redacted copy of the Summary and Conclusions Report relating to former Berkeley Heights Police Chief Massimino.

Please note that we have redacted the identity of complainants, witnesses, informants, and/or cooperators, "as well as information that could reasonably lead to the discovery of their names; non-public, personal identifying information about officers and others, such as their home addresses and phone numbers; and personal information that would violate a person's reasonable expectation of privacy if disclosed, such as medical information." *Rivera v. Union County Prosecutor's Office*, 250 N.J. 124, 150 (2022). See also IAPP § 9.6.2(b).¹

I note that you have also requested these materials pursuant to the common law right of access. This Office considers its responses to your OPRA requests, as noted above, to be fully applicable and responsive under the common law, as well.

Returning to the subject of your OPRA request, the Union County Prosecutor's Office reserves the right to raise any other ground for denial not raised in this response. The failure of the Union County Prosecutor's Office to assert an exemption or privilege herein does not constitute a waiver of any ground for denial.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you may challenge the decision of this Office to deny access by either instituting a proceeding in the Superior Court of New Jersey or filing a complaint with the Government Records Council ("GRC"). You may contact the GRC by 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.

¹ Each separate person whose identity has been redacted was given a separate identifier in the redaction. In addition, use of the "+" sign denotes redactions made for information that could reasonably lead to disclosure of a witness' identity and/or personal information whose disclosure would violate an individual's reasonable expectation of privacy.

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With this letter, the Union County Prosecutor's Office considers your OPRA request to be completed and closed.

Very truly yours,

WILLIAM A. DANIEL
Prosecutor of Union County

A handwritten signature in black ink that reads "Robert J. Rosenthal". The signature is written in a cursive style with a large, stylized initial "R".

By: Robert J. Rosenthal
Assistant Prosecutor
Chief OPRA Officer

RJR/
Attachment

- c Marlena M. Russo (via email) (with attachment)
- Zoraida Mosquera (via email) (with attachment)
- First Deputy County Counsel Moshood Muftau (via email) (with attachment)
- Assistant Prosecutor Robert Vanderstreet (via email) (with attachment)
- Assistant Prosecutor Michael Sheets (via email) (with attachment)
- Chief of Staff Theodore Conley (via email) (with attachment)
- Barbara Sullivan (via email) (with attachment)
- Lauren Farinas (via email) (with attachment)
- Ariana Konapaka (via email) (with attachment)