

Warren County prosecutor can withhold names of officers investigated for generator misuse, judge says

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Warren County residents may never know the identities of jail officers who took county generators for personal use during **Superstorm Sandy** now that a state Superior Court judge has clarified her position.

Judge Amy O'Connor ruled Dec. 18 that the Warren County Prosecutor's Office must release its entire file of the investigation, the attorney for open government advocate John Paff previously said. **Attorney Walter Luers said the file would include the name of at least one jail officer investigated in the probe.**



Attorney Walter Luers said Judge Amy O'Connor said the Warren County Prosecutor's Office would not need to identify the name of an officer investigated for personal use of a county generator during Superstorm Sandy, which caused this damage in 2012 in Harmony Township.

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After the ruling, O'Connor met with the attorneys and said the court will protect the officer's identity, **Paff** said Thursday afternoon.

"It makes a big difference. I felt I went from a win to a loss here almost," Paff said.

The original order entered Dec. 18 was ambiguous as to whether the identity of the officer would be included and the Dec. 23 conference cleared up the ambiguity, Luers said. He's waiting for O'Connor to issue another order to formally resolve the matter.

Warren County Prosecutor Richard Burke did not return phone calls requesting comment. His office has 60 days to turn over the documents, according to O'Connor's ruling.

The prosecutor's office investigated allegations about the misuse of generators, then sent the case to the sheriff's office when Burke determined no criminal charges were warranted. **Sheriff David Gallant** hasn't revealed which officers were involved or what punishment was handed down in what his office called a personnel matter.

Luers said even without the name, the file should prove "very useful."

"How much evidence do you need before they decide to bring charges? We'll get to know how much evidence was insufficient," he said.

The public will know more about the incident, but a major purpose of the lawsuit was to find out who took the generator, Paff said. The officer involved could retire with a full pension, get promoted or find other employment, he said. He understands confidentiality while officials are dealing with personnel matters but doesn't see why the matter must remain confidential after it's been settled, he said.

O'Connor **denied Paff's Open Public Records Act request for the prosecutor's documents** in June, so he sued under New Jersey Common Law to obtain them. The law gives a citizen the right to inspect documents if they're public records, the citizen has the required interest or standing to inspect them and the interest in disclosing them outweighs the need for confidentiality, according to O'Connor's ruling.

Paff said he's disinclined to appeal the judge's decision to withhold the name. But the lack of information makes it hard for the public to hold officials accountable. The government's interest in confidentiality shouldn't outweigh the public's right to know, he said.

"To tip that balance the other way would probably go a long way in curing the corruption, cronyism and favoritism that plague a lot of New Jersey," Paff said.

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