

Mark Y. Moon, Esq.
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February 24, 2022

John Klein

**Re: Garden State Municipal Joint Insurance Fund
Open Public Records Act Request
Neptune Township
Request for Emails, Documents, and Memorandums re: Nicholas Williams**

Dear Mr. Klein:

This office represents Garden State Municipal Joint Insurance Fund (the "JIF") with regards to the request submitted by you seeking government records pursuant to the Open Public Records Act ("OPRA"). We have been forwarded a copy of your email request for certain record from the JIF (the "OPRA Request") including:

Emails, documents and memorandums from or to or sent or received from or with search terms, Nicholas Williams from January 1, 2020 to February 6, 2022.

However, please be advised that OPRA expressly excludes certain documents from the definition of "government records" subject to disclosure, including:

any record within the attorney-client privilege. This paragraph shall not be construed as exempting from access attorney or consultant bills or invoices except that such bills or invoices may be redacted to remove any information protected by the attorney-client privilege;

* * * * *

information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office.

N.J.S.A. 47:1A-1.1.

In addition, N.J.S.A. 47:1A-10 provides that:

Notwithstanding the provisions of P.L.1963, c. 73 ([C.47:1A-1 et seq.](#)) or any other law to the contrary, **the personnel or pension**

records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access, except that:

an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record;

personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the United States, or when authorized by an individual in interest; and

data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information, shall be a government record.

N.J.S.A. 47:1A-10 (emphasis added).

Based on this language and provisions in the OPRA statute, the documents which fall within these categories shall not be produced as they are excluded from the statutory definition of a “government record.”

Notwithstanding the foregoing, please find attached documents which have been marked “Garden State JIF – OPRA Request – 1” through “Garden State JIF – OPRA Request – 220.”

Please be guided accordingly. The JIF reserves all rights and remedies.

Very truly yours,



MARK Y. MOON

0059-06

Francis X. Donnelly, Esquire - #036581983
 Turner, O'Mara, Donnelly & Petrycki, P.C.
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 Cherry Hill, New Jersey 08002
 (856) 667-2600
 Attorneys for Intervenor, Statewide Insurance Fund

ELENA GONZALEZ,	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION : MONMOUTH COUNTY : Docket Number: MON-L-367-16
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Plaintiff

v.	: CIVIL ACTION :
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TOWNSHIP OF NEPTUNE, NEPTUNE:
 TOWNSHIP POLICE DEPARTMENT,
 MICHAEL BRANTLEY, in an :
 individual and official capacity
 NICHOLAS WILLIAMS, in an :
 individual and official capacity;
 CAROL RIZZO, in an individual and :
 official capacity; ROBERT LANE, JR.,
 in an individual and official capacity;;
 KEVIN McMILLAN, in an individual
 and official capacity; MICHAEL J. :
 BASCOM, in an individual and
 official capacity; JAMES M. HUNT, :
 in an individual and official capacity;
 ROBERT MANGOLD, in an individual
 and official capacity; MICHAEL :
 McGHEE, in an individual and
 official capacity; ANTHONY :
 GUALARIO, in an individual and
 official capacity; KEVIN :
 O'DONNELL, in an individual and
 official capacity; SCOTT COX, in an :
 individual and official capacity; and
 JOHN DOES 1-10, in their individual:
 and official capacities (who are
 fictitiously named because their true:
 identities are unknown),

Defendants.

**INTERVENOR'S PLEADING
 PURSUANT TO RULE 4:33-3**

Intervenor, Statewide Insurance Fund, by way of Intervenor's Pleading says:

FIRST COUNT

1. Plaintiff's Complaint asserts claims of workplace discrimination, harassment and retaliation against defendants in violation of New Jersey's Law Against Discrimination, *N.J.S.A. 10:5-1 et seq.*

2. The insurer providing defendants with a defense in this action has contended, outside the pleadings, that Intervenor may owe coverage to the Township of Neptune for the Plaintiff's claims, or some of them, or for certain of Plaintiff's claimed damages.

3. Intervenor denies that its Self-Insurance agreement with the Township for Workers Compensation and Employers Liability affords any coverage for any of Plaintiff's legally cognizable claims asserted in the action.

4. Plaintiff's Complaint may be construed as averring facts and/or asserting claims that Intervenor contends are not legally cognizable in this action as same are barred by *N.J.S.A. 34:15-8*.

WHEREFORE, Intervenor Statewide Insurance Fund seeks adjudication of the non-cognizability of the claims barred by *N.J.S.A. 34:15-8*.

SECOND COUNT

5. Intervenor hereby repeats and incorporates herein the averments of the preceding paragraphs as if same were fully set forth herein.

6. Intervenor contends the insurer providing defendants with a defense in this action relies on Plaintiff's legally non-cognizable claims in its contention that Intervenor owes coverage to the Township of Neptune for Plaintiff's claims.

7. Intervenor seeks adjudication of the issue of the non-cognizability of Plaintiff's claims which could be construed as averring non-intentional conduct.

WHEREFORE, Intervenor Statewide Insurance Fund denies that it owes coverage to the Township of Neptune for Plaintiff's claims or damages Plaintiff allegedly sustained arising out of his employment by the Township.

CERTIFICATION PURSUANT TO RULE 4:5-1

1. The matter in controversy is related to the subject matter of actions pending in Superior Court of New Jersey, Law Division, Monmouth County, captioned *Kyheem Davis v. Township of Neptune, et al*, Docket No. MON-L-4209-15 and *Statewide Insurance Fund v. Township of Neptune, et al.*, Docket No. MON-L-2757-20.

2. Another action or arbitration proceeding is not contemplated.

3. The names and addresses of any other party who should be joined in the action are: None.

NOTICE OF DESIGNATION OF TRIAL COUNSEL

PLEASE BE NOTIFIED that pursuant to 4:25-4, Francis X. Donnelly, Esquire, is hereby designated as trial counsel in the above-captioned litigation on behalf of the firm of Turner, O'Mara, Donnelly & Petrycki, P.C.

DEMAND is hereby made for a trial by jury as to all issues.

TURNER, O'MARA, DONNELLY & PETRYCKI, P.C.

Attorneys for Intervenor,
Statewide Insurance Fund

s/Francis X. Donnelly

BY: _____
FRANCIS X. DONNELLY

attorneys for the Intervenor, Statewide Insurance Fund, seeking an Order permitting Statewide Insurance Fund to intervene in this action;

AND the Court having considered the matter and for good cause shown;

IT IS on this 16th day of October, 2020, **ORDERED** that Intervenor, Statewide Insurance Fund's, Motion is **GRANTED**; Intervenor's pleading shall be filed within 10 days of the date of this Order;

IT IS FURTHER ORDERED that a copy of this Order be served upon all counsel within 5 days of the date hereof.

/s/ Owen C. McCarthy

Honorable Owen C. McCarthy, J.S.C.

 Opposed
 X Unopposed

Movant is permitted to intervene per Court Rules. Any limitation on rights of Intervenor is left to the discretion of the Trial Judge.

The motion, which was not opposed, is GRANTED for the reasons set forth in the moving papers.

DONALD F. BURKE, ESQ. #008011983
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ATTORNEYS FOR PLAINTIFFS
BARRY COLICELLI and ON TARGET
LAW ENFORCEMENT AND SECURITY
CONSULTANTS LLC

BARRY COLICELLI and ON TARGET
LAW ENFORCEMENT AND SECURITY
CONSULTANTS LLC,
Plaintiffs,

v.

NEPTUNE TOWNSHIP, RICHARD J. CUT-
TRELL, VITO GADALETA, ELLEN
O'CONNELL, JAMES M. HUNT, JR.,
ROBERT LANE, JR., KEVIN MCMILLAN,
CAROL RIZZO, JOHN DOES 1-10 AND
JOHN DOE CORPORATIONS 1-10 (BE-
ING PERSONS AND ENTITIES WHOSE
TRUE IDENTITIES ARE UNKNOWN) (IN
THEIR INDIVIDUAL AND OFFICIAL CA-
PACITIES),
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

CIVIL ACTION No.:

VERIFIED COMPLAINT FOR RELIEF
PURSUANT TO THE OPEN PUBLIC
RECORDS ACT, CONSCIENTIOUS
EMPLOYEE PROTECTION ACT, NEW
JERSEY CIVIL RIGHTS ACT; NEW JERSEY
LAW AGAINST DISCRIMINATION, BREACH
OF CONTRACT AND THE COMMON LAW

Plaintiffs, BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC, residents of the State of New Jersey, County of Monmouth, by and through their undersigned attorney DONALD F. BURKE, ESQUIRE, by way of a Verified Complaint against the above-named defendants, states as follows:

1. This is an action for monetary and other appropriate relief brought by the plaintiffs, BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CON-

SULTANTS LLC, by and through their attorney, DONALD F. BURKE, ESQUIRE, to address violations by defendants of the plaintiffs' rights secured by virtue of the Constitution and laws of the State of New Jersey and the common law.

PARTIES

2. Plaintiff BARRY COLICELLI is an individual who is a citizen of the State of New Jersey and worked for defendant NEPTUNE TOWNSHIP.

3. Plaintiff BARRY COLICELLI was appointed as a member of the Neptune Township Police Oversight Committee of defendant NEPTUNE TOWNSHIP.

4. Plaintiff ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC is company offering, among other things, police practices and procedures consulting, and plaintiff BARRY COLICELLI is recognized as a police practices expert by the New Jersey State Office of the Public Defender.

5. Defendant NEPTUNE TOWNSHIP is a municipality in the County of Monmouth, State of New Jersey.

6. Defendant NEPTUNE TOWNSHIP is a municipality in Monmouth County.

7. Defendant RICHARD J. CUTTRELL is the Municipal Clerk for defendant NEPTUNE TOWNSHIP and the Custodian of Records of NEPTUNE TOWNSHIP.

8. As such, defendant RICHARD J. CUTTRELL is the individual responsible under the Open Public Records Act to maintain government records of defendant NEPTUNE TOWNSHIP and to permit their inspection, examination and copying pursuant to that

statute. *See* N.J.S.A. 47:1A-1.1 to -5.

9. Defendant NEPTUNE TOWNSHIP is a “public agency” that “ma[kes], maintain[s] or keep[s] on file” government records and is therefore subject to the Open Public Records Act, N.J.S.A. 47:1A-1 to -13.

10. Defendant VITO GADALETA is Business Administrator for defendant NEPTUNE TOWNSHIP.

11. Defendant ELLEN O’CONNELL was hired by defendant VITO GADALETA to perform an investigation of complaints of defendant JAMES M. HUNT, JR. that he was the victim of discrimination and harassment by plaintiff BARRY COLICELLI and members of the Police Oversight Committee.

12. Defendant JAMES M. HUNT, JR., is the Police Chief of the Neptune Township Police Department and is a white male and the Neptune Township Police Department senior ranks overwhelmingly consist of white males.

13. Defendant ROBERT LANE, JR. is the Mayor of Neptune Township and is named herein in his individual and official capacity.

14. Defendant KEVIN MCMILLAN is the Deputy Mayor of the Township Committee of Neptune Township and is named herein in his individual and official capacity.

15. Defendant CAROL RIZZO is a member of the Neptune Township Committee and is named herein in her individual and official capacity.

16. At all times relevant to this Complaint, the individually named defendants were

upper level managers who aided and abetted the wrongful conduct as more fully alleged herein.

17. Defendants JOHN DOES 1-10 and JOHN DOE CORPORATIONS 1-10 are persons and entities whose true identities are presently unknown but are described as individuals and corporations who independently or as duly authorized agents of defendants aided and abetted wrongdoing against plaintiff BARRY COLICELLI to deprive plaintiff of his rights through their acts or omissions and caused his injury and damages.

18. All defendants are named herein in their official and individual capacities for discriminatory and retaliatory conduct in violation of the New Jersey Law Against Discrimination, N.J.S.A. 34:19-1, *et seq.*; Conscientious Employee Protection Act (“CEPA”), N.J.S.A. 34:19-1, *et seq.*, the New Jersey Civil Rights Act and the New Jersey Constitution as well as breach of contract, breach of the duty of good faith and fair dealing, defamation, false light invasion of privacy, negligence and any and all causes of action suggested by the facts set forth herein and/or developed through discovery.

JURISDICTION

19. The court has subject-matter jurisdiction over the instant lawsuit.

20. A Notice of Claim was served on the defendants by letter dated August 14, 2020.

21. The acts complained of that are attributable to the defendants all occurred within the jurisdiction of this court.

STATEMENT OF FACTS

22. Plaintiff BARRY COLICELLI is a retired Newark police captain and President and CEO of ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

23. In 2014, the Neptune Township Committee appointed Michael Bascom, Neptune Township's Chief Financial Officer, as the Appropriate Authority to provide oversight of the Police Department and its Police Chief, defendant JAMES M. HUNT, JR.

24. Under the management of Bascom as Police Director/Appropriate Authority and defendant JAMES M. HUNT, JR. as Police Chief, the Neptune Township Police Department became rife with problems.

25. For instance, claims of discrimination and retaliation were rampant which was potentially indicative of a pervasive and severe problem with the Police Department leadership including defendant JAMES M. HUNT, JR. and former Police Director Bascom.

26. These problems have included, among other things,

- The murder of his wife by Neptune Police Sergeant Seidle with his service revolver in June of 2015 after episodes of domestic violence were brought to the attention of defendants NEPTUNE TOWNSHIP defendant JAMES M. HUNT, JR. and former Police Director Bascom.
- A lawsuit filed against Neptune Township by police officer Kyheem Davis in 2015 claiming he was retaliated against for supporting Elena Gonzalez's and Christine Savage's claims of sexual harassment in 2014.¹
- The death in August of 2016 of a 21-year-old mother while in the custody of the Neptune Township Police Department on a charge of possessing drug par-

¹ Emails released on January 18, 2019 pursuant to Court Order demonstrated collusion between Jonathan Cohen, Neptune Township's lawyer, and Howard H. Woolley, Jr. who was supposed to act as an independent Hearing Officer to rig a disciplinary hearing brought against Kyheem Davis in a calculated attempt to fire him.

aphernalia.

- The resignation on April 2017 of Elena Gonzalez, a Neptune Township Police Sergeant on the grounds that she was repeatedly sexually harassed and faced retaliation at the hands of defendant JAMES M. HUNT, JR. and former Police Director Bascom when she brought the conduct to their attention.
- The resignation of a number of female officers.
- Claims of disparate discipline of police officers based on race and/or gender including disproportionate discipline of police officers who oppose discrimination and wrongdoing.

27. Litigation arising from problems in the Neptune Township Police Department under the management of including defendant JAMES M. HUNT, JR. and former Police Director Bascom were costing Neptune Township taxpayers and its insurers huge sums of money.

28. In 2017, defendant Neptune Township decided to address problems in the Neptune Township Police Department that arose under the management of defendant JAMES M. HUNT, JR. and former Police Director Bascom by creating a Police Committee (hereinafter Police Oversight Committee).

29. The ordinance creating the Police Oversight Committee required defendant JAMES M. HUNT, JR., the Chief of Neptune Township Police Department, to report directly to the Police Oversight Committee and to provide daily or other periodic reports.

30. This reporting responsibility was intended to allow for monitoring and correction, if necessary, of actions taken in the Police Department when necessary.

31. The Ordinance establishing the Police Oversight Committee (Ordinance 2017-29) provided that the Police Oversight Committee “shall be responsible to review the per-

formance of the Police Department” and “shall serve as the administrative and executive head of the Police Department.”

32. The Police Committee’s duties include, but are not limited to:

- Establishing the procedures to be followed by the Chief of Police and other subordinate officers for the purchase of equipment and supplies including approval of all expenditures regarding equipment and supplies.
- Review and approval of all business transacted by the Police Department including approval of all bills of the Police Department.
- Review and, to the extent allowed by law, approval of records, reports, documents and other data required to be kept and maintained by the Federal and/or State government.
- Review and, to the extent allowed by law, approval of all appointments, dismissals, removals, resignations of officers and other Department employees as they take place.
- Review of the effectiveness of work program and procedures of all organizational components within the Police Department to developing effective work methods.
- Undertaking special studies pertaining to Police functions and promoting close coordination of planning efforts.
- Establishing and maintaining helpful and cooperative relations with civic and business organizations, schools, and court offices, and with other groups and public authorities and other jurisdictions in the maintenance of law and order.

33. The Police Oversight Committee was authorized to exercise all powers not specifically reserved to the Chief of Police pursuant to N.J.S.A. 40A14-118 and required the Chief of Police or designee to report directly to the Police Oversight Committee.

34. Plaintiff BARRY COLICELLI has had a long and distinguished career in Law Enforcement and is a police practices consultant and expert.

35. In 2017, plaintiff BARRY COLICELLI was asked to serve as a member of the Police Oversight Committee because of his experience in the Police Department of the City of

Newark and his training, and he was appointed by the governing body of defendant NEPTUNE TOWNSHIP as a member.

36. Seven candidates were considered and a final three were brought in for interviews on September 20, 2017.

37. Plaintiff BARRY COLICELLI was interviewed for an hour and was selected based upon his extensive experience in law enforcement, a number of law enforcement awards and specialties in analytical abilities, a knowledge of police practices, investigative experience, and experience in public management.

38. About his appointment to the Police Oversight Committee, plaintiff BARRY COLICELLI stated publicly: "Diverse communities are what I know best, coming from Newark. I got training that was hands-on than rather than learn from books and I want to use this background and experience to help towns like Neptune." Plaintiff BARRY COLICELLI also stated publicly "I like to take a look at the issues, analyze them and, as a team, look at solutions. I like to get at solutions."

39. Plaintiff BARRY COLICELLI came to understand as a member of the Police Oversight Committee, that the numerous severe and pervasive problems with the Neptune Township Police Department arose from inadequate management by defendant JAMES M. HUNT, JR., under former Police Director Michael Bascom.

40. Plaintiff BARRY COLICELLI came to the realization that the perception by some that defendant JAMES M. HUNT, JR. as a racist and sexist who was engaged in an effort to

make things difficult for minorities in the Neptune Township Police force and to punish those who opposed discrimination was not a perception but was a fact.

41. Plaintiff BARRY COLICELLI advised defendant NEPTUNE TOWNSHIP of his conclusions and the facts that back them up including the use of disparate discipline by defendant JAMES M. HUNT, JR. to punish minorities and those opposing discrimination; the use of training as a criteria for promotions when he solely decided who will be trained which was used to eliminate minorities from consideration; and the use of degrees as a criteria for promotions so as to exclude minorities.

