



OFFICE OF THE MERCER COUNTY PROSECUTOR

JANETTA D. MARBREY

Prosecutor

Chief of County Detectives

209 S. Broad Street, 3rd Floor
P.O. Box 8068
Trenton, New Jersey 08650-0068
Phone: (609) 989-6350
mercercountypProsecutor.com

JENNIFER DOWNING-MATHIS

First Assistant Prosecutor

BRIAN KIELY

Deputy Chief of County Detectives

April 22, 2025

Re: Open Public Records Act Request No. 25-077

To Whom It May Concern:

The Mercer County Prosecutor's Office is in receipt of your request dated April 7, 2025, under the "New Jersey Open Public Records Act" ("OPRA"), N.J.S.A. 47:1A:1, et seq. for the following:

"The Mercer County Prosecutor's Office Investigation Report of Detective Michael Fiabane, for the fire at 533 Whitehead Road in Hamilton NJ that occurred on 5/18/23."

Please be advised your OPRA request is denied as it seeks criminal investigatory records. Such records are exempt from disclosure under OPRA pursuant to N.J.S.A. 47:1A-1.1 et seq., and *Janeczko v. Department of Law and Public Safety, Division of Criminal Justice, GRC Complaint Numbers 2002-79 and 2002-80* (affirmed on appeal May 2004). Criminal investigatory records are defined as records that are held by a law enforcement agency, which pertain to any criminal investigation and which are not required by law to be made, maintained or kept on file. *Ibid.* A criminal investigatory record remains exempt from disclosure even after the criminal investigation has been closed. *West Solloway v. Bergen County Prosecutor's Office Custodian of Records, GRC Complaint 2011-39*; *Woojin Hwang v. Bergen County Prosecutor's Office Custodian of Records, GRC Complaint No. 2011-348*; *Donna Janeczko v. New Jersey Department of Law and Public Safety, Division of Criminal Justice, Custodian of Record, GRC Complaint Nos. 2002-79 and 2002-80*; *Andrew Johnson/Press of Atlantic City v. New Jersey Division of State Police, Custodian of Record, GRC Complaint No. 2004-46*. Cf. R. 1:38-3(f)(3) as to investigative police reports under the control of a court, unless they have been admitted into evidence.

The Mercer County Prosecutor's Office also reserves the right to raise any other ground for denial not raised in this response. The failure of the Mercer County Prosecutor's Office to assert an exception or privilege does not act as a waiver of any ground for denial.

You have the right to appeal this decision. You may either initiate a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC at 866-850-0511, or by mail at P.O. Box 819, Trenton, New Jersey 08625, or by email at grc@dca.state.nj.us, or at their website at www.state.nj.us/grc.

Very truly yours,

JANETTA D. MARBREY
MERCER COUNTY PROSECUTOR

By: /s/ Jake Bassinder
Jake Bassinder
Assistant Mercer County Prosecutor