May 26, 2021

Kevin Boneske

Press Times

**Re: Public Record Request**

Dear Kevin:

I am writing in response to your recent records requests. Attached are records responsive to your renewed request originally dated March 4, 2021, and renewed by you on April 13th related to your initial request after the expiration of the required time period for release after notice was provided under Wisconsin Statute §19.356. Additionally, I am continuing and incorporating the prior redaction and denial of portions of your request. The bases for the partial redactions and denials are as follows:

1. A “record” as defined in Wis. Stat. §19.32(2) does not include drafts, notes, preliminary documents and like materials prepared for the originator’s personal use…. Materials which are purely the personal property of the custodian and have no relation to his or her office.
2. The record contains information about an individual that is not a record subject. Wis. Stat. §19.32(2g).
3. Records and information related this request are protected by the doctrines of attorney-client privilege, George v. Record Custodian, 169 Wis. 2d 573,582, 485 N.W.2d 460 (Ct. App. 1992), Wis. Newspress, Inc. v. Sch. Dist. Of Sheboygan Falls, 199 Wis. 2d 768, 782-83, 546 N.W.2d 143(1996), and attorney work product material and, therefore, has been redacted by denying the request at this time.
4. The request is not specifically directed to an individual as the legal custodian of records nor is anyone to whom the request is directed the legal custodian of another law enforcement agency’s records as set forth in Wis. Stat. §19.33.
5. Non-DPPA statutory, common law, or balancing test considerations warrant redaction of or preclude the disclosure of certain personal information and or highly restricted personal information obtained from the State DMV and contained in law enforcement records pursuant to the usual public records law analysis. OAG I -02-08 (Apr. 29, 2008).
6. Information purely personal in nature should not be released because disclosure runs counter to the policy set forth in the cases of Woznicki v. Erickson, 202 Wis.2d 178, 549 N.W.2d 699 (Wis. 1996), Milwaukee Teachers’ Educ. Assoc. v. Milwaukee Bd. of Sch. Directors, 277 Wis.2d 779, 596 N.W.2d 403 (Wis. 1999), and Hempel v. City of Baraboo, 2003 WI App. 254, 268 Wis.2d 534, 674 N.W.2d 38 (Wis. App. 2003)(rev. grant Feb. 24, 2004), which recognizes privacy interests of the subjects contained in a public record. In balancing the interests of the public’s right to receive such information and the subject’s right to privacy and possible adverse effects on the subject’s reputation, privacy, or safety, the rights of the subject outweigh the public interests with respect to various records you have requested, which include investigation documents that are highly personal in nature and contain personally identifiable information that is not subject to disclosure.
7. In conducting the balancing test, I have determined that the public interest in the non-disclosure of certain records outweighs the public interest in disclosing certain records. The rationale is as follows: certain contents or documents of internal investigations or employee personnel files in general create the potential difficulty in attracting quality candidates for public employment if there is the perception that public personnel files are regularly open for review. *See* Hempel at 120. In addition, it creates the loss of morale if public employees’ personnel files are readily disclosed weighs against public access and non-disclosure. *See* Hempel at 120. There is also the potential chilling of candid employee assessment in internal investigation and personnel records also weighs against disclosure for records. *See* Hempel at 120. Finally, the release of internal investigation records has the likelihood of compromising the effects of future investigations by disclosing methods and analysis of the conduct involved in internal investigations.

The determination not to release certain records is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to the Attorney General or District Attorney.

Thank you for your cooperation in this matter.

Respectfully,

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Brian A. Uhl

Chief of Public Safety

Enclosure: Emails from Kevin Boneske dated March 4, 2021, and April 13, 2021

Email from Chief Uhl dated February 18, 2021

Email from Joel Gregozeski dated February 18, 2021

Emails between Aaron Halstead and Tony Wachewicz dated February 18, 2021

Email from Lt. Ryan Carpenter to Dep. Chief Kozloski dated February 24, 2021

APS Rules While on Administrative Leave dated February 18, 2021

Notice of Internal Investigation dated February 18, 2021

Internal Investigation Garrity Warning dated March 4, 2021