42. Recognizing that plaintiff BARRY COLICELLI could serve more effectively as a police consultant to the Police Oversight Committee, in May of 2018 defendant NEPTUNE TOWNSHIP hired plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC as a consultant to counsel to advise the Township Police Oversight Committee on police matters.

43. The Resolution hiring plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC stated a “need for professional consultant services in the area of police practices.”

44. Plaintiff BARRY COLICELLI was directed to resign as a member of the Police Oversight Committee as a condition of being retained as a consultant.

45. The contract provided that either party may terminate the Agreement “for cause.”

46. In September of 2018, plaintiff BARRY COLICELLI received a Subpoena to attend

a deposition and to produce records and answer questions as to his role on the Neptune Township Police Oversight Committee.

47. Plaintiff BARRY COLICELLI was pressured by a Neptune Township official, who was not a member of the Police Oversight Committee, to alter his testimony so as not to testify adversely to defendants in the pending lawsuit including defendant NEPTUNE TOWNSHIP and defendant JAMES M. HUNT, JR. by revealing facts about what plaintiff BARRY COLICELLI knew about the discrimination and retaliation taking place in the Neptune Township Police Department.

48. Plaintiff BARRY COLICELLI refused to be pressured and in no uncertain terms made it clear he would answer all questions asked at the deposition truthfully and accurately.

49. Subsequently, defendant NEPTUNE TOWNSHIP filed a motion to Quash the Subpoena served on plaintiff BARRY COLICELLI.

50. The Police Oversight Committee which included Township Committee member Brantley, Township Committee member Williams and Adrienne Sanders, became fully aware of the problems created by defendant JAMES M. HUNT, JR. and agreed that appropriate steps were required to remediate the discrimination and retaliation in the Neptune Township Police Department.

51. The Police Oversight Committee, with plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC as consultant, sought

to effectuate needed change in the Neptune Township Police Department through reviewing police operations, establishing appropriate policies and procedures and making sure the policies and procedures were followed.

52. For instance, when plaintiff BARRY COLICELLI was the Chairman of Police Oversight Committee he reviewed the promotion process for promotion to Deputy Chief and determined that there were requirements that excluded the only black Captain from seeking the position, Captain Larry Fisher.

53. Captain Larry Fisher had long and distinguished service in the Neptune Township Police Department but was being excluded from consideration as Deputy Chief of the Police Department based on his level of education.

54. Plaintiff advised the Police Oversight Committee that this was an artificial barrier to promotion that excluded the only black officer eligible and perpetuated discrimination in the ranks.

55. The educational requirement was thereafter removed by the Police Oversight Committee.

56. Based upon a fair and impartial evaluation of the candidates competing for the position, Captain Larry Fisher was promoted to the position of Acting Deputy Chief in December of 2017.

57. Further, the Police Oversight Committee directed defendant JAMES M. HUNT, JR. to provide for its review Neptune Police Department records of expenditures and

business transactions including records required to be kept and maintained by the Federal and/or State government to make sure, among other things, monies in the Federal and County Forfeiture Funds Accounts were being collected, accounted for and spent in a lawful and appropriate manner.

58. Notwithstanding this request for records of expenditures and business transactions, including records required to be kept and maintained by the Federal and/or State government, was a lawful and appropriate request for the Police Oversight Committee to make, defendant JAMES M. HUNT, JR. refused to provide the information sought by the Police Oversight Committee.

59. The Police Oversight Committee also directed defendant JAMES M. HUNT, JR. to provide for its review Neptune Police Department records information regarding overtime.

60. Notwithstanding this request for information regarding overtime was a lawful and appropriate request for the Police Oversight Committee to make, defendant JAMES M. HUNT, JR. refused to provide the information sought by the Police Oversight Committee.

61. Plaintiff BARRY COLICELLI became concerned that defendant JAMES M. HUNT, JR. was using for fitness for duty evaluations as a means to discriminate against minorities and retaliate against employees who oppose discrimination and he so advised the Police Oversight Committee of his concern.

62. Rather than address the concern about the improper use of fitness for duty

evaluations and the failure to consider whether Police Officers found unfit could nevertheless perform light or administrative duty, defendant JAMES M. HUNT, JR. refused to take action.

63. Generally, rather than follow the direction of the Police Oversight Committee, defendant JAMES M. HUNT, JR., the Chief of Neptune Township Police Department, fought required change every step of the way including threatening suit regarding the oversight by the Police Oversight Committee and making baseless complaints about the actions being taken by the Police Oversight Committee.

64. Defendant JAMES M. HUNT, JR.'s recalcitrance to change became so pronounced that the Police Oversight Committee reprimanded defendant JAMES M. HUNT, JR. for failing to notify it of incidents which occurred in May, August and September 2018 and it provided a plan for improvement and identified consequences for future violations.

65. Notwithstanding defendant JAMES M. HUNT, JR.'s resistance, plaintiff BARRY COLICELLI and the Police Oversight Committee continued their efforts to oppose discrimination, retaliation and other malfeasance taking place in the Neptune Township Police Department under defendant JAMES M. HUNT, JR.

66. Defendant JAMES M. HUNT, JR. also resisted broader inquiries of the Police Oversight Committee at the suggestion of plaintiff BARRY COLICELLI to address comparative discipline in the Neptune Township Police Department claiming that disciplinary matters were confidential under the Attorney General's Internal Affairs

Policy & Procedures even though this allows release upon good cause and defendant JAMES M. HUNT, JR. had on numerous occasions released to third parties Internal Affairs files, including disciplinary records of police officers and, more importantly, the Police Oversight Committee was the Appropriate Authority.

67. Defendant JAMES M. HUNT, JR.'s resistance to necessary change directed by the Police Oversight Committee became so drastic and pronounced that defendant JAMES M. HUNT, JR. began regularly to act unprofessionally and inappropriately to plaintiff BARRY COLICELLI and the Police Oversight Committee.

68. On December 15, 2019, Dr. Michael Brantley, Chairman of Neptune Police Oversight Committee, served defendant JAMES M. HUNT, JR. via email an "Employee Warning Notice" dated December 12, 2019 concerning an incident that occurred on December 4, 2019 and, again, defendant JAMES M. HUNT, JR. resisted and opposed the Police Oversight Committee.

69. Defendant JAMES M. HUNT, JR.'s opposition was so pronounced that the Neptune Township Labor Counsel said about defendant JAMES M. HUNT, JR., "[N]o other employee has consistently alleged that they are the target of harassment or a hostile work environment in response to their Department Head requesting basic information necessary to promulgate effective policies for the running of the Department."

70. Rather than cooperate with the Police Oversight Committee to effectuate needed change in the Neptune Township Police Department, defendant JAMES M. HUNT, JR.

launched baseless attacks alleging hostility, harassment and retaliation by the Police Oversight Committee and plaintiff BARRY COLICELLI.

71. To thwart and undermine the efforts of plaintiff BARRY COLICELLI and the other members of the Police Oversight Committee in their attempts to address and eliminate discrimination, harassment, retaliation and malfeasance from the Neptune Township Police Department, defendant VITO GADALETA, the Neptune Township Business Administrator, a defendant in certain of the lawsuits alleging discrimination, harassment, retaliation and malfeasance, hired defendant ELLEN O'CONNELL to conduct an investigation of defendant JAMES M. HUNT, JR.'s complaints.

72. The Neptune Township Committee, specifically, defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO, worked with defendant VITO GADALETA to undermine plaintiff BARRY COLICELLI and the other members of the Police Oversight Committee in their attempts at addressing and eliminating discrimination, harassment, retaliation and malfeasance from the Neptune Township Police Department.

73. Defendant NEPTUNE TOWNSHIP and defendant VITO GADALETA refused to retain outside investigators to investigate the complaints of Kyheem Davis, Christine Savage and Elena Gonzalez but hired defendant ELLEN O'CONNELL to investigate claims of discrimination made by defendant JAMES M. HUNT, JR., a white male.

74. The members of the Police Oversight Committee were not immediately advised

by defendant VITO GADALETA about defendant JAMES M. HUNT, JR.'s complaints or that he was hiring defendant ELLEN O'CONNELL to conduct an investigation of defendant JAMES M. HUNT, JR.'s complaints on behalf of defendant NEPTUNE TOWNSHIP.

75. Plaintiff BARRY COLICELLI was never advised by defendant VITO GADALETA or anyone else about defendant JAMES M. HUNT, JR.'s complaints or that defendant ELLEN O'CONNELL was being retained to conduct an investigation of defendant JAMES M. HUNT, JR.'s complaints on behalf of defendant NEPTUNE TOWNSHIP.

76. There is no written record that defendant VITO GADALETA asked defendant ELLEN O'CONNELL to provide any evidence of experience in the field of workplace investigations into discrimination, harassment and retaliation and it is unclear that she has sufficient experience to conduct a workplace investigation.

77. The fact that defendant VITO GADALETA hired defendant ELLEN O'CONNELL in response to defendant JAMES M. HUNT, JR.'s complaint of discrimination must be compared to the continual and numerous requests of Kyheem Davis, a black male, Christine Savage, a white woman, and Elena Gonzalez, a Hispanic female, in the last 5 years to have an impartial investigation conducted of their complaints of discrimination, harassment and retaliation by defendant JAMES M. HUNT, JR. and others which have been ignored.

78. During her investigation, defendant ELLEN O'CONNELL never contacted or

interviewed plaintiff BARRY COLICELLI.

79. During her investigation, defendant ELLEN O'CONNELL demanded Township Committee members Brantley and Williams, members of the Police Oversight Committee, answer written questions and when their counsel asked for records that would allow them to respond to the written questions, defendant ELLEN O'CONNELL unilaterally concluded that Township Committee members Brantley and Williams had chosen not to participate and she closed the record on April 22, 2020.

80. This clearly indicated defendant ELLEN O'CONNELL's goal was not to conduct an impartial investigation but was intent on undermining the efforts of plaintiff BARRY COLICELLI and the Police Oversight Committee, maligning them and take away their authority to effectuate change.

81. The circumstances regarding defendant JAMES M. HUNT, JR.'s refusal to cooperate with the Police Oversight Committee and plaintiff BARRY COLICELLI in their efforts to address discrimination, retaliation and other malfeasance in the Neptune Township Police Department is evident from the failure of defendant NEPTUNE TOWNSHIP to take action to eliminate the discrimination, retaliation and malfeasance plaintiff BARRY COLICELLI found to be rampant in the Neptune Township Police Department; the direction to plaintiff BARRY COLICELLI to alter his testimony regarding the discrimination, retaliation and malfeasance he found to be rampant in the Neptune Township Police Department under the management of defendant JAMES M. HUNT, JR.;

the failure of defendant VITO GADALETA to fully inform the subjects of defendant JAMES M. HUNT, JR.'s complaints about the complaints, and the manner in which defendant ELLEN O'CONNELL was retained to conduct the investigation of defendant JAMES M. HUNT, JR. when other requests for investigations went unheeded.

82. The investigation by defendant ELLEN O'CONNELL was intended to protect the defendants in the pending lawsuits and to thwart and put an end to the Police Oversight Committee's efforts to combat and eliminate discrimination, harassment, retaliation and malfeasance in the Neptune Township Police Department perpetrated by defendant JAMES M. HUNT, JR. and others.

83. Defendant ELLEN O'CONNELL's investigation was never intended to be fair and impartial but was intended to disparage plaintiff BARRY COLICELLI and the Police Oversight Committee, undermine their efforts at needed reform of the Neptune Township Police Department and remove them from their respective positions.

84. Defendant JAMES M. HUNT, JR. gave the investigator defendant ELLEN O'CONNELL documents, including four 3-ring binders containing email, disciplinary directives that the Police Oversight Committee served on him over a period from October 2017 to December 2020; annual reports; correspondence from the Monmouth County Prosecutor's Office, the U.S. Department of Justice, counsel to the N.J. State Association of Chiefs of Police, and documents related to the Chief's complaints about the handling of cases by the Neptune Township Prosecutor and other records but these

records have not been provided to plaintiff BARRY COLICELLI.

85. Defendant NEPTUNE TOWNSHIP has kept the above government records secret.

86. Defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO conspired with defendant VITO GADALETA and defendant ELLEN O'CONNELL to undermine the efforts of plaintiff BARRY COLICELLI and the Police Oversight Committee, malign them and take away their authority to effectuate change.

87. For instance, at the Township Committee meeting held on April 27, 2020, an Executive Session was held and defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO prohibited Committeepersons Mr. Williams, Dr. Brantley and Township Attorney Gene Anthony from participating.

88. Once again, this action silenced the voices of the two Township Committee members, Mr. Williams and Dr. Brantley, who were on the Police Oversight Committee and had knowledge of the problems in the Neptune Township Police Department and the racism, sexism and malfeasance of defendant JAMES M. HUNT, JR. and efforts of plaintiff BARRY COLICELLI and the Police Oversight Committee to address and eliminate the problems.

89. Also, by excluding Township Committee Members Mr. Williams and Dr. Brantley from the Executive Session addressing issues involving the Neptune Township Police Department violates N.J.S.A. § 40A:14-118 that mandates the municipal governing body and individual members thereof to act as a body.

90. On April 28, 2020, Neptune Township Business Administrator defendant VITO GADALETA advised plaintiff BARRY COLICELLI of NEPTUNE TOWNSHIP's intent to terminate the contract of ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

91. Neither plaintiff BARRY COLICELLI nor ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC were apprised of the specific allegations made by defendant JAMES M. HUNT, JR., the investigation, conclusions and /or recommendations of defendant ELLEN O'CONNELL which formed the basis for the proposed action to terminate the contract of ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

92. The matter involving the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC with defendant NEPTUNE TOWNSHIP was placed on the agenda.

93. There is some question as to how the subject came on the agenda because defendant ROBERT LANE, JR, the Mayor of defendant NEPTUNE TOWNSHIP, was quoted in the newspaper as saying that he did not ask that the resolution be placed on the agenda.

94. Nevertheless, the matter was placed on the agenda without ever affording an opportunity for plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC to understand the reasons for the termination of the

contract between defendant NEPTUNE TOWNSHIP and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC and to provide rebuttal so the Township Committee and the public would know the true facts.

95. During the discussion of the contemplated action to terminate the contract between defendant NEPTUNE TOWNSHIP and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC for cause, Committee Member Dr. Brantley stated that plaintiff BARRY COLICELLI should be apprised of the reason for the proposed action and an opportunity to present his side.

96. Township Committee Member Dr. Brantley accordingly offered a motion, seconded by Mr. Williams, to table this resolution.

97. The motion to table the vote to give plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC an opportunity to understand the charges and afford an opportunity to be heard failed by the following vote: Brantley, aye; Williams, aye defendant ROBERT LANE, JR., nay defendant KEVIN MCMILLAN, nay and defendant CAROL RIZZO McMillan, nay.

98. Accordingly, it is clear that defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO were not interested in the due process and freedom of speech rights of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC but, rather, were driven to suppress the truth, something that is anathema to American values and our democratic way.

99. A motion to terminate the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC was made and the resolution was adopted on the following vote: Brantley, nay; Williams, nay; defendant ROBERT LANE, JR., aye defendant KEVIN MCMILLAN, aye and defendant CAROL RIZZO, aye.

100. By terminating the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC, defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO intended to put an end to the reform of the Neptune Township Police Department spearheaded by plaintiff BARRY COLICELLI and the Police Oversight Committee including Township Committee members, Mr. Williams and Dr. Brantley.

101. Terminating the contract of BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC was intended to and did cripple the efforts of Township Committee members Dr. Michael Brantley and Nicholas Williams at reform.

102. Defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO finalized this effort on behalf of defendant NEPTUNE TOWNSHIP and the other defendants by removing Township Committee members, Mr. Williams and Dr. Brantley, from the Police Oversight Committee and installing themselves.

103. The following causes of action are asserted:

- Open Public Records Act;
- Conscientious Employee Protection Act;
- Breach of Contract;
- Violation of the Covenant of Good Faith and Fair Dealing;
- Defamation;
- False Light;
- New Jersey Civil Rights Act;
- New Jersey Law Against Discrimination;
- Termination violated a clear mandate of public policy (Pierce);
- Causes of action in law or equity suggested by the facts set forth herein and facts that a continuing investigation may reveal.

COUNT ONE

VIOLATION OF THE OPEN PUBLIC RECORDS ACT AND THE COMMON LAW BY FAILING TO PRODUCE REQUESTED RECORDS

104. Defendant RICHARD J. CUTTRELL was at all times relevant the Custodian of Records of NEPTUNE TOWNSHIP.

105. As such, defendant RICHARD J. CUTTRELL is the individual responsible under the Open Public Records Act to maintain government records of defendant NEPTUNE TOWNSHIP and to permit their inspection, examination and copying pursuant to that statute. *See* N.J.S.A. 47:1A-1.1 to -5.

106. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC's made a request for government records through council to defendant RICHARD J. CUTTRELL, CUSTODIAN OF RECORDS OF NEPTUNE TOWNSHIP and NEPTUNE TOWNSHIP.

107. Defendant NEPTUNE TOWNSHIP is a "public agency" that "ma[kes], maintain[s]

or keep[s] on file” government records and is therefore subject to the Open Public Records Act, N.J.S.A. 47:1A-1 to -13.

108. Defendant RICHARD J. CUTTRELL is the Custodian of Records for defendant NEPTUNE TOWNSHIP and has an obligation to maintain government records and make them accessible to the public.

109. On behalf of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC, a request was made pursuant to the Open Public Records Act and the common law for government records including those identified in the report of defendant ELLEN O’CONNELL set forth on Schedule A appended to this Verified Complaint. (*See* letter dated August 18, 2020 from Patricia F. Burke, Esq. to Richard Cuttrell, Neptune Township Municipal Clerk, Exhibit A).

110. On August 27, 2020, Mr. Cuttrell provided a partial response (*see* letter from Richard Cuttrell, Neptune Township Municipal Clerk to Patricia F. Burke, Esq. dated August 27, 2020, Exhibit B) and on August 28, 2020, a letter was sent seeking a more specific response (see Letter dated August 28, 2020 from Patricia F. Burke, Esq. to Richard Cuttrell, Neptune Township Municipal Clerk, Exhibit C).

