

Office of the Sheriff

County of Warren
Warren County Courthouse
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Belvidere, NJ 07823

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Undersheriffs
Kenneth J. McCarthy
William D. Landon
Donald G. Engwall

October 28, 2014

John Paff
PO Box 5424
Somerset, N.J. 08875

Dear Mr. Paff,

I am writing this letter in response to your OPRA request in regards to the frequency and nature of complaints brought against corrections officers that work at the Warren County Correctional Center. Your request¹ for records of complaints filed between January 1, 2012 and the current date at the time of the request are being provided in a redacted version. Specifically, I note the following records responsive to your request:

- Warren County Sheriff's Office/Corrections Division Internal Affairs Case Index 2012 - Pages: 2
- Warren County Sheriff's Office/Corrections Division Internal Affairs Case Index 2013 - Pages: 1
- Warren County Sheriff's Office/Corrections Division Internal Affairs Case Index 2014 - Pages: 1.

The following information has been redacted from the above referenced records:

- 1) **"Complainant" Column:** Notwithstanding any redactions, this column lists the name of each individual corrections officer/inmate that made the administrative complaint memorialized in the attached Internal Affairs Case Index:
 - a. Names of Individual Corrections Officers: The name of each individual corrections officer previously identified under this column as the person making the complaint have been redacted from each of the three (3) records identified above.

¹ Per your instructions, since this correspondence confirms the existence of records responsive to Part #1, it is not necessary to respond to Part #2 of the OPRA request.

- b. Names of Individual Inmates: The name of each individual inmate identified under this column as the person making the complaint have been redacted from each of the three (3) records identified above.
- 2) **“Principal” Column**: Notwithstanding any redactions, this column lists the name of each individual corrections officer/inmate against whom the administrative complaints memorialized in the attached Internal Affairs Case Index were made:
 - a. Names of Individual Corrections Officers: The name of each individual corrections officer, the person against whom the complaints listed were made, have been redacted from each of the three (3) records identified above.
 - b. Names of Individual Inmates: The name of each individual inmate, the person against whom the complaint listed was made, has been redacted from each of the three (3) records identified above.

The reasons for the redactions are as follows:

The statute that you have provided as a basis for your request N.J.A.C. 10A:34-1.6(a)(2), applies to Municipal Detention Facilities and does not appear to be applicable to County Correctional Facilities. However, this Office is providing redacted records as a good faith gesture.

Employment/Personnel Records: A portion of the records requested contain information relating to the administrative complaints, allegations made against and discipline, if any, imposed upon correctional officers in connection with their employment. A substantial body of authority protects from disclosure employment/personnel information which contains the name of individual employees subject to disciplinary complaints and the specific discipline imposed. It is also worth noting that in the recent decision in Bergen County related to this matter, a senior staff attorney for the American Civil Liberties Union opined that complainants’ names should not be released (privacy concerns) so that it does not impact on one’s decision to file a complaint.

N.J.A.C. 10A:31-4.4 Employee Records:

- (a) A current accurate and confidential personnel record shall be maintained for each employee.
- (b) Employee records shall be protected against unwarranted examination.

N.J.A.C. 10A:31-6.8 Availability of information to non-institutional persons or outside agencies:

- (a) Information from adult inmate records shall be provided to law enforcement agencies or persons, who request it in the performance of their duties.
- (c) Upon advice of the County Counsel, selected records of adult inmates shall be made available to government agencies or authorized persons upon request.

N.J.A.C. 10A:31-6.9 Availability of information to adult county correctional facility personnel:

- (a) Information from inmate records shall be provided to adult county correctional facility personnel on a limited basis.

- (b) Information may be provided only to personnel who have a clear and specific need to know the information for use in connection with their work responsibilities.
- (c) The provision of information shall be determined by the Administrator or designee in accordance with written policies and procedures established by the facility.

10A:31-6.10 Records designated confidential

(a) ... [T]he following records shall not be considered government records subject to public access pursuant to N.J.S.A. 47:1A-1 et seq.:

1. Informant documents and statements;
2. Internal Affairs/investigative unit investigations records and reports, provided that redaction of information would be insufficient to protect the safety of any person or the safe and secure operation of a correctional facility;
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5. A report or record relating to an identified individual, which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of the correctional facility or other designated place of confinement;
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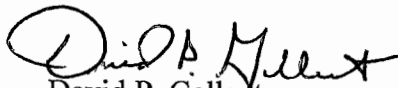
Employment/Personnel Records Have Are Deemed Confidential and Protected Against Public Disclosure by the Following Authorities: N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; N.J.S.A. 10:4-12(b)(8); N.J.A.C. 4A:1-2.2; See also Executive Order No. 11 (Byrne) (Nov. 14, 1975) (personnel matters confidential); Executive Order No. 9 (Hughes) (October 1, 1963) (personnel matters confidential); Paff v. Egg Harbor Tp., 2013 WL7877520 (Law. Div. 2013) (“[d]iscipline imposed against an officer is part of an officer’s employment record and is generally included in their personnel file”).

