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732-929-2027

December 30, 2020

R. Lord

Via OPRA Machine: opra+request-19313-2e6ec780@requests.opramachine.com

Re: Open Public Records Act (OPRA) Request
Mug Shot Authorization

Dear Sir/Madam:

Enclosed please find the document pursuant to your request made under the New Jersey Open Public Records Act (OPRA).

If I can be of further assistance, please contact me at 732-929-2027, x3135.

Yours very truly,

Dina R. Khajezadeh

Dina R. Khajezadeh
Assistant Prosecutor

DRK/dp

Enclosure

Sent from my Verizon, Samsung Galaxy smartphone

Dear Ocean County Prosecutor's Office,

The authorization from the prosecutor to employees to post mug shot records to social media.

Yours faithfully,

R Lord

Is xxxxxxxxxxxx@xx.xxxxx.xx.xx the wrong address for OPRA requests to Ocean County Prosecutor's Office? If so, please contact us using this form:

a=https%3a%2f%2fopramachine.com%2f%2fchange_request%2fnew%3fbody%3dsdoean_county_prosecutors_office&c=E.1xWOUP9pZlv5_z4IIlMywzQ2fqDnYaFvFL04E0DPMdBNNpLz1TWdG7M93jxbfsm6MjTD6baBgFuyxwpcXunCpO37FvJzHHv8EWEFv5b6JDP9PCEFEWcSQ.&type=1

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Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.

OCEAN COUNTY PROSECUTOR'S OFFICE						
Standard Operating Procedure						
VOLUME: 5	CHAPTER: 10	# OF PAGES: 7				
SUBJECT: PUBLIC INFORMATION						
EFFECTIVE DATE: June 6, 2012		ACCREDITATION STANDARDS: 1.7.1	REVISION DATE	PAGE #		
			04/22/15	2-4, 6-7		
BY THE ORDER OF: Prosecutor Joseph D. Coronato						
SUPERSEDES ORDER #: All Previous Orders						

PURPOSE: To establish a uniform procedure for the release of structured and accurate information to the public and the print and broadcast news media.

These guidelines establish the procedures for Ocean County Prosecutor's Office personnel for communicating with the media. It is the policy of the State of New Jersey that public records are made readily available for examination by the citizens for the protection of the public interest. All records required by law to be made, maintained or kept on file by local governmental agencies are to be deemed public records, subject to inspection and examination and available for copying. Some limitation upon the right to examine and copy records is essential and not detrimental to the public interest. N.J.S.A. 47:1A-1 et seq. provides that all government records shall be subject to public access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Rules of Court; any federal law, federal regulation or federal order. It should be noted that a delicate balance must be maintained between legitimate law enforcement needs for confidentiality, individual privacy interests and the public's right to know. This Directive is deemed in accordance with N.J.S.A. 47:1A-1 et seq., as well as the Governor's Executive Order No. 69 - May 15, 1997 (3/98).

POLICY: It is the policy of the Ocean County Prosecutor's Office to ensure that the release of information to the public and the media is carefully coordinated and controlled to avoid confusion and to promote the agency in a positive manner. Employees specifically authorized by this policy to release information must cooperate fully and impartially with authorized news media representatives in their efforts to gather factual, public information as it relates to the activities of the agency, as long as these activities do not unduly interfere with agency operations, infringe upon individual rights or violate the law.

This policy will govern inquiries from the news media regarding pending investigations in which no charges have been filed, pre-indictment matters in which complaints have been filed, and matters in which indictments have been returned.

PROCEDURE:

I. DEFINITIONS

- A. Public Information: information that may be of interest to the general public regarding policy, procedures, events involving the agency, or other newsworthy information that is not legally protected, does not unduly interfere with the mission of the agency, infringe upon the rights of defendants or compromise the legitimate, rights, safety and privacy interests of employees, victims, witnesses, or other applicable persons.
- B. News Media Representatives: those individuals who are directly employed by agencies of the electronic or print media such as radio, television and newspapers. Media representatives must possess and present authorized identification from either a local, national or international news organization.
- C. Director of Public Affairs (DPA): the agency's DPA serves as a central source of information for release by the agency and responds to requests for information by the news media and the public. No member of the Prosecutor's Office staff except the Prosecutor, First Assistant Prosecutor, Chief Assistant Prosecutor, or Director of Public Affairs, will answer media inquiries in connection with any pending investigation or pre-indictment matter without the permission of or unless requested to do so by the aforementioned personnel. All such inquiries will be referred to the Director of Public Affairs by the staff member to whom the inquiry is directed.