111. On September 25, 2020, defendant RICHARD J. CUTTRELL, MUNICIPAL CLERK AND CUSTODIAN OF RECORDS for defendant NEPTUNE TOWNSHIP, finalized plaintiff’s request for government record including the full report of defendant ELLEN O’CONNELL and the records identified in her Executive Summary that she relied upon to

reach her conclusions. (*See* letter from Richard Cuttrell, Neptune Township Municipal Clerk, to Patricia F. Burke, Esq. dated September 25, 2020, Exhibit D).

112. This count of the Verified Complaint asserts rights pursuant to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-6, the Common Law Right of Access and the New Jersey Civil Rights Act to compel defendants to provide defendant ELLEN O'CONNELL's full and complete report and the records she identified in the report that she reviewed which is set forth in Schedule A attached hereto.

WHEREFORE, plaintiff BARRY COLICELLI demands judgment as follows:

- A. A declaration that defendants RICHARD J. CUTTRELL, CUSTODIAN OF RECORDS FOR NEPTUNE TOWNSHIP and NEPTUNE TOWNSHIP violated the Open Public Records Act, N.J.S.A. 47:1A-1 to -13, and the Common Law by refusing to provide records requested and/or by refusing to provide an adequate basis for the exemptions claimed;
- B. An order that defendants grant access to the records requested in the medium requested and maintain confidentiality;
- C. An award of counsel fees and costs; and
- D. Such other relief as the Court deems equitable and just.

COUNT TWO

VIOLATION OF THE CONSCIENTIOUS EMPLOYEE PROTECTION ACT "WHISTLEBLOWER ACT"

113. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat, reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

114. Under New Jersey law, an employer may not retaliate against an employee who "[d]iscloses . . . an activity, policy or practice of the employer . . . that the employee rea-

sonably believes . . . is in violation of a law, or a rule or regulation promulgated pursuant to law” N.J.S.A. 34:19-3 (a)(1).

115. CEPA defines an “employee” as “any individual who performs services for and under the control and direction of an employer for wages or other remuneration.” N.J.S.A. 34:19-2(b).

116. Plaintiff BARRY COLICELLI performed services for and under the control and direction of defendant NEPTUNE TOWNSHIP for remuneration.

117. Plaintiff BARRY COLICELLI disclosed that defendant JAMES M. HUNT, JR. was engaging in a violation of the New Jersey Law Against Discrimination by discriminating against minorities and retaliating against police officers who opposed discrimination and that defendant NEPTUNE TOWNSHIP could not ignore the unlawful conduct but was required to address and eliminate it.

118. Thus, plaintiff BARRY COLICELLI disclosed an activity, policy or practice of defendant JAMES M. HUNT, JR. and defendant NEPTUNE TOWNSHIP that he reasonably believed is in violation of the New Jersey Law Against Discrimination.

119. CEPA protects independent contractors performing services like plaintiff BARRY COLICELLI performed for defendant NEPTUNE TOWNSHIP.

120. Retaliatory action is also not permitted where the employee objects to or refuses to participate in activity that the employee reasonably believes is in violation of a law, rule or regulation; is fraudulent or criminal; or is incompatible with a clear mandate of public

policy concerning the public health, safety or welfare. N.J.S.A. 34:19-3(c)(1)-(3).

121. As noted above, plaintiff refused attempts by defendant NEPTUNE TOWNSHIP to alter his testimony so as not to testify adversely regarding defendant JAMES M. HUNT, JR. and revealing facts about what plaintiff BARRY COLICELLI knew about the discrimination and retaliation taking place in the Neptune Township Police Department.

122. Plaintiff BARRY COLICELLI refused to be pressured and in no uncertain terms made it clear he would answer all questions truthfully and accurately and thereby objected to and refused to participate in activity that he reasonably believed is in violation of a law, rule or regulation, *i.e.*, giving less than fully truthful answers to questions asked of him while testifying under oath in a court proceeding.

123. Plaintiff BARRY COLICELLI reasonably believed that defendants and perhaps others were engaging in an activity, policy or practice that plaintiff BARRY COLICELLI reasonably believed was in violation of a law, or a rule or regulation promulgated pursuant to law or was incompatible with a clear mandate of public policy.

124. As a proximate result of the above retaliatory actions, plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC have suffered economic and emotional damages and have otherwise been harmed.

125. Plaintiff BARRY COLICELLI held an objectively reasonable belief that the employer's conduct violated a law, regulation, or public policy.

126. Plaintiff BARRY COLICELLI disclosed or threatened to disclose the conduct or ob-

jected to the conduct or refused to participate in it.

127. Plaintiff BARRY COLICELLI suffered retaliatory action because of his whistle blowing activity.

128. The conduct of each of the defendants is especially egregious, wantonly reckless or malicious inasmuch as each are members of upper management and actually participated in the unlawful conduct in their individual and official capacities and an award of punitive damages is particularly appropriate.

129. Further, defendant NEPTUNE TOWNSHIP and the other defendants are liable for punitive damages because members of upper management actually participated in the unlawful conduct.

130. Defendants knew or should have known of the unlawful conduct of the others but allowed it by failing to properly supervise and failing to take prompt and appropriate remedial action.

131. Defendants retaliated against plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC by conducting and/or having a bogus one-sided investigation conducted in order to justify the termination of plaintiff BARRY COLICELLI because he objected to, reported and refused to participate in activity that he reasonably believed was in violation of a law, rule or regulation and incompatible with a clear mandate of public policy.

**COUNT THREE
BREACH OF CONTRACT**

132. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat, reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

133. Defendant NEPTUNE TOWNSHIP hired plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC as a consultant to counsel and advise the Neptune Township Police Oversight Committee on police matters effective January 1, 2020 stating a “need for professional consultant services in the area of police practices.”

134. The contract provided that either party may terminate the Agreement “for cause.”

135. The requirement that defendant NEPTUNE TOWNSHIP demonstrate cause to terminate the contract established a property right of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

136. Defendant NEPTUNE TOWNSHIP terminated the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC without cause.

137. By terminating the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC without cause, defendant NEPTUNE TOWNSHIP breached the contract.

COUNT FOUR
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

138. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat, reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

139. Under New Jersey law, all contracts contain an implied covenant of good faith and fair dealing (“the Implied Covenant”).

140. Under the Implied Covenant, neither party may do anything that will thwart the other party’s expectation and/or purpose under the contract and/or deprive that party of the benefit of the contract.

141. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC were hired to provide the Police Oversight Committee with professional consultant services in the area of police practices in order to address pervasive failures of the Police Department under defendant JAMES M. HUNT, JR.

142. Defendants thwarted the expectation or purpose of the contract and/or deprived plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC of the ability to perform the contract and the benefit of the contract when they undermined the ability of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC to perform by undercutting BARRY COLICELLI.

143. In terminating the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW

ENFORCEMENT AND SECURITY CONSULTANTS LLC, notwithstanding that cause for termination did not exist, and in failing to fully and adequately inform BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC of the charges and accusations made against BARRY COLICELLI and in failing to allow him to defend himself against the charges and allegations made, defendants breached the Implied Covenant.

144. As a direct and proximate result of defendants' breach of the Implied Covenant, plaintiffs have been damaged.

145. Further, defendants' actions were taken in bad faith to deprive plaintiffs of the benefit of the contract including but not limited to refusing to advise plaintiffs of the basis for their actions.

146. These rights included notice and an opportunity to be heard before being deprived of employment.

147. The conduct of defendants in refusing to provide the information upon which they were taking action to suspend and then to terminate plaintiffs' employment violates the covenant of good faith and fair dealing.

COUNT FIVE DEFAMATION

148. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat, reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

149. As set forth above, plaintiff BARRY COLICELLI came to learn defendant JAMES M. HUNT, JR. was making decisions motivated by racism, sexism and retaliation which was damaging to the Neptune Township Police Department.

150. Defendant JAMES M. HUNT, JR. stated to others including defendant VITO GADALETA and defendant ELLEN O'CONNELL that plaintiff BARRY COLICELLI was discriminating against him and harassing him and creating a hostile work environment on the basis of race.

151. Defendant JAMES M. HUNT, JR. knew when he made these statements about plaintiff BARRY COLICELLI that they were false statements.

152. Defendant JAMES M. HUNT, JR.'s statements are malicious attempts to damage the reputation of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

153. Defendant VITO GADALETA repeated the defamatory statements made by defendant JAMES M. HUNT, JR. about plaintiff BARRY COLICELLI with actual knowledge that the statements were false, or with reckless disregard of the statements' truth or falsity.

154. Defendant VITO GADALETA never spoke with plaintiff BARRY COLICELLI about the statements defendant JAMES M. HUNT, JR. made about plaintiff BARRY COLICELLI to determine the falsity of the statements.

155. In failing to make an adequate investigation into the statements made by defend-

ant JAMES M. HUNT, JR. about plaintiff BARRY COLICELLI, including by failing to discuss the statements with plaintiff BARRY COLICELLI, defendant VITO GADALETA acted negligently.

156. Defendant ELLEN O'CONNELL repeated as a fact in her Executive Summary to defendant NEPTUNE TOWNSHIP that plaintiff BARRY COLICELLI harassed defendant JAMES M. HUNT, JR. and created a hostile work environment.

157. Defendant ELLEN O'CONNELL further ascribed a motive of racial discrimination to plaintiff BARRY COLICELLI without ever speaking with him.

158. Defendant ELLEN O'CONNELL also stated, without ever speaking with him, that plaintiff BARRY COLICELLI sought to cause the Chief's voluntary or involuntary separation from the Neptune Township Police Department so that defendant NEPTUNE TOWNSHIP "could appoint an African-American chief of police to replace him."

159. Defendant ELLEN O'CONNELL also stated, without ever speaking with him, that plaintiff BARRY COLICELLI had "no business or other justification" other than to "appoint an African-American chief of police to replace defendant [JAMES M. HUNT, JR.]."

160. These statements are false and defendant ELLEN O'CONNELL knew or should have known they were false.

161. Defendant ELLEN O'CONNELL repeated the defamatory statements made by defendant JAMES M. HUNT, JR. about plaintiff BARRY COLICELLI with actual knowledge that the statements were false, or with reckless disregard of the statements' truth or falsi-

ty.

162. Defendant ELLEN O'CONNELL never spoke with plaintiff BARRY COLICELLI about the statements defendant JAMES M. HUNT, JR. made about plaintiff BARRY COLICELLI to determine the falsity of the statements.

163. In failing to make an adequate investigation into the statements made by defendant JAMES M. HUNT, JR. about plaintiff BARRY COLICELLI including by failing to discuss the statements with plaintiff BARRY COLICELLI, defendant ELLEN O'CONNELL acted negligently.

164. A resolution passed by defendant NEPTUNE TOWNSHIP stated the contract between plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC and defendant NEPTUNE TOWNSHIP was being terminated "for cause."

165. Defendant NEPTUNE TOWNSHIP, defendant ROBERT LANE, JR., defendant KEVIN MCMILLAN and defendant CAROL RIZZO have stated publicly that plaintiff BARRY COLICELLI engaged in wrongful misconduct including racial discrimination and harassment of JAMES M. HUNT, JR.

166. These statements are false and defamatory and any statements made by any defendant that resulted in this pronouncement are false and defamatory.

167. Any statements made by persons interviewed during the investigation conducted by defendant ELLEN O'CONNELL, including statements by defendants JAMES M. HUNT,

JR. and JOHN DOES 1-10, in their individual and official capacities (who are fictitiously named because their true identities are unknown), that plaintiff BARRY COLICELLI was engaged in racial discrimination of defendant JAMES M. HUNT, JR. are false, defamatory and damaged the reputation of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC's and caused plaintiff BARRY COLICELLI emotional harm.

168. Defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 acted in concert and with malice by publishing false statements that plaintiff BARRY COLICELLI discriminated against JAMES M. HUNT, JR. and harassed him on the basis of race.

169. A final report of defendant ELLEN O'CONNELL was provided to others but has been withheld from plaintiff BARRY COLICELLI; the report is also likely defamatory of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC and if so has damaged their reputations.

170. The defamatory statements made by defendants referred to plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

171. These defamatory statements made by defendants were false.

172. These defamatory statements made by defendants about plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC were

communicated to a wide audience.

173. Defendants made defamatory statements about plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC with knowledge of their falsity or with a high degree of awareness the defamatory statements were probably false or with serious doubts as to the truth of the defamatory statements.

174. Defendants either knew that the statements were false or acted with reckless disregard as to whether the statements were false.

175. The defamatory statements made by defendants so misrepresented plaintiff BARRY COLICELLI's character, history, activities or beliefs that a reasonable person in the plaintiff's position would find the material highly offensive.

176. The publicity caused by defendants' defamatory statements was the cause of injuries, damages and/or losses sustained by plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

COUNT SIX

FALSE LIGHT INVASION OF PRIVACY

177. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

178. Defendants gave publicity to a matter concerning plaintiff BARRY COLICELLI that defendants knew was false as set forth above.

179. Defendants either knew that the publicized material was false and would place the

plaintiff in a false light or acted with reckless disregard as to whether the publicized defamatory statements were false and the false impression created by the publicized defamatory statements.

180. The defamatory statements made by defendants so misrepresented plaintiff BARRY COLICELLI's character, history, activities or beliefs that a reasonable person in the plaintiff's position would find the material highly offensive.

181. The publicity caused by defendant's defamatory statements has been the cause of injuries, damages and/or losses sustained by plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

COUNT SEVEN
DISCHARGE IN VIOLATION OF PUBLIC POLICY – PIERCE CLAIM

182. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

183. Defendant NEPTUNE TOWNSHIP terminated the contract of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC in violation of a clear mandate of public policy because plaintiff BARRY COLICELLI opposed the unlawful treatment being perpetrated by JAMES M. HUNT, JR. on members of the Neptune Township Police Department including but not limited to discrimination and retaliation in violation of the New Jersey Law Against Discrimination.

184. Defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES

M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN and CAROL RIZZO retaliated against plaintiff BARRY COLICELLI for reporting in good faith what he believed to be wrongdoing taking place in the Neptune Township Police Department including but not limited to discrimination and retaliation by defendant JAMES M. HUNT, JR. in violation of the New Jersey Law Against Discrimination.

185. Plaintiff BARRY COLICELLI held a reasonable belief that the conduct of NEPTUNE TOWNSHIP and the conduct of JAMES M. HUNT, JR. violated a clear mandate of public policy as set forth in the New Jersey Law Against Discrimination and he opposed and/or reported this to NEPTUNE TOWNSHIP.

186. As a result, the termination of the contract between plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC and the defendant NEPTUNE TOWNSHIP was wrongful.

187. As a proximate result of wrongful termination, plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC have suffered damages.

COUNT EIGHT

INTENTIONAL INTERFERENCE WITH CONTRACT

188. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

189. A valid contract existed between the plaintiff BARRY COLICELLI and defendant TOWNSHIP OF NEPTUNE as set forth above.

190. Defendants VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN McMILLAN and CAROL RIZZO intentionally interfered with plaintiff's performance of his contract by engaging in wrongful conduct as set forth above.

191. Defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN McMILLAN and CAROL RIZZO intended to interfere with and disrupt plaintiff BARRY COLICELLI'S ability to perform his duties under the contract.

192. As a result of the bad faith, improper motive and wrongful conduct of defendants VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN McMILLAN and CAROL RIZZO, these defendants intentionally interfered with the contract between plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC and defendant NEPTUNE TOWNSHIP.

COUNT NINE VIOLATION OF THE NEW JERSEY LAW AGAINST DISCRIMINATION

193. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

194. The NJLAD applies to defendants.

195. Defendant TOWNSHIP OF NEPTUNE acts through defendants VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10.

196. As a direct and proximate result of the conduct of defendants, plaintiff BARRY COLICELLI has suffered and continues to suffer loss of earnings and other employment benefits, mental, physical and emotional distress, stress, humiliation, pain, damage to reputation and harm to his career development.

197. By and through the actions described herein, defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 engaged retaliation against plaintiff BARRY COLICELLI in violation of the NJLAD, N.J.S.A. 10:5-1, *et seq.* for opposing the discrimination and retaliation engaged in by , defendant NEPTUNE TOWNSHIP, including discrimination and retaliation being engaged in by defendant JAMES M. HUNT, JR.

198. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC advised defendant NEPTUNE TOWNSHIP that defendant JAMES M. HUNT, JR. was not following proper procedures and protocols and was, among other things, using discipline in a way to discriminate against minority officers and retaliate against police officers who opposed discrimination.

199. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC advised defendant NEPTUNE TOWNSHIP that defendant JAMES M. HUNT, JR. was not following proper procedures and protocols and was, among other things, using fitness for duty evaluations in a way to discriminate against minority officer and retaliate against police officers who opposed discrimination.

200. Rather than take action to eliminate the rampant discrimination and retaliation in the Neptune Township Police Department, NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 retaliated against plaintiffs Barry COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC by making false statements about him and by terminating the contract pursuant to which plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC were performing consulting services to defendant NEPTUNE TOWNSHIP.

201. The NJLAD prohibits conduct that aids or abets unlawful discrimination and retaliation.

202. Defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 intentionally aided and abetted discrimination, retaliation and harassment in violation of the NJLAD, N.J.S.A. 10:5-1, *et seq.*

203. Defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 intentionally aided and abetted retaliation against plaintiff because of his opposition to sex discrimination, race discrimination, harassment and retaliation in violation of the NJLAD, N.J.S.A. 10:5-1, *et seq.*

204. As a direct and proximate result of the conduct of defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10, plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC have suffered and continues to suffer loss of earnings and other employment benefits, severe mental, physical and emotional distress, stress, humiliation, pain, damage to reputation and harm to their career development.

COUNT TEN
VIOLATIONS OF THE NEW JERSEY CIVIL RIGHTS ACT AND THE CONSTITUTION
OF NEW JERSEY

205. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

206. The conduct of the defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 individually and jointly has deprived

plaintiff BARRY COLICELLI of rights secured by the New Jersey Constitution and laws of the State of New Jersey.

207. The New Jersey Constitution protects citizens from actions by government actors under color of law that violate concepts of equal protection, freedom of speech, fundamental fairness and due process.

208. Defendant TOWNSHIP OF NEPTUNE hired plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC as a consultant to counsel and advise the Neptune Township Police Oversight Committee on police matters effective January 1, 2020 stating a “need for professional consultant services in the area of police practices.”

209. The contract provided that either party may terminate the Agreement “for cause” establishing a property right of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC.

