

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

DIMITRI LYSSIKATOS
Plaintiff(s)

v.

PAUL KING, IN HIS CAPACITY AS
CHIEF OF POLICE FOR THE CITY OF
PAWTUCKET; AND FRANK J. MILOS,
JR., ESQ., IN HIS CAPACITY AS CITY
SOLICITOR FOR THE CITY OF
PAWTUCKET
Defendant(s)

C.A. No. PC-2017-_____

COMPLAINT

1. This is an action for injunctive, declaratory and other relief under the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 et. seq. (“APRA”), seeking the production of public records, concerning reports generated by the Internal Affairs Division of the Pawtucket Police Department.

2. This court has jurisdiction over this action pursuant to R.I. Gen. Laws § 38-2-9.

3. Venue is proper pursuant to R.I. Gen. Laws § 38-2-8(b).

4. Plaintiff, Dimitri Lyssikatos, is a resident of the town of Lincoln in the state of Rhode Island and a member of the Rhode Island Accountability Project.

5. The Rhode Island Accountability Project is a non-partisan body engaged in an effort to restore accountability and transparency in local government and law enforcement, particularly the investigation of police misconduct.

6. The Rhode Island Accountability Project has developed and maintains a database of reports generated by the Internal Affairs divisions of the Police Departments for each of the cities and towns in Rhode Island.

7. This database is published online at <http://www.riaccountabilityproject.com/request-and-view-internal-affairs-reports..html>.
8. In order to maintain its database the Rhode Island Accountability Project, through Plaintiff and others, regularly makes requests for the release of records pursuant to APRA.
9. The Rhode Island Accountability Project, through Plaintiff and others, strives to protect the privacy interests of those individuals identified in Internal Affairs and other reports through the proper redaction of individually identifiable information (often through collaboration with public agencies) before the reports are published.
10. Defendant, Paul King, is Chief of the Pawtucket Police Department.
11. The Pawtucket Police Department is in possession of the documents that Plaintiff seeks.
12. The Pawtucket Police Department is an “agency” or “public body” as defined in R.I. Gen. Laws § 38-2-2(1).
13. Article 3 Section 4 of Chapter 3 of the City of Pawtucket Code provides that “The members of the police force shall perform all such duties as are or may be required of them by the laws of the state and the ordinances of the City. They shall severally obey their superior officers and shall faithfully conform to and observe all lawful rules and regulations made for the management of the police force.”
14. The Internal Affairs division of the Pawtucket Police Department has as its major function, the receiving, processing and investigation of complaints made against members of the department. To ensure the public trust and maintain the department's integrity, the Internal Affairs division conducts immediate and objective investigations of all complaints.

15. Defendant, Frank J. Milos, Jr., Esq., is the City Solicitor for the City of Pawtucket.
16. On February 17, 2017, Plaintiff issued a request for records to the Pawtucket Police Department.
17. Plaintiff's February 17, 2017, request was addressed to Defendant Milos in his capacity as the City Solicitor for the City of Pawtucket.
18. Plaintiff's February 17, 2017, APRA request sought "[t]he last 2 years of internally generated reports investigated by the Internal Affairs Division that were not the result of a citizens' [sic] complaints against police officers"
19. A true and accurate copy of Plaintiff's February 17, 2017, APRA request is attached hereto as Exhibit A.
20. There were a total of fifty-seven (57) internal affairs reports responsive to Plaintiff's request.
21. In conformance with both Rhode Island law and the usual custom and practice, Plaintiff expected the requested records to be produced with redactions to protect the privacy interests of the individuals referenced in the requested reports.
22. On April 3, 2017, Defendant Milos issued a letter denying Plaintiff's request for records.
23. Defendant Milos denied Plaintiff's request on the grounds that they were not generated as a result of citizens' complaints; because they constitute "personnel and other personal individually-identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552 et. seq"; because "even in redacted form, [the

requested records] would not serve to shed light on the official acts and workings of government, nor would it [sic] shed light on how the Pawtucket Police Department operates”; and “because the “City further contends that the public interest in disclosure of these reports, if any, is negligible.”

24. A true and accurate copy of Defendant Milos’ April 3, 2017, letter is attached as Exhibit B.

25. The requested records are documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities) or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by an agency or public body.

26. As records maintained or kept on file by a public body, the requested records are public records as defined in R.I. Gen. Laws § 38-2-2(4).

27. As public records, the requested records are subject to the provisions of R.I. Gen. Laws § 38-2-2(3) granting “every person or entity ... the right to inspect and/or copy those records at such reasonable time as may be determined by the custodian thereof.”

28. The records requested do not constitute “personnel records” as defined in R.I. Gen. Laws. 38-2-4(A)(I)(b).

29. Redaction of the requested records—as anticipated by Plaintiff—would protect the privacy interests of persons identified therein.

30. There would be no invasion of personal privacy pursuant to 5 U.S.C. 552, et. seq. if the requested records were redacted to protect the identities of persons identified therein.

31. The requested records, if redacted to protect the identities of individuals referenced therein, would not be deemed confidential by federal or state law or regulations.

32. Even if some of the requested records contained individually-identifiable, private and/or confidential information, Defendants had an obligation to produce any reasonably segregable portion of the requested records following deletion of the information which is the basis of the exclusion.

33. There is significant public interest in the requested records. The reports of investigations conducted by the internal affairs department shed light on one of the core functions of government, policing; particularly the operation of the Pawtucket Police Department and the conduct of its officers in the execution of their duties.

34. There is no meaningful distinction between internal affairs reports generated as a result of citizen complaints and internal affairs reports generated without an underlying citizen complaint.

35. Defendants' denial of Plaintiff's February 17, 2017 APRA request was improper.

36. Plaintiff has a right of access to the requested records under R.I. Gen. Laws § 38-2-1 et. seq, and there is no legal basis for Defendants' denial of such access.

Wherefore, Plaintiff requests:

- a. A declaration from this court that the records requested by Plaintiff on February 17, 2017, constitute public records;
- b. A declaration from this court that there is public interest in the records requested by Plaintiff on February 17, 2017;
- c. An order of this court compelling Defendants to produce the records responsive to Plaintiff's APRA request (with appropriate redactions) in a timely manner;
- d. An order of this court waiving the fees for the search or retrieval of the records requested on February 17, 2017;

- e. An award of reasonable costs and attorney fees; and
- f. Any other relief that this court deems proper.

Plaintiff demands a trial by jury on all issues triable to a jury and designates R. Kelly Sheridan and James D. Cullen as trial counsel.

PLAINTIFF,
DIMITRI LYSSIKATOS
By His Attorneys,

/s/ James D. Cullen

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June ____, 2017

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