

## **Supplement to John Paff's January 21, 2009 records request to Ocean Twp**

### **Background:**

A July 20, 2005 article in the Asbury Park Press ("Lacey man files suit for `racial' issues at traffic stop," by Brian Prince) reported on a lawsuit filed by Patrick Rawlins against the Township and officer Leanne Petracca. (Rawlins v. Township of Ocean, et al, Civil No.05-3138). Through a recent records request I learned that on August 18, 2008, Rawlins accepted a \$50,000 settlement in exchange for dismissing his suit.

The Asbury Park Press article states that the Ocean Township Police Internal Affairs Unit, along with the Ocean County Prosecutor's office, "investigated the matter and found that Petracca violated the department's rules and regulations." The article goes on to say that the precise type of discipline, if any, that was imposed upon Petracca has not been revealed.

I believe that under the common law right of access, the public's interest in knowing if Petracca was disciplined and, if so, the quantum of discipline she received outweighs any interest that the government or Petracca has in keeping this information confidential.

### **Record requested:**

1. Each "Internal Affairs Summary Report Form" filed by the Ocean Township Police Department for the years 2003 through 2008.
2. Any rule which "requires an officer or employee to notify the agency if he or she has been charged with an offense, received a motor vehicle summons, or have been involved in a domestic violence incident" as recommended at the bottom of Page 11-24 of the Attorney General's Internal Affairs Policy & Procedures Manual (Revised November 2000)<sup>1</sup>
3. Any writing showing the disposition of any charge against Petracca arising out of the incidents from which Rawlins' suit arose.
4. Any writing showing the nature and quantum of any discipline imposed against Petracca arising out of the incidents from which Rawlins' suit arose.

### **Basis for Request:**

I request the above records in accordance with the Open Public Records Act (OPRA), the Senator Byron M. Baer Open Public Meetings Act and the common law right of access.

### **Requested Medium for Response and for Documents Responsive to Request:**

Please respond to this request in the following order of preference: a) email to [paff@pobox.com](mailto:paff@pobox.com), b) fax to 908-325-0129, c) regular mail to P.O. Box 5424, Somerset, NJ 08875-5424.

Please send the responsive documents to me by whichever of the above stated methods (i.e. a, b, and c in the immediately preceding paragraph) is the least expensive method. If two or more methods tie for the least expensive method, please transmit the documents in accordance with the order of preference set forth in the immediately preceding paragraph.

---

<sup>1</sup> On-line at [http://www.nj.gov/lps/dcj/agguide/internalaffairs2000v1\\_2.pdf](http://www.nj.gov/lps/dcj/agguide/internalaffairs2000v1_2.pdf)

**DASTI, MURPHY, McGUCKIN, ULAKY,  
CHERKOS & CONNORS**

GEORGE F. MURPHY, JR. † +  
JERRY J. DASTI  
GREGORY P. McGUCKIN  
ROBERT E. ULAKY † †  
RUSSELL P. CHERKOS  
CHRISTOPHER J. CONNORS  
O. NICHOLAS MONACO † †  
CHRISTOPHER K. KOITSOURIS \*

A Professional Corporation  
COUNSELLORS AT LAW  
THE CLOCK TOWER BUILDING  
620 WEST LACEY ROAD  
POST OFFICE BOX 1057  
FORKED RIVER, NEW JERSEY 08731

E-MAIL: FORKEDRIVER@DMMLAWFIRM.COM

Fed I.D. #22 3450668

**TELEPHONE NUMBERS**

(609) 971-1010  
(609) 693-4100  
(732) 349-2446  
(732) 295-3000  
(609) 489-0101

**FACSIMILE NUMBERS**

(609) 971-7093  
(732) 349-1590  
(609) 489-0102

Real Estate: (609) 971-6176

† CERTIFIED CIVIL TRIAL ATTY  
† MEMBER, NATIONAL ACADEMY OF  
ELDER LAW ATTORNEYS, INC  
+ MEMBER NJ AND FLA BAR  
‡ MEMBER NJ AND PA BAR  
\* MEMBER NJ AND NY BAR  
0 RULE 1:40 QUALIFIED MEDIATOR

January 29, 2009

PLEASE REFER TO:

Diane B. Ambrosio, RMC  
Township of Ocean  
50 Railroad Avenue  
Waretown, NJ 08758

Dear Ms. Ambrosio:

Pursuant to your request we have reviewed the January 21, 2009 OPRA request of Mr. Paff.

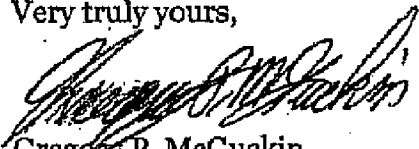
With respect to the first two items referenced in his request, it is my understanding that you have copies of the Internal Affairs Summary Report forms for the years in question as well as a copy of the Township Police Department's Standard Operating Procedure for Internal Affairs.

With respect to the third request, I enclose herein a copy of the February 2, 2004 correspondence from Lieutenant Scott Sprague addressed to Patrick Rawlins. This correspondence, along with the items in response to request numbers 1 and 2 should be forwarded to Mr. Paff at your earliest convenience.

With respect to the balance of the request set forth in paragraphs 3 and 4, it appears that this request is for the personnel records of Officer Petracca. As such, pursuant to N.J.S.A. 47:1A-10, such records are not records which are discloseable pursuant to OPRA. As a result, under either statutory enactments or the common-law right of access, we do not believe Officer Petracca's disciplinary or personnel file shall be disclosed. I would also note that the Attorney General Internal Affairs Policy and Procedures Manual, revised November, 2000, and cited by Mr. Paff in his request, also requires such information to remain confidential and may only be disclosed under limited circumstances and procedures, none of which would apply here. See attached.

I trust this answers your inquiry, however, should you have any additional questions, please do not hesitate to contact me.

Very truly yours,

  
Gregory P. McGuckin

GPM/du  
Encl.

# OCEAN TOWNSHIP POLICE DEPARTMENT

50 RAILROAD AVENUE, WARETOWN, N.J. 08758

Kenneth B. Flatt  
Chief of Police

609-693-4007  
Fax 609-693-8392

February 02, 2004

Patrick Rawlins

Forked River, New Jersey 08731

COPY

Dear Mr. Rawlins:

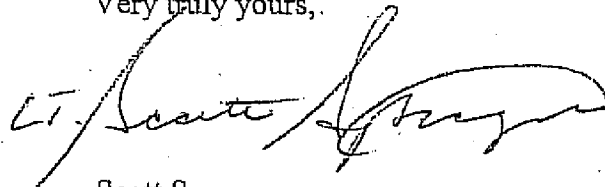
The Internal Affairs Unit of this Department, as well as the Ocean County Prosecutors Office, has completed its investigations of your report concerning the conduct of Officer Leanne Petracca. The investigations and a review of all information currently available to this agency and the prosecutors office failed to disclose sufficient evidence to clearly prove or disprove the allegations of bias and racial profiling. This final determination was based on all recovered evidence provided by officers, witnesses, and reports.

However, this agencies investigation revealed that Officer Petracca did violated the Ocean Township Police Departments Rules and Regulation. For this inexcusable occurrence she has been disciplined under our agencies policies and procedures. She has also received addition training.

If you have any additional information or questions, please contact the Internal Affairs Officer at (609) 693-4007. If no additional information is received within ten (10) days, this case will be considered closed.

Thank you for bringing this matter to our attention.

Very truly yours,



Scott Sprague  
LIEUTENANT

CC: Ocean County Prosecutor's Office  
File