210. As set forth more fully above, defendants deprived plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC of their rights, privileges and/or immunities secured by the Constitution and/or laws of this State and his exercise or enjoyment of those rights, privileges and/or immunities has been interfered with or attempted to be interfered with, by threats, intimidation and/or coercion by defendants who are persons acting under color of state law.

211. The defendants deprived plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC of rights protected by the Article I, paragraph 1 of the New Jersey Constitution and the New Jersey Law Against Discrimination.

212. Each of the defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 conspired with the other defendants to deprive plaintiff BARRY COLICELLI of his rights secured by the Constitution and/or laws of this State and his exercise or enjoyment of those substantive rights, privileges and/or immunities has been interfered with and/or attempted to be interfered with, by threats, intimidation and/or coercion by defendants who are persons acting under color of state law.

COUNT ELEVEN NEGLIGENCE

213. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

214. Defendants had a duty to conduct themselves in a fair manner when investigating the performance of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC and making decisions with due care and reasonableness.

215. As set forth above, the investigation on which defendants relied to make decisions regarding plaintiff's employment failed to conform to standards applicable to such investigations.

216. The failure of defendants to follow applicable standards with regard to workplace investigations proximately caused plaintiff to incur damages.

COUNT TWELVE CIVIL CONSPIRACY

217. Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby repeat and reallege and incorporate by reference the above paragraphs of this Complaint as if fully set forth here.

218. Defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 engaged in a conspiracy to harm plaintiff and benefit defendant JAMES M. HUNT, JR.

219. The conspiracy included concocting a bogus charge that plaintiff BARRY COLICELLI was engaged in discrimination and harassing defendant JAMES M. HUNT, JR. on the basis of his race, which is white, when the Neptune Township Police Department is predominately white.

220. In furtherance of this conspiracy, defendant VITO GADALETA retained defendant ELLEN O'CONNELL to conduct a sham investigation to support the false claim that plaintiff BARRY COLICELLI was discriminating against and harassing defendant JAMES M.

HUNT, JR. on the basis of his race.

221. Defendant ELLEN O'CONNELL, in furtherance of the conspiracy, did not even interview plaintiff BARRY COLICELLI.

222. Defendant ELLEN O'CONNELL finalized her investigation without obtaining facts from the other members of the Police Oversight Committee, Township Committee Members Brantley and Williams.

223. The goal of the conspiracy was to establish a cause of action to justify a pay out to defendant JAMES M. HUNT, JR. pursuant to his claim that he was the victim of racial discrimination.

224. The plan was advanced on July 17, 20020 when a letter was sent from lawyers for defendant JAMES M. HUNT, JR. stating he "will file a civil lawsuit against Neptune Township in the New Jersey Superior Court . . . wherein [defendant JAMES M. HUNT, JR.] will be asserting violations of the New Jersey Law Against Discrimination and potentially other statutory causes of action."

225. The conspiracy included obtaining false statements about plaintiff BARRY COLICELLI by defendant JAMES M. HUNT, JR and defendants named herein as JOHN DOE defendants whose identifies may be revealed through further discovery.

226. As a result of the concerted actions of defendants NEPTUNE TOWNSHIP, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., VITO GADALETA, ROBERT LANE, JR., KEVIN MCMILLAN, CAROL RIZZO and JOHN DOES 1-10 as set forth above,

plaintiff has sustained damages.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC demand judgment against defendants for:

- a. Compensatory damages for loss of income, pain, suffering, stress, humiliation, mental anguish, and emotional harm;
- b. Damages for harm to reputation, business and career development;
- c. Consequential damages;
- d. Punitive damages (pecuniary and nonpecuniary), including but not limited to damages for intentional/negligent infliction of mental and emotional anguish, humiliation, anxiety, and distress;
- e. Reasonable counsel fees, costs and expenses incurred as a result of the defendants' wrongful acts;
- f. Injunctive relief requiring remediation of defendants' discrimination and retaliation;
- g. Equitable relief, including restoring the benefits and terms and conditions of employment plaintiff has lost as a result of defendants' wrongful conduct and restoring to plaintiff benefits lost as a result of these wrongful actions and matters;
- h. Pre-judgment interest; and
- i. Such other general or specific relief and damages, both at law and in equity, to which plaintiff may be justly entitled pursuant to the Constitutional, statutes and/or the common law.

DEMAND FOR JURY TRIAL

Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC hereby demand a trial by Jury.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to *Rule* 4:5-1(b)(2), it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of our knowledge or belief. Also, to the best of our knowledge or belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action other than those identified as John Doe defendants. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original Certification.

DEMAND FOR PRODUCTION OF STATEMENTS

Plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC demand true and complete copies of any statements made by BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC pursuant to *Rule* 4:10-2(c). This demand is deemed to be continuing.

DEMAND FOR INSURANCE AGREEMENT

Pursuant to *Rule* 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are an insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action or to indemnify or reimburse for payment made to

satisfy the judgment. If so, please attach a copy each, or in the alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all persons insured hereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b).

DESIGNATION OF TRIAL ATTORNEY

Pursuant to *Rule* 4:25-4, DONALD F. BURKE, ESQUIRE, is hereby designated as trial counsel in the above-captioned action on behalf of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC

LAW OFFICE OF DONALD F. BURKE
ATTORNEYS FOR PLAINTIFFS
BARRY COLICELLI and ON TARGET LAW
ENFORCEMENT AND SECURITY CONSULT-
ANTS LLC

By: s/ Donald F. Burke
Donald F. Burke, Esq.

Dated: November 9, 2020

VERIFICATION

I, BARRY COLICELLI, of full age do affirm and state:

1. I am the plaintiff in the above action.
2. I have reviewed the contents of the Verified Complaint and state they are true to the best of my knowledge and belief.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

s/ Barry Colicelli
BARRY COLICELLI

Dated: November 9, 2020

SCHEDULE A

Government Records Request to defendant Neptune Township

The “Investigation of Charges brought by Chief James Hunt, Investigator’s Report of Findings: Executive Summary” dated April 24, 2020 (“Executive Summary”) of Ellen O’Connell regarding investigation of discrimination and harassment allegations made by Neptune Township Police Chief James Hunt, Jr. and Appendix A - Chart of Directives and Disciplinary Notices served on the Chief by the Police Committee compels this request for the following:

1. The complete report with relevant exhibits that the April 24, 2020 Executive Summary states would be provided to the Township within the week.
2. Communications related to the allegations made by Chief Hunt or the investigation of those charges between or among Ellen O’Connell of Inglesino, Webster, Wyciskala & Taylor, LLC and her firm and Barry Colcelli, members of the Neptune Township Administration and governing body including:
 - Chief Hunt,
 - Deputy Chief Fisher,
 - Captain Gualario,
 - Captain McGhee,
 - Lt. Cox,
 - Sgt. Arce,
 - Mayor Lane,
 - Deputy Mayor Kevin McMillan,
 - Committee member Carol Rizzo,
 - Committee member Michael Brantley,
 - Committee Member Nicholas Williams

The above request should suffice to include the following but in an abundance of caution, I want to make it clear that our request includes the following:

- a. Records (including communications) authorizing the retention of Ellen O'Connell as well as an investigation in a letter to the Township dated February 10, 2020.
- b. The April 24, 2020 Executive Summary states: "On December 15, 2019, Dr. Michael Brantley, Chairman of Neptune Police Oversight Committee served Chief James Hunt via email an "Employee Warning Notice" dated December 12, 2019 concerning an incident that occurred on December 4, 2019. **Please provide the "Employee Warning Notice" dated December 12, 2019 and records ad reports of the incident that occurred on December 4, 2019.**
- c. The April 24, 2020 Executive Summary states: "The Dr. Brantley sent a copy of that email message and attached Employee Warning Notice to seven (7) other persons, including Acting Dep. Chief Lawrence Fisher, who reports to Chief Hunt." **Please provide the email referenced and related emails from the 8 email accounts with the same subject heading including email chains that include this email.**

The April 24, 2020 Executive Summary further states:

Chief Hunt responded to the via email the next day, objecting to the form, process and substance of the disciplinary action. The Township labor counsel, Michel R. Burns, Esq, answered the Chief four hours later via email message stating, that the "Employee Warning Notice was not disciplinary action but a "non-disciplinary counseling notice." Mr. Burns served on the Chief an "updated counseling notice." Mr. Burns concluded his message saying, among other things, "[N]o other employee has consistently alleged that they are the target of harassment or a hostile work environment in response to their Department Head requesting basic information necessary to promulgate effective policies for the running of the Department."

Chief Hunt again objected to the Committee's response to his charges in a message dated December 18, 2019 at 2:05 P.M. Chief Hunt wrote to Mr. Burns and Committeeman Brantley that Mr. Burns' response ignored the Chief's legitimate complaints of hostility and retaliation by the Police Oversight Committee and the consultant, Barry Colicelli and their "offensive and hostile behavior to me."

Please provide Chief Hunt's email, of the next day, Michael Burn's response quoted in the report and Chief Hunt's response of December 18, 2019 at 2:05 P.M. the email referenced and related emails from the 8 email accounts with the same subject heading including email chains that include this email.

- d. The April 24, 2020 Executive Summary states the "Township retained this firm to investigate the Chief's charges of hostile work environment, harassment and retaliation."
 - i. Please provide all communications regarding retaining of the firm to investigate the Chief's charges of hostile work environment, harassment and retaliation,
 - ii. Communications and records regarding how Ellen O'Connell's firm was selected, including solicitations, recommendations, evaluation of experience and credentials,
 - iii. Communications with any other firm regarding providing the services sought,
 - iv. Communications with the governing body regarding the Chief's charges of hostile work environment, harassment and retaliation and the decision to retain Ellen O'Connell's firm to investigate.
- e. The April 24, 2020 Executive Summary refers to a "plan for this investigation [sent] in a letter to the Township dated February 10, 2020."

Please provide the plan and any communications and records circulating reviewing and/or commenting on the plan.

The April 24, 2020 Executive Summary states Ms. O’Connell “interviewed Chief Hunt in the conference room at Town Hall on February 14, 2022 [and] Chief Hunt gave me documents, including four 3-ring binders containing email, disciplinary directives that the Police Committee served on him over a period from October 2017 to December 2020; annual reports; correspondence from the Monmouth County Prosecutor’s Office, the U.S. Department of Justice, counsel to the N.J. State Association of Chiefs of Police, and documents related to the Chief’s complaints about the handling of cases by the Neptune Township Prosecutor and other records.

Please provide the “four 3-ring binders” referenced in the report which include

- i. email,**
 - ii. disciplinary directives that the Police Committee served on Chief James Hunt, Jr. over a period from October 2017 to December 2020,**
 - iii. annual reports;**
 - iv. correspondence from the Monmouth County Prosecutor’s Office,**
 - v. correspondence from the U.S. Department of Justice,**
 - vi. correspondence from counsel to the N.J. State Association of Chiefs of Police,**
 - vii. documents related to the Chief’s complaints about the handling of cases by the Neptune Township Prosecutor and**
 - viii. other records.**
- a. The April 24, 2020 Executive Summary states that Ms. O’Connell “interviewed the following individuals: a. Dep. Chief Lawrence Fisher, b. Capt. Anthony Gualario, c. Capt. Michael McGhee, d. Officer Thomas Blewitt, Jr., Neptune PBA, who was accompanied by PBA counsel,

Brian Manetta, Esq., Mets office, e. Lt. Scott Cox, President, FOP f. Introductory Interview only: Dr. Brantley g. Introductory Interview only: Nicholas Williams.”

If not included in response to the above requests, please provide

- i. **communications setting up these interviews and**
- ii. **recordings, notes and/or statements**
- b. The April 24, 2020 Executive Summary states that Ellen O’Connell “met Committeemen Brantley and Williams separately for very short interviews at Town Hall on February 28, 2020 [and she] told each of the purpose of the interview and that [she] would send them each written questions to review before we met again so that they would know the nature of the charges.”

If not included in response to the above requests, please provide

- i. **“the written questions to review. . . so that they would know the nature of the charges” sent on February 28, 2020 and March 2, 2020 and**
- ii. **recordings, notes and/or statements regarding these interviews**
- iii. **Communications about these interviews.**
- c. The April 24, 2020 Executive Summary states Each made an appointment to meet with me again, and later canceled those appointments.

If not included in response to the above requests, please provide

- i. **records and communications regarding canceling the interviews; correspondence between Celli and O’Connell.**
- d. The April 24, 2020 Executive Summary states: “On or about March 16, 2020 Michael Celli, Esq., who is Acting Township Attorney for Neptune Township, contacted me and said he represented both Committeemen. In later cor-

respondence Mr. Celli asked for records, and I said that I would not send documents that are in the Committeemen's records. Moreover, presumably, as Acting Township Attorney, Mr. Colicelli has unfettered access to any records" and "Mr. Celli sent me a letter with a list of documents he wanted me to send."

If not included in response to the above requests, please provide

- i. The communications referenced records and**
- ii. Communications referencing these communications including email chains,**
- j. The April 24, 2020 Executive Summary states: "The Chief objected, saying that sending the Notice to the Deputy Chief violated Attorney General Guidelines; that the Township Policy at Page 26, 4.28b "Video Surveillance" prohibits audio records of employees, and that Mr. Colicelli "has been harassing [the Chief] which has created a hostile work environment." The Chief alleges that when he mentioned in that meeting that he felt he was being "targeted" a Committeeman replied, "that hasn't happened lately."

If not included in response to the above requests, please provide

- i. Records containing The Chief's objection which is quoted,**
- ii. The provision of the Attorney General Guidelines allegedly violated, and**
- iii. The referenced Township Policy at Page 26, 4.28b "Video Surveillance" allegedly prohibiting audio recordings of employees.**
- k. The April 24, 2020 Executive Summary states: "After the Chief objected, Attorney Michael Burns, of the Grace Marmero firm, responded, "Although the header of the letter you received indicates "written warn-

ing” the body of the notice is clearly intended to be a non-disciplinary counseling notice.” The assertion is mystifying since “warning notice” is undeniably a stage of progressive discipline in the public and private sector. Mr. Burn reduced the “warning” notice was to (sic) a “counseling notice.” However, no attempt was made to respond to the Chief’s allegation of harassment.

If not included in response to the above requests, please provide the communication from Attorney Michael Burns, of the Grace Marmero firm, referenced in the report.

l. The April 24, 2020 Executive Summary states: “Chief Hunt was given an email message that was anonymously left for him. The message was allegedly from Committeeman Brantley to various persons on November 4, 2013, regarding “Employment opportunities for administration in Neptune (sic)”

If not included in response to the above requests, please provide

- i. the email message that was anonymously left for Chief Hunt,
- ii. all records and communication related to the email message that was anonymously left for Chief Hun including any complaint made by Chief Hunt from when he received the email to the complaint he was made that was being investigated by Ellen O’Connell.

m. The April 24, 2020 Executive Summary states: “Chief Hunt reports that in a meeting with Mr. Colicelli on November 14, 2017 that ‘Mayor Brantley wanted a black police captain’ (sic) and he Chief (sic) insisted that the Department follow its policies and procedures on promotions.”

If not included in response to the above requests, please provide

i. All records and communication regarding this statement including any report or complaint made by Chief Hunt or others from when the statement was allegedly made until the complaint that was being investigated by Ellen O'Connell.

n. The April 24, 2020 Executive Summary states: "Mr. Colicelli also told Chief Hunt that Mayor Brantley wanted to fill the Deputy Chief position immediately with an African American Captain, Lawrence Fisher."

If not included in response to the above requests, please provide

i. All records and communication regarding this statement including any report or complaint made by Chief Hunt or others from the time this statement was allegedly made until the complaint that was being investigated by Ellen O'Connell.

o. The April 24, 2020 Executive Summary refers on pages 8 to 9 "changing eligibility standards for promotion to Deputy Chief" and protests by the Superior Officers Association union representatives."

If not included in response to the above requests, please provide

- i. All the eligibility standards for the position of Deputy Chief from 2013 to present, records and
- ii. Communication regarding changes in the eligibility standards
- iii. The protests by the Superior Officers Association union representatives referenced in the report.

p. The April 24, 2020 Executive Summary states: "In addition to changing the eligibility standard to allow the African American officer to be promoted, the actual elevation to the title of Acting Deputy Chief was hurried, so that the

officer could be promoted before the end of the year, when the new, revised standard would come into effect. On February 10, 2020, the Police Committee passed a resolution promoting the Acting Deputy Chief to Deputy Chief. The Police Committee knowingly ignored the procedures in place under the Township's promotional policy to achieve their goal."

If not included in response to the above requests, please provide

- i. The procedures in place under the Township's promotional policy from 2013 to present
- ii. Communication regarding changes in the eligibility standards from 2013 to present
- iii. The "new revised standard" referenced in the April 24, 2020 Executive Summary
- iv. Communications regarding why the "new revised standard" was established.

p. The April 24, 2020 Executive Summary states: "Ms. Sanders wrote a letter to the U.S. Department of Justice on or about in (sic) June 17, 2017 asking them to investigate the working conditions at the police force."

If not included in response to the above requests, please provide

- i. The letter Ms. Sanders wrote a letter to the U.S. Department of Justice on or about in June 17, 2017;
- q. The April 24, 2020 Executive Summary states: "On February 19, 2019, Delora L. Kennebrew, Chief of the Employment Litigation Section and Michael E. Campion, Assistant U.S. Attorney and Chief of the Civil Rights Unit of the Department of Justice wrote to the Township attorneys"

If not included in response to the above requests, please provide

- i. The February 19, 2019, communication of Delora L. Kennebrew, Chief of the Employment Litigation Section and Michael E. Campion, Assistant U.S. Attorney and Chief of the Civil Rights Unit of the Department of Justice wrote to the Township attorneys;
 - ii. Communications and records regarding this communication
- r. The April 24, 2020 Executive Summary states: “On October 23, 2018, Mr. Colicelli served six (6) Memos on Chief Hunt, called “Directives” demanding that he acknowledge receipt of the Directives, and respond within a short period of time.

If not included in response to the above requests, please provide

- i. The six (6) Memos on Chief Hunt, called “Directives” served on October 23, 2018
- s. The April 24, 2020 Executive Summary states that three of the memos were rescinded, after their legal basis was found to be faulty

If not included in response to the above requests, please provide

- i. Records and communications supporting the conclusion that the legal basis for three of the memos was found to be faulty
 - ii. Records and communications supporting the conclusion that three of the memos were rescinded.
- t. The April 24, 2020 Executive Summary states “On October 4, 2018, the Police Committee reprimanded the Chief for failure to notify Police Committee of incidents in May, August and September. The Chief responded and no further action was taken.”