Employment/Personnel Records Have Been Declared To Implicate Individual Privacy Rights: N.J.S.A. 47:1A-1 (right to privacy under OPRA); Burnett v. Cnty. of Bergen, 198 N.J. 408 (2009); Doe v. Portiz, 142 N.J. 1 (1995); Paff v. Egg Harbor Tp., 2013 WL7877520 (Law. Div. 2013) (“the personnel records exception to the general policy in favor of disclosing public records, as well as Defendant[‘s] ... right to privacy with respect to his disciplinary records ... supports ... finding that [records relating to] disciplinary matters are not subject to disclosure ...”); N.J.S.A. 10:4-12(b)(3).

Finally, in July of 2011, the Board of Chosen Freeholders adopted a Resolution which placed the care, custody, and control of the Correctional Center under the control of the Sheriff. The Sheriff then assumed control of the corrections officers that worked at the correctional center. As such, the Sheriff also became responsible for the oversight and discipline of corrections officers as well as sheriff’s officers. Sheriff’s officers were already subject to the Internal Affairs Guidelines established by the Attorney General’s Office. These Guidelines provide for the confidentiality of internal investigations and specifically exempt any such records from public disclosure. Pursuant to the authority vested in the Sheriff, the aforementioned guidelines were adopted and made applicable to the corrections officers under my command. See N.J.S.A. 30:8-18.2 (authorizing the Sheriff to adopt internal rules and regulations for corrections officers); see also Attorney General Internal Affairs Guidelines (authorizing correctional facilities to adopt the Attorney General Internal Affairs Guidelines).

Therefore, it is my position that corrections officers under my command should be provided with the level of confidentiality that applies to internal affairs investigations and their related outcomes. By adopting the Attorney General's Internal Affairs guidelines, corrections officers under the control of the Sheriff are not subjected to a double standard. All officers are then held to the high standards in a structured system of discipline and afforded the same level of protection in their employment records as all other public employees.

Sincerely,

A handwritten signature in black ink, appearing to read "David P. Gallant". The signature is stylized with a large initial "D" and a long horizontal stroke at the end.

David P. Gallant
Warren County Sheriff

CC Steve Marvin
Joseph Bell IV Esq.
Art Charlton

**WARREN COUNTY SHERIFF'S OFFICE / CORRECTIONS DIVISION
INTERNAL AFFAIRS CASE INDEX 2012**

<u>CASE #</u>	<u>COMPLAINANT</u>	<u>INVESTIGATION DATE</u>	<u>ALLEGATION</u>	<u>PRINCIPAL</u>	<u>STATUS</u>
12-01	None	January 3, 2012	Failure to perform duties	Officer [REDACTED]	Sustained [REDACTED]
12-02	None	February 27, 2012	Falsification of Documents	Officer [REDACTED]	Sustained [REDACTED]
12-03 Inmate Invest.	Inmate [REDACTED]	March 1, 2012	1. Theft 2. Assault	Inmate [REDACTED]	1. Not Sustained 2. Not Sustained
12-04 Inmate Invest.	None	March 6, 2012	Bullying / Intimidation	Inmate [REDACTED]	Sustained
12-05 Inmate Invest.	[REDACTED]	March 12, 2012	Failure to follow rules	Inmate [REDACTED] Inmate [REDACTED]	Sustained
12-06	Inmate [REDACTED]	April 3, 2012	Assault	Officer [REDACTED]	Unfounded
12-07	Sergeant [REDACTED]	March 30, 2012	Insubordination	Officer [REDACTED]	Sustained [REDACTED]
12-08 Inmate Invest.	Inmate [REDACTED]	April 16, 2012	Assault	Inmate [REDACTED]	Sustained
12-09	Officer [REDACTED]	April 9, 2012	Assault (Criminal Complaint)	Inmate [REDACTED]	Pending
12-10	Officer [REDACTED]	April 24, 2012	Harassment	Sergeant [REDACTED]	Sustained [REDACTED]
12-11	None	April 24, 2012	1. Failure to perform duties 2. Neglect of duty	Sergeant [REDACTED]	1. Sustained 2. Sustained [REDACTED]