II. RESPONSIBILITIES OF THE DIRECTOR OF PUBLIC AFFAIRS (DPA)

- A. No member of the Prosecutor's Office staff except the Prosecutor, First Assistant Prosecutor, Chief Assistant Prosecutor, or Director of Public Affairs, will answer media inquiries in connection with any pending investigation or pre-indictment matter without the permission of or unless requested to do so by the aforementioned personnel. All such inquiries will be referred to the Director of Public Affairs by the staff member to whom the inquiry is directed.
- B. Inquiries regarding indicted cases may be answered by the assigned Assistant Prosecutor with respect to the nature and degree of the charges, the general factual allegations and the sentencing parameters. The content of any information provided shall be in accordance with this policy.
- C. No member of the Prosecutor's Office staff may initiate contact with any member of the news media or news media outlet without the express permission of the Prosecutor.
- D. All press releases will be issued by the Prosecutor or the Director of Public Affairs. No other member of the Prosecutor's Office staff is authorized to issue a press release or press statement.
- E. All personnel who will be involved in public speaking engagements or making public presentations or demonstrations other than routine training to law enforcement agencies will notify the Prosecutor's Confidential Aide of the date, place and time of the speaking engagement or presentation as soon as the event is scheduled.

- F. When in the course of providing information to the media, Ocean County Prosecutor's Office personnel shall adhere to this directive, the Governor's Executive Order No. 69 and the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq.
- G. The DPA shall be available to:
1. Assist news personnel in reporting needs at the scenes of incidents;
 2. Assist the news media on an on-call basis;
 3. Prepare news release for dissemination to the media, as needed.
 - a. Distribution of news releases shall be disseminated and retained on-line on the agency's website, Nixle or other approved social media outlet.
 - b. News releases may require approval of the Prosecutor or designee depending on the sensitive nature of the event. Joint investigations will necessitate a joint release of information.
 - c. News releases shall be maintained on-line for a minimum of one (1) year.
 4. Arrange for, and assist at, news conferences;
 5. Coordinate and authorize the release of information;
 6. Liaison with agencies involved in cooperative investigations and operations to facilitate the unified and consistent release of information; and

III. RELEASE OF INFORMATION

- A. The following information **shall not be** released except as permitted by law:
1. Juvenile records;
 2. Child Abuse records;
 3. Criminal history records;
 4. Domestic Violence records;
 5. Names of victims of sex crimes;
 6. The name of a victim of an incident resulting in serious injury, crime or fatal accident, where there has been no notification of next of kin, until the proper notifications have been made;
 7. Any information that is likely to compromise the safety of an individual or investigation;
 8. Identity, statement, or expected testimony of any witness or victim;

9. Any information pertaining to a defendant's prior arrest record, character or reputation;
10. Existence or contents of any confession, admission, or statement of a defendant or his/her failure or unwillingness to make a statement;
11. Performance or results of any tests or a defendant's refusal or failure to submit to tests;
12. The results of any investigation procedure such as photo arrays or the process by which a defendant was identified, or other procedures (the fact that these tests have been performed may be revealed without further comment);
13. Opinions given by any employee of the office as to the guilt or innocence of the accused, nor any opinion, knowledge, or speculation of the potential for a plea bargain or other pretrial or judicial action;
14. Information which, if prematurely released, may interfere with the investigation or apprehension such as the nature of leads, specifics of a modus operandi, details of the crime known only to the actor(s) and law enforcement, or information that may cause the suspect to flee or more effectively avoid apprehension;
15. Information that may be of evidentiary value in criminal proceedings;
16. Specific cause of death, unless officially determined by the medical examiner;
17. The search warrant document along with the search warrant affidavit and related court documents;
18. Photographs or video, or other electronic medians which depict seized weapons, drugs, contraband or other evidence seized as part of a law enforcement investigation.
19. Information regarding the suspect's or defendant's medical condition;
20. Investigative records, except what is otherwise authorized to be released;
21. The home address or telephone number of any member of a law enforcement agency;
22. Under no circumstances will a suspect or defendant be posed by the office for the media.

B. The following information **shall be** made available to the public.

1. The following information shall be released by the DPA as soon as practicable unless it shall appear that the release of such information will jeopardize the safety of any person or any investigation in progress or be otherwise inappropriate. For the purposes of this directive, the term "as soon as practicable" shall generally be understood to mean within 24 hours:

- a. Where a crime has been reported but no arrest yet made, information as to the type of crime, time, location and type of weapon, if any;
- b. If an arrest has been made, information as to the name, county and town of residency and age of any victims will be released unless there has not been sufficient opportunity for notification of next of kin of any victim of injury and/or death to any such victim or where the release of the names of the victim would be contrary to existing law or Court rule, such as the identification of a sex crimes victim. In deciding on the release of information as to the identity of a victim, the safety of the victim and the victim's family, and the integrity of any ongoing investigation, shall be considered. These concerns are heightened when a crime has been reported but no arrest yet made;
- c. If an arrest has been made, information as to the defendant's name, age, county and town of residency and occupation.
- d. Information as to the text of any charges such as the complaint, information and indictment unless sealed by the court;
- e. Information as to the identity of the investigating and arresting personnel and agency and the length of the investigation;
- f. Information of the circumstances immediately surrounding the arrest, including but not limited to the time and place of the arrest, resistance, if any, pursuit, possession and nature and use of weapons and ammunition by the suspect and by law enforcement;
- g. Information as to circumstances surrounding bail, whether it was posted and amount thereof;
- h. N.J.S. 17:36-19 - Right of the insurer to receive information from an authorized agency with respect to a civil action, requires that law enforcement agencies, under certain circumstances, provide relevant information in fire losses to an insurance company, provided that the information is not otherwise privileged by law;
- i. Title 39:4-131 - Provides that Motor Vehicle Accident Report Forms completed by police and forwarded to the New Jersey Motor Vehicle Commission, shall not be privileged or held confidential. This does not pertain to any investigative reports dealing with an accident investigation such as a motor vehicle fatality or DWI, which are not forwarded to the Motor Vehicle Commission;
- j. As a general rule, no office photographs, mug shots, videotape, film, or composites of subjects in custody shall otherwise be released unless a determination is made by the Prosecutor, First Assistant Prosecutor or their designee that the release would assist the public with providing information to law enforcement. The office recognizes that in certain situations, the release of a photo may result in additional information being provided to law enforcement.

In addition, the display of a defendant's photo may bring forward other victims of crimes.

2. Before providing information to the news media or responding to inquiries from media representatives, the following requirements should be carefully considered:
 - a. The necessity to prevent interference with, or hampering of an investigation;
 - b. The necessity to preserve evidence;
 - c. The necessity to protect the safety of the victims or witnesses of the crime;
 - d. The necessity to protect the identity of informants;
 - e. The necessity to successfully apprehend the perpetrators of a crime;
 - f. The necessity to protect the constitutional rights of persons accused of a crime;
 - g. The necessity to avoid prejudicial pretrial publicity;
 - h. The necessity to preserve the privacy for certain victims and witnesses; and
 - i. Any decision whether to release information shall take into full account the privacy interests and the protection of victim(s) of the crime. N.J. Const. Art. 1, sec. 22; N.J.S.A. 52:4B-36.

IV. COOPERATION WITH THE MEDIA

- A. Authorized news media representatives shall have reasonable access to the DPA and the Prosecutor or designee. When information must be denied to a media representative, the basis for that denial must be fully and courteously explained.
- B. This agency recognizes authorized identification from local, national, and international news organizations. Information shall only be released to media representatives upon verification that the individual is a bona fide representative of a news organization or in situations where the individual has proof of a freelance assignment with a news organization. Failure of media personnel to present authorized identification may provide grounds for restricting access to requested information or to incident scenes.
- C. Public information shall be released to the media as promptly as circumstances allow, without partiality and in as objective a manner as possible. All media representatives will be given fair and equal access to public information.
- D. Public information may be provided to media representatives by telephone or electronically if the identity of the representative is known or can be authenticated.

- E. The ranking Prosecutor's Office investigative member at crime scenes or incidents shall coordinate the referral of media inquiries to the County Prosecutor's DPA unless a determination is made by the Prosecutor or designee that the inquiry should be directed to another law enforcement agency.
- F. The ranking Prosecutor's Office investigative member involved in significant events is responsible for ensuring that the Prosecutor, First Assistant Prosecutor, Chief of Investigations or their designee and the office DPA are promptly notified.
- G. Nothing in this written directive is intended to preclude the use of the media to disseminate information to the public in the following situations:
 - 1. When a serious crime occurs and there is a description of a suspect or vehicle, and the Prosecutor, First Assistant Prosecutor, or their designee feel that public assistance will expedite the identification and/or apprehension of the responsible party.
 - a. Media releases shall contain the name of the agency or association along with the appropriate contact numbers where the public can call.
 - 2. There is a serious motor vehicle crash involving serious injury or fatality that would warrant prompt notification to the general public for informational purposes.

V. CONTROL OF MEDIA ACCESS

- A. Office personnel shall extend every reasonable courtesy to news media representatives at crime scenes, to the degree that it does not interfere with the law enforcement mission.
- B. Photographs of active crime scenes by the media are strictly prohibited. Where crime scenes are in the public view, the Prosecutor's Office investigative member in charge of the scene should ensure the establishment of a perimeter that creates an inability to photograph the crime scene as much as practicable. Once evidence has been processed, removed, and secured, the scene shall be released upon the authorization of the Prosecutor or designee.
- C. The news media shall not be permitted access to any area or scene of an incident or crime where there is a possibility that evidence may be damaged, altered, destroyed or otherwise prejudiced by its existence being published, broadcast or portrayed.
 - 1. Suspects or accused persons in custody shall not be posed or arrangements made for photographs, telecasts or interviews, nor shall agency personnel pose with suspects or accused persons in custody.
- D. At the scene of significant accidents, man-made or natural catastrophes, the principles of media cooperation shall be maintained to the degree that they do not interfere with the overall mission or any emergency relief workers.
- E. A media staging area away from the active scene(s) shall be established allowing for the controlled and timely release of information to the media.