If not included in response to the above requests, please provide

- i. Records and communications regarding or describing “incidents in May, August and September”
- ii. Records and communications reprimanding the Chief and
- iii. Responses of the Chief including communications regarding those responses.

u. The April 24, 2020 Executive Summary states “On December 12, 2019, the Committee served the Chief with the ‘Warning Notice’ that labor counsel, Mr. Burns explained was not disciplinary but only a counseling notice and nor (sic) further action was taken (see above).”

If not included in response to the above requests, please provide

- i. the referenced ‘Warning Notice’ and
- ii. Communications regarding or referencing the ‘Warning Notice’
- iii. All Employee Warning Notices issued to Chief Hunt including the one referenced in the report requiring the Chief to undergo “counseling” and threatening suspension for a period of up to five days for “future violations of insubordination.”

v. The April 24, 2020 Executive Summary a July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee

If not included in response to the above requests, please provide

- i. the July 10, 2017 Ordinance referenced records and
- ii. communications and records setting forth why the July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee was enacted.

w. **The April 24, 2020 Executive Summary** states “**In October 11, 2017, (sic) Mr. Colicelli, had been improperly appointed to be a member** and Chairman of the Committee despite not being a member of the governing body.”

If not included in response to the above requests, please provide

i. **documents and records discussing, and/or concluding that appointing Barry Colicelli to be a member and Chairman of the Committee was improper**

x. **The April 24, 2020 Executive Summary** states: “They [The Police Committee] demanded that the Police Committee approve of all discipline and suspension of police officers, which was rescinded based on the letter opinion from the NJ State Association of Chiefs of Police.”

If not included in response to the above requests, please provide

i. **documents and records** regarding the demand that the Police Committee approve of all discipline and suspension of police officers, and

ii. the letter opinion from the NJ State Association of Chiefs of Police and

iii. Records and communications rescinding the demand and Records and communications regarding the demand that the Police Committee approve of all discipline and suspension of police officers, which was rescinded based on the letter opinion from the NJ State Association of Chiefs of Police.

y. **The April 24, 2020 Executive Summary** states: The Police Committee “unilaterally adopted an overtime policy for municipal court appearances of officers.”

If not included in response to the above requests, please provide

i. **Documents and records** regarding the adoption of the overtime policy for municipal court appearances of officers by the Police Committee

z. **The April 24, 2020 Executive Summary** states: The Police Committee “refused to adopt the overtime procedure prepared by the Department commanding officers”
If not included in response to the above requests, please provide

i. **Documents and records** regarding the adoption of the overtime procedure prepared by the Department commanding officers and

aa. **The April 24, 2020 Executive Summary** states the Police Committee “unilaterally and with no consultation with the Chief, had the Department change its schedule to the 12-hour Pitman schedule.

If not included in response to the above requests, please provide

i. **Documents and records** regarding the adoption of 12-hour Pitman schedule and

ii. **Communications related thereto**

bb. **The April 24, 2020 Executive Summary** states the Police Committee “engaged in negotiating terms and conditions of employment with the majority representatives of the patrol and superior officers over day-to-day operations developments and grievances,

If not included in response to the above requests, please provide

i. **Documents and records** regarding the Police Committee negotiating terms and conditions of employment with the majority representatives of the patrol and superior officers over day-to-day operations developments and grievances, and

ii. **Communications related thereto including negotiations over overtime, assignments and other plainly operational terms.**

cc. **The April 24, 2020 Executive Summary** states the Police Committee “revised Standard Operating Procedures (as opposed to policy statements)

If not included in response to the above requests, please provide

- i. **Documents and records** regarding the revised Standard Operating Procedures, and
- ii. **Communications related to the revised Standard Operating Procedures thereto including negotiations over overtime, assignments and other plainly operational terms.**

cc. **The April 24, 2020 Executive Summary** states In an undated memorandum, Labor Counsel Mr. Long wrote that the promotion of the Acting Deputy Chief to Deputy chief was invalid because the Police Committee “failed to follow the appropriate procedures under the current promotions policies...”

If not included in response to the above requests, please provide

- i. The undated memorandum of Labor Counsel Mr. Long
- ii. The “current promotions policies (sic)” as referenced in the Executive Summary and
- iii. Communications related to the revised Standard Operating Procedures thereto including negotiations over overtime, assignments and other plainly operational terms.

dd. **The April 24, 2020 Executive Summary** states: The Police Committee allowed “the Police Consultant to draft policies and directives that are served on the Chief, and have repeatedly sought to have the consultant attend meetings of the Committee and the Chief where confidential information is shared, and attempted to mandate that the Chief send all Police Committee correspondence and records to the outside, civilian consultant.”

If not included in response to the above requests, please provide

- i. The draft “policies and directives” drafted by the Police Consultant

- ii. Communications and records related to the Police Consultant to draft policies and directives that are served on the Chief, and have repeatedly sought to have the consultant attend meetings of the Committee and the Chief where confidential information is shared, and attempted to mandate that the Chief send all Police Committee correspondence and records to the outside, civilian consultant

dd. **The April 24, 2020 Executive Summary** states:

“The Police Committee usurped the Chief’s authority to discipline or handle the employment status of Police Officers K. Davis, Stewart and Hubbard.

If not included in response to the above requests, please provide

- i. Records and communications regarding or related to
- ii. Communications and records related to the Police Committee usurping “the Chief’s authority to discipline or handle the employment status of Police Officers K. Davis, Stewart and Hubbard”

ee. The April 24, 2020 Executive Summary states: “Mr. Colicelli declared that an officer who had been found unfit for duty should be returned to a ‘non-sensitive position’”.

If not included in response to the above requests, please provide

- i. Records and communications regarding or related to Mr. Colicelli’s declaration that an officer who had been found unfit for duty should be returned to a ‘non-sensitive position’”
- ii. Records and communications regarding the officer who had been found unfit for duty and whether he or she was returned to a ‘non-sensitive position’”
- iii. Records and communications regarding the work status of the officer who had been found unfit for duty.

ee. The April 24, 2020 Executive Summary states: “On the following occasions, [the Police Committee] attempted to take charge of other powers delegated to the police,

and were unsuccessful when the Chief objected and was joined by the Monmouth County Prosecutor or the N.J. State Association of Chiefs of Police:

- a. Interfering in chief's discretion concerning release of information to the public
- b. Requesting review of confidential Internal Affairs investigation files
- c. Inquiring into the Distribution of SOPs to staff
- d. Attempted to inject themselves into the selection and approval of police officers for training, and, in particular, at the FBI National Academy
- e. Attempted to interfere with Police Officers' appearance in municipal court and overtime pay

If not included in response to the above requests, please provide:

- i. Records and communications regarding or related to a through e above.

ff. The April 24, 2020 Executive Summary states: "Shortly after serving being serviced (sic) with a Disciplinary Notice, the Chief also received a Rice notice and a letter from the Township Attorney, Gene Anthony, Esq., saying that the Township was considering withdrawing payment for the lawyers who were defending him for potential punitive damages in in employment-related lawsuit in Superior Court.

If not included in response to the above requests, please provide:

- i. The Disciplinary Notice
- ii. The Rice notice
- iii. The letter from the Township Attorney, Gene Anthony, Esq., saying that the Township was considering withdrawing payment for the lawyers who were defending him for potential punitive damages in in employment-related lawsuit in Superior Court
- iv. Records and communications regarding or related to i through iii above.

gg. The April 24, 2020 Executive Summary states: "The Police Committee empowered labor attorney Michael

Burns, Esq. to make decisions concerning discipline and reinstatement for police officers.”

If not included in response to the above requests, please provide:

- i. Records and communications regarding or related the Police Committee empowering labor attorney Michael Burns, Esq. to make decisions concerning discipline and reinstatement for police officers

hh. The April 24, 2020 Executive Summary states: “The Committee delivered disciplinary memoranda or Directives to the Chief via email, and, more often than not, at times that were most inconvenient to the Chief, such as the day before or during scheduled vacations or out-of-state conferences, or late afternoon or evening on a Friday night.”

If not included in response to the above requests, please provide:

- i. The emails delivering disciplinary memoranda or Directives to the Chief referenced;
- ii. Records and communications regarding or related the delivering disciplinary memoranda or Directives to the Chief

ii. The April 24, 2020 Executive Summary states: “The members of the Police Committee address (sic) the Deputy Chief as, “Chief,” in the presence of Chief Hunt, a protocol violation

If not included in response to the above requests, please provide:

- i. Records and communications regarding when and in whose presence such words were used
- ii. Records and communications regarding reports or complaints of the Chief or anyone else from the time such statements were allegedly made and the investigation by Ellen O’Connell.

Finally, the April 24, 2020 Executive Summary has an Appendix referencing 23 Directives. Please provide each Directive and records and communications regarding each including objections and recissions referenced in the Appendix.

EXHIBIT A

PATRICIA F. BURKE, ESQUIRE
77 MANTOLOKING ROAD
BRICK NEW JERSEY 08723
732-604-4635
EMAIL: PATRICIAFOLEYBURKE@GMAIL.COM

*CERTIFIED BY THE NJ SUPREME COURT
AS A CIVIL TRIAL ATTORNEY*

MEMBER OF THE BARS OF NJ AND NY

STEPHEN J. FOLEY, ESQUIRE
1954 to 2015

August 17, 2020

Richard J. Cuttrell
Municipal Clerk
Township of Neptune
25 Neptune Blvd.
Neptune, New Jersey 07753

Re: Government Records Request

Dear Mr. Cuttrell:

I represent Barry Colicelli, whose contract with the Township of Neptune was terminated and request the following records pursuant to the Open Public Records Act (OPRA), *N.J.S.A. 47:1A-1 et seq.*, the common law right of citizens of the State of New Jersey to obtain access to public documents and the New Jersey Constitution.

The “Investigation of Charges brought by Chief James Hunt, Investigator’s Report of Findings: Executive Summary” dated April 24, 2020 (“Executive Summary”) of Ellen O’Connell regarding investigation of discrimination and harassment allegations made by Neptune Township Police Chief James Hunt, Jr. and Appendix A - Chart of Directives and Disciplinary Notices served on the Chief by the Police Committee compels this request for the following:

1. The complete report with relevant exhibits that the April 24, 2020 Executive Summary states would be provided to the Township within the week.
2. Communications related to the allegations made by Chief Hunt or the investigation of those charges between or among Ellen O’Connell of Inglesino, Webster, Wyciskala & Taylor, LLC and her firm and Barry Colicelli, members of the Neptune Township Administration and governing body including:
 - Chief Hunt,
 - Deputy Chief Fisher,

- Captain Gualario,
- Captain McGhee,
- Lt. Cox,
- Sgt. Arce,
- Mayor Lane,
- Deputy Mayor Kevin McMillan,
- Committee member Carol Rizzo,
- Committee member Michael Brantley
- Committee Member Nicholas Williams

The above request should suffice to include the following but in an abundance of caution, I want to make it clear that our request includes the following:

- a. Records (including communications) authorizing the retention of Ellen O’Connell as well as an investigation in a letter to the Township dated February 10, 2020.
- b. The April 24, 2020 Executive Summary states: “On December 15, 2019, Dr. Michael Brantley, Chairman of Neptune Police Oversight Committee served Chief James Hunt via email an “Employee Warning Notice” dated December 12, 2019 concerning an incident that occurred on December 4, 2019. **Please provide the “Employee Warning Notice” dated December 12, 2019 and any records and reports in any format of the incident that occurred on December 4, 2019.**
- c. The April 24, 2020 Executive Summary states: “Dr. Brantley sent a copy of that email message and attached Employee Warning Notice to seven (7) other persons, including Acting Dep. Chief Lawrence Fisher, who reports to Chief Hunt.” **Please provide the email referenced and related emails from the 8 email accounts with the same subject heading including email chains that include this email.**
- d. **The April 24, 2020 Executive Summary further states:** Chief Hunt responded via email the next day, objecting to the form, process and substance of the disciplinary action. **Please provide** Chief Hunt’s email, of the next day, Michael Burn’s response quoted in the report and Chief Hunt’s response of December 18, 2019 at 2:05 P.M. the email referenced and related emails from the 8 email accounts with the same subject heading including email chains that include this email.

e. **The April 24, 2020 Executive Summary states** the “Township retained this firm to investigate the Chief’s charges of hostile work environment, harassment and retaliation.” **Please provide:**

1. All communications regarding retaining of the firm to investigate the Chief’s charges of hostile work environment, harassment and retaliation,
2. Communications and records regarding how Ellen O’Connell’s firm was selected, including solicitations, recommendations, evaluation of experience and credentials,
3. Communications with any other firm regarding providing the services sought,
4. Communications with the governing body regarding the Chief’s charges of hostile work environment, harassment and retaliation and the decision to retain Ellen O’Connell’s firm to investigate.

f. **The April 24, 2020 Executive Summary refers** to a “plan for this investigation [sent] in a letter to the Township dated February 10, 2020.” **Please provide** the plan and any communications and records circulating reviewing and/or commenting on the plan.

g. **The April 24, 2020 Executive Summary states:** Ms. O’Connell “interviewed Chief Hunt in the conference room at Town Hall on February 14, 2022 [and] Chief Hunt gave me documents, including four 3-ring binders containing email, disciplinary directives that the Police Committee served on him over a period from October 2017 to December 2020; annual reports; correspondence from the Monmouth County Prosecutor’s Office, the U.S. Department of Justice, counsel to the N.J. State Association of Chiefs of Police, and documents related to the Chief’s complaints about the handling of cases by the Neptune Township Prosecutor and other records. **Please provide** the “four 3-ring binders” referenced in the report which include:

1. Emails,
2. Disciplinary directives that the Police Committee served on Chief James Hunt, Jr. over a period from October 2017 to December 2020,

3. Annual reports;
4. Correspondence from the Monmouth County Prosecutor's Office,
5. Correspondence from the U.S. Department of Justice,
6. Correspondence from counsel to the N.J. State Association of Chiefs of Police,
7. Documents related to the Chief's complaints about the handling of cases by the Neptune Township Prosecutor, and
8. Other records.

h. **The April 24, 2020 Executive Summary states** Ms. O'Connell "interviewed the following individuals: a. Dep. Chief Lawrence Fisher, b. Capt. Anthony Gualario, c. Capt. Michael McGhee, d. Officer Thomas Blewitt, Jr., Neptune PBA, who was accompanied by PBA counsel, Brian Manetta, Esq., Mets office, e. Lt. Scott Cox, President, FOP f. Introductory Interview only: Dr. Brantley g. Introductory Interview only: Nicholas Williams." **If not included in response to the above requests, please provide:**

1. communications setting up these interviews,
2. recordings, notes and/or statements

i. **The April 24, 2020 Executive Summary states** that Ellen O'Connell "met Committeemen Brantley and Williams separately for very short interviews at Town Hall on February 28, 2020 [and she] told each of the purpose of the interview and that [she] would send them each written questions to review before we met again so that they would know the nature of the charges." **If not included in response to the above requests, please provide:**

1. "the written questions to review. . . so that they would know the nature of the charges" sent on February 28, 2020 and March 2, 2020,
2. recordings, notes and/or statements regarding these interviews, and
3. Communications about these interviews.

j. **The April 24, 2020 Executive Summary states** Each made an appointment to meet with me again, and later canceled those appointments. **If not included in response to the above requests, please provide** records and communications regarding canceling the interviews; correspondence between Celli and O’Connell.

k. **The April 24, 2020 Executive Summary states:** “On or about March 16, 2020 Michael Celli, Esq., who is Acting Township Attorney for Neptune Township, contacted me and said he represented both Committeemen. In later correspondence Mr. Celli asked for records, and I said that I would not send documents that are in the Committeemen’s records. Moreover, presumably, as Acting Township Attorney, Mr. Colicelli has unfettered access to any records” and “Mr. Celli sent me a letter with a list of documents he wanted me to send.” **If not included in response to the above requests, please provide:**

1. The communications referenced records, and
2. Communications referencing these communications including email chains.

l. **The April 24, 2020 Executive Summary states:** “The Chief objected, saying that sending the Notice to the Deputy Chief violated Attorney General Guidelines; that the Township Policy at Page 26, 4.28b “Video Surveillance” prohibits audio records of employees, and that Mr. Colicelli “has been harassing [the Chief] which has created a hostile work environment.” The Chief alleges that when he mentioned in that meeting that he felt he was being “targeted” a Committeeman replied, “that hasn’t happened lately.” **If not included in response to the above requests, please provide:**

1. Records containing The Chief’s objection which is quoted,
2. The provision of the Attorney General Guidelines allegedly violated, and
3. The referenced Township Policy at Page 26, 4.28b “Video Surveillance” allegedly prohibiting audio recordings of employees.

m. **The April 24, 2020 Executive Summary states:** “After the Chief objected, Attorney Michael Burns, of the Grace Marmero firm, responded,

“Although the header of the letter you received indicates “written warning” the body of the notice is clearly intended to be a non-disciplinary counseling notice.” The assertion is mystifying since “warning notice” is undeniably a stage of progressive discipline in the public and private sector. Mr. Burn reduced the “warning” notice was to (sic) a “counseling notice.” However, no attempt was made to respond to the Chief’s allegation of harassment. **If not included in response to the above requests, please provide** the communication from Attorney Michael Burns, of the Grace Marmero firm, referenced in the report.

n. **The April 24, 2020 Executive Summary states:** “Chief Hunt was given an email message that was anonymously left for him. The message was allegedly from Committeeman Brantley to various persons on November 4, 2013, regarding “Employment opportunities for administration in Neptune (sic).” **If not included in response to the above requests, please provide:**

1. the email message that was anonymously left for Chief Hunt,
2. all records and communication related to the email message that was anonymously left for Chief Hun including any complaint made by Chief Hunt from when he received the email to the complaint he was made that was being investigated by Ellen O’Connell.

o. **The April 24, 2020 Executive Summary states:** “Chief Hunt reports that in a meeting with Mr. Colicelli on November 14, 2017 that ‘Mayor Brantley wanted a black police captain’ (sic) and he Chief (sic) insisted that the Department follow its policies and procedures on promotions.” **If not included in response to the above requests, please provide:**

1. All records and communication regarding this statement including any report or complaint made by Chief Hunt or others from when the statement was allegedly made until the complaint that was being investigated by Ellen O’Connell.