**WARREN COUNTY SHERIFF'S OFFICE / CORRECTIONS DIVISION
INTERNAL AFFAIRS CASE INDEX 2012**

<u>CASE #</u>	<u>COMPLAINANT</u>	<u>INVESTIGATION DATE</u>	<u>ALLEGATION</u>	<u>PRINCIPAL</u>	<u>STATUS</u>
12-12	Officer [REDACTED]	May 9, 2012	1. Conduct unbecoming 2. Harassment	Sergeant [REDACTED]	1. Not Sustained 2. Not Sustained
12-13	Deputy Warden [REDACTED]	May 21, 2012	1. Neglect of Duty 2. Other Sufficient Cause	Officer [REDACTED]	1. Not Sustained 2. Sustained [REDACTED]
12-14	None	May 23, 2012	1. Failure to perform duties 2. Neglect of duty	Officer [REDACTED]	1. Sustained 2. Sustained [REDACTED]
12-15 Inmate Invest.	Inmate [REDACTED]	May 29, 2012	Stolen Commissary	Inmate [REDACTED]	Sustained
12-16	Officer [REDACTED] Officer [REDACTED]	June 13, 2012	Terroristic Threats (Criminal Complaint)	Inmate [REDACTED]	Pending
12-17	None	June 15, 2012	1. Failure to perform duties 2. Other Sufficient Cause	Officer [REDACTED]	1. Sustained 2. Sustained [REDACTED]
12-18	None	October 3, 2012	1. Other Sufficient Cause	Officer [REDACTED]	Sustained [REDACTED]
12-19	None	October 3, 2012	1. Incompetency 2. Neglect of Duty	Officer [REDACTED]	1. Sustained 2. Not Sustained [REDACTED]
12-20	Inmate [REDACTED]	October 24, 2012	Abuse Allegations	No Principal Named	Not Sustained
12-21	* ALL RECORDS CONTAINED AT SHERIFF'S DEPARTMENT				
12-22	Officer [REDACTED]	November 21, 2012	1. Other Sufficient Cause 2. Conduct Unbecoming 3. Harassment	Officer [REDACTED]	1. Not Sustained 2. Not Sustained 3. Not Sustained

**WARREN COUNTY SHERIFF'S OFFICE / CORRECTIONS DIVISION
INTERNAL AFFAIRS CASE INDEX 2013**

<u>CASE #</u>	<u>COMPLAINANT</u>	<u>INVESTIGATION DATE</u>	<u>ALLEGATION</u>	<u>PRINCIPAL</u>	<u>STATUS</u>
13-01	Inmate [REDACTED]	February 7, 2013	Other sufficient cause	Officer [REDACTED]	Not Sustained
13-02	Officer [REDACTED]	March 27, 2013	Incompetency, Failure to perform duties – [REDACTED]	Ofc. [REDACTED]	Sustained [REDACTED]
13-03	Inmate [REDACTED]	June 11, 2013	Possession of Narcotics [REDACTED]	Inmate [REDACTED]	Sustained [REDACTED]
13-04	None	June 25, 2013	1. Conduct unbecoming a public employee 2. Other sufficient cause [REDACTED]	Ofc. [REDACTED]	1. Sustained [REDACTED] 2. Unfounded
13-05	Officer [REDACTED]	July 22, 2013	Conduct unbecoming a public employee [REDACTED]	Ofc. [REDACTED]	Sustained [REDACTED]
13-06	None	October 23, 2013	Other sufficient cause – Incident Notification	Ofc. [REDACTED]	Sustained [REDACTED]
13-07	[REDACTED]	November 25, 2013	Other sufficient cause - Failure to report [REDACTED]	Ofc. [REDACTED]	Sustained [REDACTED]
13-08	None	November 27, 2013	Other sufficient cause - Failure to report [REDACTED]	Sgt. [REDACTED]	Sustained [REDACTED]

**WARREN COUNTY SHERIFF'S OFFICE / CORRECTIONS DIVISION
INTERNAL AFFAIRS CASE INDEX 2014**

<u>CASE #</u>	<u>COMPLAINANT</u>	<u>INVESTIGATION DATE</u>	<u>ALLEGATION</u>	<u>PRINCIPAL</u>	<u>STATUS</u>
14-01	None	January 3, 2014	1. Other Sufficient Cause [REDACTED] 2. Conduct unbecoming a public employee	Officer [REDACTED]	1. Sustained 2. Sustained [REDACTED]
14-02	Officer [REDACTED]	January 27, 2014	1. Other Sufficient Cause - Unlawful Harassment 2. Other Sufficient Cause - Failure to follow policy	Officer [REDACTED]	1. Sustained 2. Sustained [REDACTED]
14-03	[REDACTED]	February 10, 2014	Misuse of Force 1. Allegation 2. Allegation 3. Allegation	No Named Principal	1. Allegation-Unfounded 2. Allegation-Exonerated 3. Allegation-Exonerated
14-04	Sergeant [REDACTED]	February 18, 2014	1. Failure to perform duties 2. Neglect of duty [REDACTED]	Officer [REDACTED]	1. Sustained 2. Sustained [REDACTED]
14-05	None	April, 1 2014	Other Sufficient Cause - Absence / Tardiness	Officer [REDACTED]	Sustained [REDACTED]
14-06	Inmate [REDACTED]	September 22, 2014	Other Sufficient Cause - Misuse of Force	Officer [REDACTED] Officer [REDACTED] Officer [REDACTED]	Pending