p. **The April 24, 2020 Executive Summary states:** “Mr. Colicelli also told Chief Hunt that Mayor Brantley wanted to fill the Deputy Chief position immediately with an African American Captain, Lawrence Fisher.” **If not included in response to the above requests, please provide:**

1. All records and communication regarding this statement including any report or complaint made by Chief Hunt or others from the time

this statement was allegedly made until the complaint that was being investigated by Ellen O'Connell.

q. The April 24, 2020 Executive Summary refers on pages 8 to 9 to “changing eligibility standards for promotion to Deputy Chief” and protests by the Superior Officers Association union representatives.” If not included in response to the above requests, please provide:

1. All the eligibility standards for the position of Deputy Chief from 2013 to present,
2. Records and communication regarding changes in the eligibility standards, and
3. The protests by the Superior Officers Association union representatives referenced in the report.

r. The April 24, 2020 Executive Summary states: “In addition to changing the eligibility standard to allow the African American officer to be promoted, the actual elevation to the title of Acting Deputy Chief was hurried, so that the officer could be promoted before the end of the year, when the new, revised standard would come into effect. On February 10, 2020, the Police Committee passed a resolution promoting the Acting Deputy Chief to Deputy Chief. The Police Committee knowingly ignored the procedures in place under the Township’s promotional policy to achieve their goal.” If not included in response to the above requests, please provide:

1. The procedures in place under the Township’s promotional policy from 2013 to present,
2. Communication regarding changes in the eligibility standards from 2013 to present,
3. The “new revised standard” referenced in the April 24, 2020 Executive Summary, and
4. Communications regarding why the “new revised standard” was established.

s. **The April 24, 2020 Executive Summary states:** “Ms. Sanders wrote a letter to the U.S. Department of Justice on or about in (sic) June 17, 2017 asking them to investigate the working conditions at the police force.” **If not included in response to the above requests, please provide** the letter Ms. Sanders wrote a letter to the U.S. Department of Justice on or about June 17, 2017.

t. **The April 24, 2020 Executive Summary states:** “On February 19, 2019, Delora L. Kennebrew, Chief of the Employment Litigation Section and Michael E. Campion, Assistant U.S. Attorney and Chief of the Civil Rights Unit of the Department of Justice wrote to the Township attorneys.” **If not included in response to the above requests, please provide:**

1. The February 19, 2019, communication of Delora L. Kennebrew, Chief of the Employment Litigation Section and Michael E. Campion, Assistant U.S. Attorney and Chief of the Civil Rights Unit of the Department of Justice wrote to the Township attorneys;
2. Communications and records regarding this communication.

u. **The April 24, 2020 Executive Summary states:** “On October 23, 2018, Mr. Colicelli served six (6) Memos on Chief Hunt, called “Directives” demanding that he acknowledge receipt of the Directives, and respond within a short period of time. **If not included in response to the above requests, please provide:**

1. The six (6) Memos on Chief Hunt, called “Directives” served on October 23, 2018.

v. **The April 24, 2020 Executive Summary states** three of the memos were rescinded, after their legal basis was found to be faulty. **If not included in response to the above requests, please provide:**

1. Records and communications supporting the conclusion that the legal basis for three of the memos was found to be faulty;
2. Records and communications supporting the conclusion that three of the memos were rescinded.

w. **The April 24, 2020 Executive Summary states** “On October 4, 2018, the Police Committee reprimanded the Chief for failure to notify Police Committee of incidents in May, August and September. The Chief responded

and no further action was taken.” **If not included in response to the above requests, please provide:**

1. Records and communications regarding or describing “incidents in May, August and September”;
2. Records and communications reprimanding the Chief, and
3. Responses of the Chief including communications regarding those responses.

x. **The April 24, 2020 Executive Summary states** “On December 12, 2019, the Committee served the Chief with the ‘Warning Notice’ that labor counsel, Mr. Burns explained was not disciplinary but only a counseling notice and nor (sic) further action was taken (see above).” **If not included in response to the above requests, please provide:**

1. The referenced ‘Warning Notice’;
2. Communications regarding or referencing the ‘Warning Notice’;
and
3. All Employee Warning Notices issued to Chief Hunt including the one referenced in the report requiring the Chief to undergo “counseling” and threatening suspension for a period of up to five days for “future violations of insubordination.”

y. **The April 24, 2020 Executive Summary references** a July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee. **If not included in response to the above requests, please provide:**

1. The July 10, 2017 Ordinance referenced records; and
2. Communications and records setting forth why the July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee was enacted.

z. **The April 24, 2020 Executive Summary states** “In October 11, 2017, (sic) Mr. Colicelli, had been improperly appointed to be a member and Chairman of the Committee despite not being a member of the governing body.” **If not included in response to the above requests, please provide:**

1. documents and records discussing, and/or concluding that appointing Barry Colicelli to be a member and Chairman of the Committee was improper

aa. **The April 24, 2020 Executive Summary states:** “They [The Police Committee] demanded that the Police Committee approve of all discipline and suspension of police officers, which was rescinded based on the letter opinion from the NJ State Association of Chiefs of Police.” **If not included in response to the above requests, please provide:**

1. Documents and records regarding the demand that the Police Committee approve of all discipline and suspension of police officers;
2. The letter opinion from the NJ State Association of Chiefs of Police;
3. Records and communications rescinding the demand; and
4. Records and communications regarding the demand that the Police Committee approve of all discipline and suspension of police officers, which was rescinded based on the letter opinion from the NJ State Association of Chiefs of Police.

bb. **The April 24, 2020 Executive Summary states:** The Police Committee “unilaterally adopted an overtime policy for municipal court appearances of officers.” **If not included in response to the above requests, please provide:**

1. Documents and records regarding the adoption of the overtime policy for municipal court appearances of officers by the Police Committee.

cc. **The April 24, 2020 Executive Summary states:** The Police Committee “refused to adopt the overtime procedure prepared by the Department commanding officers.” **If not included in response to the above requests, please provide:**

1. Documents and records regarding the adoption of the overtime procedure prepared by the Department commanding officers.

dd. **The April 24, 2020 Executive Summary states** the Police Committee “unilaterally and with no consultation with the Chief, had the Department change its schedule to the 12-hour Pitman schedule. **If not included in response to the above requests, please provide:**

1. Documents and records regarding the adoption of 12-hour Pitman schedule; and
2. Communications related thereto.

ee. **The April 24, 2020 Executive Summary states** the Police Committee “engaged in negotiating terms and conditions of employment with the majority representatives of the patrol and superior officers over day-to-day operations developments and grievances. **If not included in response to the above requests, please provide:**

1. Documents and records regarding the Police Committee negotiating terms and conditions of employment with the majority representatives of the patrol and superior officers over day-to-day operations developments and grievances, and
2. Communications related thereto including negotiations over overtime, assignments and other plainly operational terms.

ff. **The April 24, 2020 Executive Summary states** the Police Committee “revised Standard Operating Procedures (as opposed to policy statements). **If not included in response to the above requests, please provide**

1. Documents and records regarding the revised Standard Operating Procedures, and
2. Communications related to the revised Standard Operating Procedures thereto including negotiations over overtime, assignments and other plainly operational terms.

gg. **The April 24, 2020 Executive Summary states** In an undated memorandum, Labor Counsel Mr. Long wrote that the promotion of the Acting Deputy Chief to Deputy chief was invalid because the Police Committee “failed to follow the appropriate procedures under the current promotions polices....” **If not included in response to the above requests, please provide:**

1. The undated memorandum of Labor Counsel Mr. Long;

3. The “current promotions policies (sic)” as referenced in the Executive Summary; and

3. All Communications related to the revised Standard Operating Procedures thereto including negotiations over overtime, assignments and other plainly operational terms.

hh. **The April 24, 2020 Executive Summary states:** The Police Committee allowed “the Police Consultant to draft policies and directives that are served on the Chief, and have repeatedly sought to have the consultant attend meetings of the Committee and the Chief where confidential information is shared, and attempted to mandate that the Chief send all Police Committee correspondence and records to the outside, civilian consultant.” **If not included in response to the above requests, please provide:**

1. The draft “policies and directives” drafted by the Police Consultant; and
2. Communications and records related to the Police Consultant to draft policies and directives that are served on the Chief, and have repeatedly sought to have the consultant attend meetings of the Committee and the Chief where confidential information is shared, and attempted to mandate that the Chief send all Police Committee correspondence and records to the outside, civilian consultant

ii. **The April 24, 2020 Executive Summary states:** “The Police Committee usurped the Chief’s authority to discipline or handle the employment status of Police Officers K. Davis, Stewart and Hubbard. **If not included in response to the above requests, please provide:**

1. Records and communications regarding or related to, and
2. Communications and records related to the Police Committee usurping “the Chief’s authority to discipline or handle the employment status of Police Officers K. Davis, Stewart and Hubbard”

jj. **The April 24, 2020 Executive Summary states:** “Mr. Colicelli declared that an officer who had been found unfit for duty should be returned to a ‘non-sensitive position.’” **If not included in response to the above requests, please provide:**

1. Records and communications regarding or related to Mr. Colicelli’s declaration that an officer who had been found unfit for duty should be returned to a ‘non-sensitive position’”;

2. Records and communications regarding the officer who had been found unfit for duty and whether he or she was returned to a 'non-sensitive position'; and
3. Records and communications regarding the work status of the officer who had been found unfit for duty.

kk. **The April 24, 2020 Executive Summary states:** "On the following occasions, [the Police Committee] attempted to take charge of other powers delegated to the police, and were unsuccessful when the Chief objected and was joined by the Monmouth County Prosecutor or the N.J. State Association of Chiefs of Police:

- a. Interfering in chief's discretion concerning release of information to the public;
- b. Requesting review of confidential Internal Affairs investigation files;
- c. Inquiring into the Distribution of SOPs to staff;
- d. Attempted to inject themselves into the selection and approval of police officers for training, and, in particular, at the FBI National Academy; and
- e. Attempted to interfere with Police Officers' appearance in municipal court and overtime pay

If not included in response to the above requests, please provide:

1. Records and communications regarding or related to a through e above.

ll. **The April 24, 2020 Executive Summary states:** "Shortly after serving being serviced (sic) with a Disciplinary Notice, the Chief also received a Rice notice and a letter from the Township Attorney, Gene Anthony, Esq., saying that the Township was considering withdrawing payment for the lawyers who were defending him for potential punitive damages in in employment-related lawsuit in Superior Court. **If not included in response to the above requests, please provide:**

1. The Disciplinary Notice;
2. The Rice notice;

3. The letter from the Township Attorney, Gene Anthony, Esq., saying that the Township was considering withdrawing payment for the lawyers who were defending him for potential punitive damages in in employment-related lawsuit in Superior Court; and
4. Records and communications regarding or related to i through iii above.

mm. **The April 24, 2020 Executive Summary states:** “The Police Committee empowered labor attorney Michael Burns, Esq. to make decisions concerning discipline and reinstatement for police officers.” **If not included in response to the above requests, please provide:**

1. Records and communications regarding or related the Police Committee empowering labor attorney Michael Burns, Esq. to make decisions concerning discipline and reinstatement for police officers.

nn. **The April 24, 2020 Executive Summary states:** “The Committee delivered disciplinary memoranda or Directives to the Chief via email, and, more often than not, at times that were most inconvenient to the Chief, such as the day before or during scheduled vacations or out-of-state conferences, or late afternoon or evening on a Friday night.” **If not included in response to the above requests, please provide:**

- 1 The emails delivering disciplinary memoranda or Directives to the Chief referenced;
2. Records and communications regarding or related the delivering disciplinary memoranda or Directives to the Chief.

oo. **The April 24, 2020 Executive Summary states:** “The members of the Police Committee address (sic) the Deputy Chief as, “Chief,” in the presence of Chief Hunt, a protocol violation. **If not included in response to the above requests, please provide:**

1. Records and communications regarding when and in whose presence such words were used;
2. Records and communications regarding reports or complaints of the Chief or anyone else from the time such statements were allegedly made and the investigation by Ellen O’Connell.

Finally, the April 24, 2020 Executive Summary has an Appendix referencing 23 Directives. Please provide each Directive and records and communications regarding each including objections and recissions referenced in the Appendix.

If any or part of this request is denied, please describe the material and the specific exemption(s) on which you rely. I would appreciate receiving this material in digital format and preferably by email.

Thank you.

Very truly yours,

Patricia F. Burke, Esq.

EXHIBIT B

Robert Lane Jr., Mayor
 Kevin McMillan, Deputy Mayor
 Dr. Michael Brantley
 Carol Rizzo
 Nicholas Williams



Vito D. Gadaleta, R.M.C., Q.P.A.
 Business Administrator
 Richard J. Cuttrell, R.M.C.
 Township Clerk
 Michael J. Bascom, C.M.F.O., C.T.C.
 Chief Financial Officer

August 27, 2020

Via Email to patriciafoleyburke@gmail.com

Patricia F. Burke, Esq.
 77 Mantoloking Road
 Brick, New Jersey 08723

Re: OPRA Request

Dear Ms. Burke:

I, as the Custodian of Records for the Township of Neptune (hereinafter referred to as the "Township"), received your Open Public Records Act ("OPRA") request on or about August 18, 2020. Please accept the following as the Township's response to said request within the statutory time frame.

Your OPRA request sought the following:

1. Copy of "complete report with relevant exhibits".

The request for the "complete report and relevant exhibits" is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege. In addition the request for "relevant exhibits" is overly broad, vague, and ambiguous and must be denied at this time. Please provide some additional clarification as to which documents you are referring to as "relevant exhibits" as the Township is not required to conduct research in order to provide potentially responsive records to your request.

2. Communications related to the allegations made by Chief Hunt or the investigation of those charges between or among Ellen O'Connell of Inglesino, Webster, Wyciskala & Taylor, LLC and her firm and Barry Colcelli, members of the Neptune Township Administration and governing body including:

- Chief Hunt,
- Deputy Chief Fisher,
- Captain Gualario,
- Captain McGhee,
- Lt. Cox,
- Sgt. Arce,
- Mayor Lane,
- Deputy Mayor Kevin McMillan,

- Committee member Carol Rizzo,
- Committee Member Michael Brantley
- Committee Member Nicholas Williams

- a. Records (including communications) authorizing the retention of Ellen O'Connell as well as an investigation in a letter to the Township dated February 10, 2020.

Attached please find responsive records to your request.

- b. The April 24, 2020 Executive Summary states: "On December 15, 2019, Dr. Michael Brantley, Chairman of Neptune Police Oversight Committee served Chief James Hunt via email an "Employee Warning Notice" dated December 12, 2019 concerning an incident that occurred on December 4, 2019. Please provide the "Employee Warning Notice" dated December 12, 2019 and any records and reports in any format of the incident that occurred on December 4, 2019.

The requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- c. The April 24, 2020 Executive Summary states: "Dr. Brantley sent a copy of that email message and attached Employee Warning Notice to seven (7) other persons, including Acting Dep. Chief Lawrence Fisher, who reports to Chief Hunt." Please provide the email referenced and related emails from the 8 email accounts with the same subject heading including email chains that include this email.

The requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- d. The April 24, 2020 Executive Summary further states: Chief Hunt responded via email the next day, objecting to the form, process and substance of the disciplinary action. Please provide Chief Hunt's email, of the next day, Michael Burn's response quoted in the report and Chief Hunt's response of December 18, 2019 at 2:05 P.M. the email referenced and related emails from the 8 email accounts with the same subject heading including email chains that include this email.

The requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- e. The April 24, 2020 Executive Summary states the “Township retained this firm to investigate the Chief’s charges of hostile work environment, harassment and retaliation.” Please provide:

1. All communications regarding retaining of the firm to investigate the Chief’s charges of hostile work environment, harassment and retaliation, *Please see responsive records to request #2(a) above.*

2. Communications and records regarding how Ellen O’Connell’s firm was selected, including solicitations, recommendations, evaluation of experience and credentials, *The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter.*

3. Communications with any other firm regarding providing the services sought, *The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter.*

4. Communications with the governing body regarding the Chief’s charges of hostile work environment, harassment and retaliation and the decision to retain Ellen O’Connell’s firm to investigate. *The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege material.*

- f. The April 24, 2020 Executive Summary refers to a “plan for this investigation [sent] in a letter to the Township dated February 10, 2020.” Please provide the plan and any communications and records circulating reviewing and/or commenting on the plan. *The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege material. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.*

- g. The April 24, 2020 Executive Summary states: Ms. O’Connell “interviewed Chief Hunt in the conference room at Town Hall on February 14, 2022 [and] Chief Hunt gave me documents, including four 3-ring binders containing email, disciplinary directives that the Police Committee served on him over a period from October 2017 to December 2020; annual reports; correspondence from the Monmouth County Prosecutor’s Office, the U.S. Department of Justice, counsel to the N.J. State Association of Chiefs of Police, and documents related to the Chief’s

complaints about the handling of cases by the Neptune Township Prosecutor and other records. Please provide the “four 3-ring binders” referenced in the report which include:

1. Emails,
2. Disciplinary directives that the Police Committee served on Chief James Hunt, Jr. over a period from October 2017 to December 2020,
3. Annual reports;
4. Correspondence from the Monmouth County Prosecutor’s Office,
5. Correspondence from the U.S. Department of Justice,
6. Correspondence from counsel to the N.J. State Association of Chiefs of Police,
7. Documents related to the Chief’s complaints about the handling of cases by the Neptune Township Prosecutor, and
8. Other records.

This request must be denied as the request fails to identify specific government records and is considered a vague and ambiguous request. As such, your request is an invalid OPRA request at this time and is denied. A proper request under OPRA must identify with reasonable clarity those documents that are desired and a party cannot satisfy this requirement by simply requesting “any and all” or identifying same as “four 3-ring binders” of an agency’s documents. Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005). More importantly, custodians are not required to conduct research or create new records in response to an OPRA request. See also MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). This request clearly requires the Custodian to conduct research and/or compile information which is not the purpose and/or intent of OPRA.

- h. The April 24, 2020 Executive Summary states Ms. O’Connell “interviewed the following individuals: a. Dep. Chief Lawrence Fisher, b. Capt. Anthony Gualario, c. Capt. Michael McGhee, d. Officer Thomas Blewitt, Jr., Neptune PBA, who was accompanied by PBA counsel, Brian Manetta, Esq., Mets office, e. Lt. Scott Cox, President, FOP f. Introductory Interview only: Dr. Brantley g. Introductory Interview only: Nicholas Williams.” If not included in response to the above requests, please provide:

1. communications setting up these interviews,
2. recordings, notes and/or statements

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege material.

- i. The April 24, 2020 Executive Summary states that Ellen O’Connell “met Committeemen Brantley and Williams separately for very short interviews at Town

Hall on February 28, 2020 [and she] told each of the purpose of the interview and that [she] would send them each written questions to review before we met again so that they would know the nature of the charges." If not included in response to the above requests, please provide:

1. "the written questions to review. . . so that they would know the nature of the charges" sent on February 28, 2020 and March 2, 2020,
2. recordings, notes and/or statements regarding these interviews, and
3. Communications about these interviews.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege material.

- j. The April 24, 2020 Executive Summary states Each made an appointment to meet with me again, and later canceled those appointments. If not included in response to the above requests, please provide records and communications regarding canceling the interviews; correspondence between Celli and O'Connell.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege material.

- k. The April 24, 2020 Executive Summary states: "On or about March 16, 2020 Michael Celli, Esq., who is Acting Township Attorney for Neptune Township, contacted me and said he represented both Committeemen. In later correspondence Mr. Celli asked for records, and I said that I would not send documents that are in the Committeemen's records. Moreover, presumably, as Acting Township Attorney, Mr. Colicelli has unfettered access to any records" and "Mr. Celli sent me a letter with a list of documents he wanted me to send." If not included in response to the above requests, please provide:

1. The communications referenced records, and
2. Communications referencing these communications including email chains.

The requested records are also denied as they were generated in connection with a grievance filed and are also attorney client privileged materials, which are not permitted to be disclosed pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. and are not considered government records. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- l. The April 24, 2020 Executive Summary states: "The Chief objected, saying that sending the Notice to the Deputy Chief violated Attorney General Guidelines; that

the Township Policy at Page 26, 4.28b "Video Surveillance" prohibits audio records of employees, and that Mr. Colicelli "has been harassing [the Chief] which has created a hostile work environment." The Chief alleges that when he mentioned in that meeting that he felt he was being "targeted" a Committeeman replied, "that hasn't happened lately." If not included in response to the above requests, please provide:

1. Records containing The Chief's objection which is quoted,
2. The provision of the Attorney General Guidelines allegedly violated, and
3. The referenced Township Policy at Page 26, 4.28b "Video Surveillance" allegedly prohibiting audio recordings of employees.

The requested records are also denied as they were generated in connection with a grievance filed and are also attorney client privileged materials, which are not permitted to be disclosed pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. and are not considered government records. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- m. The April 24, 2020 Executive Summary states: "After the Chief objected, Attorney Michael Burns, of the Grace Marmero firm, responded, "Although the header of the letter you received indicates "written warning" the body of the notice is clearly intended to be a non-disciplinary counseling notice." The assertion is mystifying since "warning notice" is undeniably a stage of progressive discipline in the public and private sector. Mr. Burns reduced the "warning" notice was to (sic) a "counseling notice." However, no attempt was made to respond to the Chief's allegation of harassment. If not included in response to the above requests, please provide the communication from Attorney Michael Burns, of the Grace Marmero firm, referenced in the report.

The requested records are also denied as they were generated in connection with a grievance filed and are also attorney client privileged materials, which are not permitted to be disclosed pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. and are not considered government records.

- n. The April 24, 2020 Executive Summary states: "Chief Hunt was given an email message that was anonymously left for him. The message was allegedly from Committeeman Brantley to various persons on November 4, 2013, regarding "Employment opportunities for administration in Neptune (sic)." If not included in response to the above requests, please provide:

1. the email message that was anonymously left for Chief Hunt,
2. all records and communication related to the email message that was anonymously left for Chief Hunt including any complaint made by Chief Hunt

from when he received the email to the complaint he was made that was being investigated by Ellen O'Connell.

The requested records are also denied as they were generated in connection with a grievance filed and are also attorney client privileged materials, which are not permitted to be disclosed pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. and are not considered government records. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- o. The April 24, 2020 Executive Summary states: "Chief Hunt reports that in a meeting with Mr. Colicelli on November 14, 2017 that 'Mayor Brantley wanted a black police captain' (sic) and he Chief (sic) insisted that the Department follow its policies and procedures on promotions." If not included in response to the above requests, please provide:

- 1. All records and communication regarding this statement including any report or complaint made by Chief Hunt or others from when the statement was allegedly made until the complaint that was being investigated by Ellen O'Connell.

The requested records are also denied as they were generated in connection with a grievance filed and are also attorney client privileged materials, which are not permitted to be disclosed pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. and are not considered government records. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- p. The April 24, 2020 Executive Summary states: "Mr. Colicelli also told Chief Hunt that Mayor Brantley wanted to fill the Deputy Chief position immediately with an African American Captain, Lawrence Fisher." If not included in response to the above requests, please provide:

- 1. All records and communication regarding this statement including any report or complaint made by Chief Hunt or others from the time this statement was allegedly made until the complaint that was being investigated by Ellen O'Connell.

The requested records are also denied as they were generated in connection with a grievance filed and are also attorney client privileged materials, which are not permitted to be disclosed pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. and are not considered government records. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A.

47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

q. The April 24, 2020 Executive Summary refers on pages 8 to 9 to “changing eligibility standards for promotion to Deputy Chief” and protests by the Superior Officers Association union representatives.” If not included in response to the above requests, please provide:

1. All the eligibility standards for the position of Deputy Chief from 2013 to present,
2. Records and communication regarding changes in the eligibility standards, and The protests by the Superior Officers Association union representatives referenced in the report.

Please see responsive records to request for eligibility standards; However with regards to the request for “the protests” this portion of the request must be denied as the request fails to identify specific government records and is considered a vague and ambiguous request. As such, your request is an invalid OPRA request at this time and is denied. Records custodians are not required to conduct research or create new records in response to an OPRA request. See MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005).

r. The April 24, 2020 Executive Summary states: “In addition to changing the eligibility standard to allow the African American officer to be promoted, the actual elevation to the title of Acting Deputy Chief was hurried, so that the officer could be promoted before the end of the year, when the new, revised standard would come into effect. On February 10, 2020, the Police Committee passed a resolution promoting the Acting Deputy Chief to Deputy Chief. The Police Committee knowingly ignored the procedures in place under the Township’s promotional policy to achieve their goal.” If not included in response to the above requests, please provide:

1. The procedures in place under the Township’s promotional policy from 2013 to present,
2. Communication regarding changes in the eligibility standards from 2013 to present,
3. The “new revised standard” referenced in the April 24, 2020 Executive Summary, and
4. Communications regarding why the “new revised standard” was established.

This request must be denied as the request fails to identify specific government records and is considered a vague and ambiguous request. As such, your request is an invalid OPRA request at this time and is denied. Records custodians are not required to conduct research or create new records in response to an OPRA request.

See MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). Furthermore, with regards to the communications regarding changes and why the new revised standard was established, any responsive records would be exempt from disclosure under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material.

- s. The April 24, 2020 Executive Summary states: "Ms. Sanders wrote a letter to the U.S. Department of Justice on or about in (sic) June 17, 2017 asking them to investigate the working conditions at the police force." If not included in response to the above requests, please provide the letter Ms. Sanders wrote a letter to the U.S. Department of Justice on or about June 17, 2017.

The Township is not in possession of any responsive records to this request.

- t. The April 24, 2020 Executive Summary states: "On February 19, 2019, Delora L. Kennebrew, Chief of the Employment Litigation Section and Michael E. Campion, Assistant U.S. Attorney and Chief of the Civil Rights Unit of the Department of Justice wrote to the Township attorneys." If not included in response to the above requests, please provide:

1. The February 19, 2019, communication of Delora L. Kennebrew, Chief of the Employment Litigation Section and Michael E. Campion, Assistant U.S. Attorney and Chief of the Civil Rights Unit of the Department of Justice wrote to the Township attorneys;

2. Communications and records regarding this communication.

Please see attached responsive record(s).

- u. The April 24, 2020 Executive Summary states: "On October 23, 2018, Mr. Colicelli served six (6) Memos on Chief Hunt, called "Directives" demanding that he acknowledge receipt of the Directives, and respond within a short period of time. If not included in response to the above requests, please provide:

1. The six (6) Memos on Chief Hunt, called "Directives" served on October 23, 2018.

The requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- v. The April 24, 2020 Executive Summary states three of the memos were rescinded, after their legal basis was found to be faulty. If not included in response to the above requests, please provide:

1. Records and communications supporting the conclusion that the legal basis for three of the memos was found to be faulty;
2. Records and communications supporting the conclusion that three of the memos were rescinded.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material.

- w. The April 24, 2020 Executive Summary states "On October 4, 2018, the Police Committee reprimanded the Chief for failure to notify Police Committee of incidents in May, August and September. The Chief responded and no further action was taken." If not included in response to the above requests, please provide:

1. Records and communications regarding or describing "incidents in May, August and September";
2. Records and communications reprimanding the Chief, and
3. Responses of the Chief including communications regarding those responses.

The requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- x. The April 24, 2020 Executive Summary states "On December 12, 2019, the Committee served the Chief with the 'Warning Notice' that labor counsel, Mr. Burns explained was not disciplinary but only a counseling notice and nor (sic) further action was taken (see above)." If not included in response to the above requests, please provide:

1. The referenced 'Warning Notice';
2. Communications regarding or referencing the 'Warning Notice'; and
3. All Employee Warning Notices issued to Chief Hunt including the one referenced in the report requiring the Chief to undergo "counseling" and threatening suspension for a period of up to five days for "future violations of insubordination."

The requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material.

y. The April 24, 2020 Executive Summary references a July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee. If not included in response to the above requests, please provide:

1. The July 10, 2017 Ordinance referenced records; and
2. Communications and records setting forth why the July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee was enacted.

Please see attached responsive record to the request for the July 10, 2017 Ordinance; However, subsection (2) of this request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material.

z. The April 24, 2020 Executive Summary states "In October 11, 2017, (sic) Mr. Colicelli, had been improperly appointed to be a member and Chairman of the Committee despite not being a member of the governing body." If not included in response to the above requests, please provide:

1. documents and records discussing, and/or concluding that appointing Barry Colicelli to be a member and Chairman of the Committee was improper.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material.

aa. The April 24, 2020 Executive Summary states: "They [The Police Committee] demanded that the Police Committee approve of all discipline and suspension of police officers, which was rescinded based on the letter opinion from the NJ State Association of Chiefs of Police." If not included in response to the above requests, please provide:

1. Documents and records regarding the demand that the Police Committee approve of all discipline and suspension of police officers;
2. The letter opinion from the NJ State Association of Chiefs of Police;
3. Records and communications rescinding the demand; and
4. Records and communications regarding the demand that the Police Committee approve of all discipline and suspension of police officers, which was rescinded based on the letter opinion from the NJ State Association of Chiefs of Police.

The request for subsections (1) (3) and (4) are denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege. In addition the request is overly broad, vague, and ambiguous and must be denied at this time. Please provide some additional clarification as to which documents you are referring to as

“records” and the time frame(s) regarding same as the Township is not required to conduct research in order to provide potentially responsive records to your request.

Please see attached responsive records to subsection (2) of your request.

bb. The April 24, 2020 Executive Summary states: The Police Committee “unilaterally adopted an overtime policy for municipal court appearances of officers.” If not included in response to the above requests, please provide:

1. Documents and records regarding the adoption of the overtime policy for municipal court appearances of officers by the Police Committee.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material.

cc. The April 24, 2020 Executive Summary states: The Police Committee “refused to adopt the overtime procedure prepared by the Department commanding officers.” If not included in response to the above requests, please provide:

1. Documents and records regarding the adoption of the overtime procedure prepared by the Department commanding officers.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material.

dd. The April 24, 2020 Executive Summary states the Police Committee “unilaterally and with no consultation with the Chief, had the Department change its schedule to the 12-hour Pitman schedule. If not included in response to the above requests, please provide:

1. Documents and records regarding the adoption of 12-hour Pitman schedule; and
2. Communications related thereto.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material.

ee. The April 24, 2020 Executive Summary states the Police Committee “engaged in negotiating terms and conditions of employment with the majority representatives of the patrol and superior officers over day-to-day operations developments and grievances. If not included in response to the above requests, please provide:

1. Documents and records regarding the Police Committee negotiating terms and conditions of employment with the majority representatives of the patrol and superior officers over day-to-day operations developments and grievances, and
2. Communications related thereto including negotiations over overtime, assignments and other plainly operational terms.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material and would also be exempt as personnel records. In addition, the any potentially responsive record(s) would also be exempt as attorney-client privileged material depending on the author of same.

ff. The April 24, 2020 Executive Summary states the Police Committee “revised Standard Operating Procedures (as opposed to policy statements). If not included in response to the above requests, please provide

1. Documents and records regarding the revised Standard Operating Procedures, and
2. Communications related to the revised Standard Operating Procedures thereto including negotiations over overtime, assignments and other plainly operational terms.

Please see attached responsive records.

gg. The April 24, 2020 Executive Summary states In an undated memorandum, Labor Counsel Mr. Long wrote that the promotion of the Acting Deputy Chief to Deputy chief was invalid because the Police Committee “failed to follow the appropriate procedures under the current promotions polices....” If not included in response to the above requests, please provide:

1. The undated memorandum of Labor Counsel Mr. Long;
2. The “current promotions polices (sic)” as referenced in the Executive Summary; and
3. All Communications related to the revised Standard Operating Procedures thereto including negotiations over overtime, assignments and other plainly operational terms.

Subsection (1) of the request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege. Please see responsive records to subsections (2) and (3).

hh. The April 24, 2020 Executive Summary states: The Police Committee allowed “the Police Consultant to draft policies and directives that are served on the Chief, and have repeatedly sought to have the consultant attend meetings of the Committee and the Chief where confidential information is shared, and attempted to mandate that

the Chief send all Police Committee correspondence and records to the outside, civilian consultant.” If not included in response to the above requests, please provide:

1. The draft “policies and directives” drafted by the Police Consultant; and
2. Communications and records related to the Police Consultant to draft policies and directives that are served on the Chief, and have repeatedly sought to have the consultant attend meetings of the Committee and the Chief where confidential information is shared, and attempted to mandate that the Chief send all Police Committee correspondence and records to the outside, civilian consultant.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege.

- ii. The April 24, 2020 Executive Summary states: “The Police Committee usurped the Chief’s authority to discipline or handle the employment status of Police Officers K. Davis, Stewart and Hubbard. If not included in response to the above requests, please provide:

1. Records and communications regarding or related to, and
2. Communications and records related to the Police Committee usurping “the Chief’s authority to discipline or handle the employment status of Police Officers K. Davis, Stewart and Hubbard”

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege material. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

- jj. The April 24, 2020 Executive Summary states: “Mr. Colicelli declared that an officer who had been found unfit for duty should be returned to a ‘non-sensitive position.’” If not included in response to the above requests, please provide:

1. Records and communications regarding or related to Mr. Colicelli’s declaration that an officer who had been found unfit for duty should be returned to a ‘non-sensitive position’”; and
2. Records and communications regarding the officer who had been found unfit for duty and whether he or she was returned to a ‘non-sensitive position’”; and
3. Records and communications regarding the work status of the officer who had been found unfit for duty.

This request must be denied as the request fails to identify specific government records and is considered a vague and ambiguous request. As such, your request is an invalid OPRA request at this time and is denied. Records custodians are not required to conduct research or create new records in response to an OPRA request. See MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). Furthermore it appears that the subject request is seeking records which would be exempt from disclosure as personnel records and intra-agency advisory material.

kk. The April 24, 2020 Executive Summary states: "On the following occasions, [the Police Committee] attempted to take charge of other powers delegated to the police, and were unsuccessful when the Chief objected and was joined by the Monmouth County Prosecutor or the N.J. State Association of Chiefs of Police:

- a. Interfering in chief's discretion concerning release of information to the public;
- b. Requesting review of confidential Internal Affairs investigation files;
- c. Inquiring into the Distribution of SOPs to staff;
- d. Attempted to inject themselves into the selection and approval of police officers for training, and, in particular, at the FBI National Academy; and
- e. Attempted to interfere with Police Officers' appearance in municipal court and overtime pay

If not included in response to the above requests, please provide:

1. Records and communications regarding or related to a through e above.

Attached please find responsive records to your request.

ll. The April 24, 2020 Executive Summary states: "Shortly after serving being serviced (sic) with a Disciplinary Notice, the Chief also received a Rice notice and a letter from the Township Attorney, Gene Anthony, Esq., saying that the Township was considering withdrawing payment for the lawyers who were defending him for potential punitive damages in in employment-related lawsuit in Superior Court. If not included in response to the above requests, please provide:

1. The Disciplinary Notice;
2. The Rice notice;
3. The letter from the Township Attorney, Gene Anthony, Esq., saying that the Township was considering withdrawing payment for the lawyers who were defending him for potential punitive damages in in employment-related lawsuit in Superior Court; and
4. Records and communications regarding or related to i through iii above.

Attached please find responsive records for subsections (2) through (4) of this request. However subsection (1) of the request is denied as same is exempt under N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

mm. The April 24, 2020 Executive Summary states: "The Police Committee empowered labor attorney Michael Burns, Esq. to make decisions concerning discipline and reinstatement for police officers." If not included in response to the above requests, please provide:

1. Records and communications regarding or related the Police Committee empowering labor attorney Michael Burns, Esq. to make decisions concerning discipline and reinstatement for police officers.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege.

nn. The April 24, 2020 Executive Summary states: "The Committee delivered disciplinary memoranda or Directives to the Chief via email, and, more often than not, at times that were most inconvenient to the Chief, such as the day before or during scheduled vacations or out-of-state conferences, or late afternoon or evening on a Friday night." If not included in response to the above requests, please provide:

- 1 The emails delivering disciplinary memoranda or Directives to the Chief referenced;
2. Records and communications regarding or related the delivering disciplinary memoranda or Directives to the Chief.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

oo. The April 24, 2020 Executive Summary states: "The members of the Police Committee address (sic) the Deputy Chief as, "Chief," in the presence of Chief Hunt, a protocol violation. If not included in response to the above requests, please provide:

1. Records and communications regarding when and in whose presence such words were used;
2. Records and communications regarding reports or complaints of the Chief or anyone else from the time such statements were allegedly made and the investigation by Ellen O'Connell.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter. In addition, the requested records are

denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

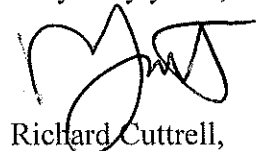
Finally, the April 24, 2020 Executive Summary has an Appendix referencing 23 Directives. Please provide each Directive and records and communications regarding each including objections and recissions referenced in the Appendix.

The request is denied as same is exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to a personnel matter. In addition, the requested records are denied as they are considered personnel records exempt from disclosure pursuant to OPRA, N.J.S.A. 47:1A-1 et. seq. No exception to non-disclosure exists with this request and same must be denied as same are considered personnel records under OPRA.

In addition, please take notice that if your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Custodian of Records to deny access. At your option, you may either institute 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 by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in Monmouth County.

I thank you for your time, patience and consideration. Should you have any questions on this matter, please do not hesitate to contact my office.

Very truly yours,



Richard Cuttrell,
Township Clerk

2a

Stephanie Oppegaard

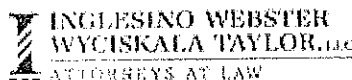
From: Justin A. Marchetta <jmarchetta@iwwt.law>
Sent: Thursday, February 06, 2020 4:21 PM
To: Stephanie Oppegaard
Cc: Ellen O'Connell
Subject: RE: Neptune Police Chief Harassment Claim
Attachments: Professional Services Agreement - Special Counsel - Fully Executed (00711457xC17EA).pdf

Attached is the fully-executed agreement for your files. Ellen will follow up with you regarding scheduling.

Thank you,

Justin A. Marchetta

Attorney at Law | [View my Bio](#)
 Admitted in NJ, NY, TX & DC



INGLESINO, WEBSTER, WYCISKALA & TAYLOR, LLC
 600 PARSIPPANY ROAD, SUITE 204
 PARSIPPANY, NEW JERSEY 07054
 T (973) 947-7136 | F (973) 887-2700 | C (908) 616-9085
jmarchetta@iwwt.law | www.iwwt.law

Assistant: Meghan Goskowsky, mgoskowsky@iwwt.law

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From: Stephanie Oppegaard <soppegaard@neptunetownship.org>
Sent: Thursday, February 6, 2020 4:00 PM
To: Justin A. Marchetta <jmarchetta@iwwt.law>
Cc: Ellen O'Connell <eoconnell@iwwt.law>
Subject: RE: Neptune Police Chief Harassment Claim

Hi Justin – Attached please find the fully executed Professional Services Agreement. Please let me know when you would like to schedule an appointment with the Chief. I don't think he is available until late next week. Thanks.

From: Justin A. Marchetta [<mailto:jmarchetta@iwwt.law>]
Sent: Thursday, February 06, 2020 3:09 PM
To: Stephanie Oppegaard <soppegaard@neptunetownship.org>
Cc: Ellen O'Connell <eoconnell@iwwt.law>
Subject: RE: Neptune Police Chief Harassment Claim

Stephanie,

Attached is a form of Professional Services Agreement. Please let us know if you have any questions.

Thank you,

Justin A. Marchetta

Attorney at Law | [View my Bio](#)
Admitted in NJ, NY, TX & DC



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Assistant: Meghan Goskowsky, mgoskowsky@iwwt.law

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From: Stephanie Oppegaard <soppegaard@neptunetownship.org>
Sent: Thursday, February 6, 2020 11:57 AM
To: Justin A. Marchetta <jmarchetta@iwwt.law>
Cc: Ellen O'Connell <eoconnell@iwwt.law>
Subject: RE: Neptune Police Chief Harassment Claim

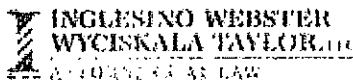
Hi Justin – I spoke with the Township Clerk in reference to a resolution appointing your firm to conduct this investigation. The Clerk informed me that we don't need a resolution as the threshold is \$17,500.00. The Township Business Administrator, Vito Gadaleta, will sign an agreement with you if you would like to send one over. Let me know. Thank you.

From: Justin A. Marchetta [<mailto:jmarchetta@iwwt.law>]
Sent: Tuesday, February 04, 2020 12:20 PM
To: Stephanie Oppegaard <soppegaard@neptunetownship.org>
Cc: Ellen O'Connell <eoconnell@iwwt.law>
Subject: RE: Neptune Police Chief Harassment Claim

Thank you, Stephanie. Introducing my partner, Ellen O'Connell, who will be leading the investigation. Please send us a draft of the appointing resolution so that we may ensure that it appropriately frames the issues for investigation.

Justin A. Marchetta

Attorney at Law | [View my Bio](#)
 Admitted in NJ, NY, TX & DC



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Assistant: Meghan Goskowsky, mgoskowsky@iwwt.law

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NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE			
VOLUME:2	CHAPTER: 18	# OF PAGES: 9	
SUBJECT: PROMOTION			
EFFECTIVE DATE: July 29, 2014		ACCREDITATION STANDARDS: 2.3.1	
BY THE ORDER OF: Deputy Chief James M. Hunt Jr.			
AUTHORIZED BY: Michael J. Bascom, Acting Director			
SUPERSEDES ORDER #:			

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Police Director and Chief of Police in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief shall assume all roles herein that are assigned to the Chief of Police. All promotions require the final authorization, approval, and concurrence of the Governing Body of the Township of Neptune by way of a resolution which is approved at a public meeting.

POLICY: Promotion denotes vertical movement in the organization hierarchy from one rank to another, accompanied by increases in salary. The promotional process begins with identifying employees who have the potential for assuming greater responsibility and who possess the skills, knowledge and abilities required to perform at the level being considered for promotion. This agency will use a promotional process governed by N.J.S.A. Title 40A, as well as, one, which is in compliance with applicable standards of the New Jersey State Association of Chiefs of Police (NJSACOP).

PROCEDURE

I. Eligibility and Process

A. Deputy Chief

1. It is recognized that the position of Deputy Chief is an appointment made at the sole discretion of the Police Director and Chief of Police.
2. Applicants for the position of Deputy Chief shall possess an Associate's Degree from an accredited college or be honorably discharged from active duty military service in any branch of the U.S. Military. Beginning January 1, 2018, applicants for the position of Deputy Chief shall possess a bachelor's degree from an accredited college or university.
3. The position of Deputy Chief will consist of an oral interview conducted by a review board consisting of the current Police Director, Chief of Police, Township Business Administrator and Township Clerk. The review board conducting the interview will have access to the candidate's resume, candidate experience report and personnel file, consisting of past evaluations, career experience, commendations, disciplinary notices and sustained abuse of sick time (if any). The review board will take into consideration the candidate's experience, seniority, accomplishments, education and honorable military service. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).
 - a. Candidate Experience Report – Self Assessment
 - i. Each candidate shall prepare and provide a typed personal profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their Personal Profile. This report is to be completed by the candidate and is to be submitted with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Deputy Chief.

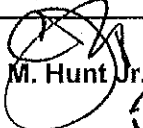
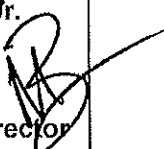
4. Applicants for the position of Deputy Chief must have held the rank of Captain and shall have a minimum of five years experience in a police supervisory capacity, supplemented by the completion of approved course work in police administration, police science, or related fields.
5. In accordance with NJSA 40A: 14-129, due consideration shall be given to the length and merit of service and to seniority in service to any candidate for promotion to Deputy Chief. Due consideration shall also be given to the recommendation of the Chief of Police, which shall be based on the aforementioned factors and a review of the performance of the candidates.

B. Captain

1. Applicants for the position of Captain must have held the rank of Lieutenant for at least two (2) years prior to the first phase of the process, supplemented by the completion of approved course work in police administration, police science, or related fields. Beginning January 1, 2018 applicants for the position of Captain shall possess a bachelor's degree from an accredited college or university or possess an associate's degree and be honorably discharged from active duty military service in any branch of the U.S. Military. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).
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2. The examination for the position of Captain will consist of an oral interview conducted by a review board consisting of the current Police Director, Chief of Police, Deputy Chief of Police and Captain(s). The review board will have access to the candidate's resume, candidate experience report and personnel file, consisting of past evaluations, career experience, and commendations and disciplinary notices and sustained abuse of sick time.

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Promotion - Page 3 of 9

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE			
VOLUME:2	CHAPTER: 18	# OF PAGES: 9	
SUBJECT: PROMOTION			
EFFECTIVE DATE: July 29, 2014		ACCREDITATION STANDARDS: 2.3.1	
BY THE ORDER OF: Deputy Chief James M. Hunt Jr. 			
AUTHORIZED BY: Michael J. Bascom, Acting Director 			
SUPERSEDES ORDER #:			

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Police Director and Chief of Police in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief shall assume all roles herein that are assigned to the Chief of Police. All promotions require the final authorization, approval, and concurrence of the Governing Body of the Township of Neptune by way of a resolution which is approved at a public meeting.

POLICY: Promotion denotes vertical movement in the organization hierarchy from one rank to another, accompanied by increases in salary. The promotional process begins with identifying employees who have the potential for assuming greater responsibility and who possess the skills, knowledge and abilities required to perform at the level being considered for promotion. This agency will use a promotional process governed by N.J.S.A. Title 40A, as well as, one, which is in compliance with applicable standards of the New Jersey State Association of Chiefs of Police (NJSACOP).

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Promotion - Page 1 of 9

PROCEDURE

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A. Deputy Chief

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a. Candidate Experience Report – Self Assessment

- i. Each candidate shall prepare and provide a typed personal profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their Personal Profile. This report is to be completed by the candidate and is to be submitted with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Deputy Chief.

4. Applicants for the position of Deputy Chief must have held the rank of Captain and shall have a minimum of five years experience in a police supervisory capacity, supplemented by the completion of approved course work in police administration, police science, or related fields.
5. In accordance with NJSA 40A: 14-129, due consideration shall be given to the length and merit of service and to seniority in service to any candidate for promotion to Deputy Chief. Due consideration shall also be given to the recommendation of the Chief of Police, which shall be based on the aforementioned factors and a review of the performance of the candidates.

B. Captain

1. Applicants for the position of Captain must have held the rank of Lieutenant for at least two (2) years prior to the first phase of the process, supplemented by the completion of approved course work in police administration, police science, or related fields. Beginning January 1, 2018 applicants for the position of Captain shall possess a bachelor's degree from an accredited college or university or possess an associate's degree and be honorably discharged from active duty military service in any branch of the U.S. Military. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).

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Promotion - Page 3 of 9

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE			
VOLUME: 2	CHAPTER: 18	# OF PAGES: 13	
SUBJECT: PROMOTION			
EFFECTIVE DATE: July 29, 2014		ACCREDITATION STANDARDS: 2.3.1	
BY THE ORDER OF: Chief James M. Hunt, Jr. 			
BY AUTHORITY OF: Police Director Michael J. Bascom 			
SUPERSEDES ORDER #:			

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Police Director and Chief of Police in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief shall assume all roles herein that are assigned to the Chief of Police. All promotions require the final authorization, approval, and concurrence of the Governing Body of the Township of Neptune by way of a resolution which is approved at a public meeting.

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- Page 3 of 13

Garden State JIF - OPRA Request - 118

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE			
VOLUME: 2	CHAPTER: 18	# OF PAGES: 13	
SUBJECT: PROMOTION			
EFFECTIVE DATE: September 18, 2015		ACCREDITATION STANDARDS: 2.3.1	
BY THE ORDER OF: Chief James M. Hunt, Jr.			
BY AUTHORITY OF: Police Director Michael J. Bascom			
SUPERSEDES ORDER #: V2C18 (07/29/14)			

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Police Director and Chief of Police in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief shall assume all roles herein that are assigned to the Chief of Police. All promotions require the final authorization, approval, and concurrence of the Governing Body of the Township of Neptune by way of a resolution which is approved at a public meeting.

POLICY: Promotion denotes vertical movement in the organization hierarchy from one rank to another, accompanied by increases in salary. The promotional process begins with identifying employees who have the potential for assuming greater responsibility and who possess the skills, knowledge and abilities required to perform at the level being considered for promotion. This agency will use a promotional process governed by N.J.S.A. Title 40A, as well as, one, which is in compliance with applicable standards of the New Jersey State Association of Chiefs of Police (NJSACOP).

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- Page 1 of 13

Garden State JIF - OPRA Request - 119

PROCEDURE

I. Eligibility and Process

A. Deputy Chief

1. It is recognized that the position of Deputy Chief is an appointment made at the sole discretion of the Police Director and Chief of Police.
2. Applicants for the position of Deputy Chief shall possess at a minimum an Associate's Degree from an accredited college/university or be honorably discharged from active duty military service in any branch of the U.S. Military. Beginning January 1, 2018, applicants for the position of Deputy Chief shall possess at a minimum a Bachelor's Degree from an accredited college or university.
3. The position of Deputy Chief will consist of an oral interview conducted by a review board consisting of the current Police Director, Chief of Police, Township Business Administrator and Township Clerk. The review board conducting the interview will have access to the candidate's resume, candidate experience report and personnel file, consisting of past evaluations, career experience, commendations, disciplinary notices and sustained abuse of sick time (if any). The review board will take into consideration the candidate's experience, seniority, accomplishments, education and honorable military service. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).
 - a. Candidate Experience Report – Self Assessment
 - i. Each candidate shall prepare and provide a typed personal profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their Personal Profile. This report is to be completed by the candidate and is to be submitted with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Deputy Chief.

4. Applicants for the position of Deputy Chief must have held the rank of Captain and shall have a minimum of five years experience in a police supervisory capacity, supplemented by the completion of approved course work in police administration, police science, or related fields.
5. In accordance with NJSA 40A: 14-129, due consideration shall be given to the length and merit of service and to seniority in service to any candidate for promotion to Deputy Chief. Due consideration shall also be given to the recommendation of the Chief of Police, which shall be based on the aforementioned factors and a review of the performance of the candidates.

B. Captain

1. Applicants for the position of Captain must have held the rank of Lieutenant for at least two (2) years prior to the first phase of the process, supplemented by the completion of approved course work in police administration, police science, or related fields. Beginning January 1, 2018 applicants for the position of Captain shall possess at a minimum a Bachelor's Degree from an accredited college or university or possess an Associate's Degree and be honorably discharged from active duty military service in any branch of the U.S. Military. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).

a. Candidate Experience Report – Self Assessment

- i. Each candidate shall prepare and provide a typed Personal Profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their Personal Profile. This report is to be completed by the candidate and is to be submitted with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Captain.
2. The examination for the position of Captain will consist of an oral interview conducted by a review board consisting of the current Police Director, Chief of Police, Deputy Chief of Police and Captain(s). The review board will have access to the candidate's resume, candidate experience report and personnel file, consisting of past evaluations, career experience, and

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- Page 3 of 13

Garden State JIF - OPRA Request - 121

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE		
SUBJECT: PROMOTION		
EFFECTIVE DATE: September 13, 2017	ACCREDITATION STANDARDS: 2.3.1	
BY THE ORDER OF: Chief James M. Hunt, Jr.		
SUPERSEDES ORDER #: PROMOTION SOP V2C18 (09/18/15)		

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Chief of Police in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief shall assume all roles herein that are assigned to the Chief of Police. All promotions require the final authorization, approval, and concurrence of the Governing Body of the Township of Neptune by way of a resolution which is approved at a public meeting.

POLICY: Promotion denotes vertical movement in the organization hierarchy from one rank to another, accompanied by increases in salary. The promotional process begins with identifying employees who have the potential for assuming greater responsibility and who possess the skills, knowledge and abilities required to perform at the level being considered for promotion. This agency will use a promotional process governed by N.J.S.A. Title 40A, as well as, one, which is in compliance with applicable standards of the New Jersey State Association of Chiefs of Police (NJSACOP).

PROCEDURE

I. Eligibility and Process

A. Deputy Chief

1. It is recognized that the position of Deputy Chief is an appointment made at the sole discretion of the Chief of Police.
2. Applicants for the position of Deputy Chief shall possess at a minimum an Associate's Degree from an accredited college/university or be honorably discharged from active duty military service in any branch of the U.S. Military. Beginning January 1, 2018, applicants for the position of Deputy Chief shall possess at a minimum a Bachelor's Degree from an accredited college or university.
3. The position of Deputy Chief will consist of an oral interview conducted by a review board consisting of the Chief of Police, Township Business Administrator and Township Clerk. The review board conducting the interview will have access to the candidate's resume, candidate experience report and personnel file, consisting of past evaluations, career experience, commendations, disciplinary notices and sustained abuse of sick time (if any). The review board will take into consideration the candidate's experience, seniority, accomplishments, education and honorable military service. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).

a. Candidate Experience Report – Self Assessment

- i. Each candidate shall prepare and provide a typed personal profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their Personal Profile. This report is to be completed by the candidate and is to be submitted with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Deputy Chief.

4. Applicants for the position of Deputy Chief must have held the rank of Captain and shall have a minimum of five years experience in a police supervisory capacity, supplemented by the completion of approved course work in police administration, police science, or related fields.
5. In accordance with NJSA 40A:14-129, due consideration shall be given to the length and merit of service and to seniority in service to any candidate for promotion to Deputy Chief. Due consideration shall also be given to the recommendation of the Chief of Police, which shall be based on the aforementioned factors and a review of the performance of the candidates.
6. This process shall take place in a private closed-door session.

B. Captain

1. Applicants for the position of Captain must have held the rank of Lieutenant for at least two (2) years prior to the notice of posting for the position of Captain, supplemented by the completion of approved course work in police administration, police science, or related fields. Beginning January 1, 2018 applicants for the position of Captain shall possess at a minimum a Bachelor's Degree from an accredited college or university or possess an Associate's Degree and be honorably discharged from active duty military service in any branch of the U.S. Military. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).
 - a. Candidate Experience Report – Self Assessment
 - i. Each candidate shall prepare and provide a typed Personal Profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their Personal Profile. This report is to be completed by the candidate and is to be submitted with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Captain.
2. The examination for the position of Captain will consist of an oral interview conducted by a review board consisting of the Chief of Police, Deputy Chief of Police and Captain(s). The review board will have access to the

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Page 3 of 14

Garden State JIF - OPRA Request - 124

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE	
SUBJECT: PROMOTION	ACCREDITATION STANDARDS: 2.3.1
EFFECTIVE DATE: DECEMBER 11, 2017	
BY THE ORDER OF: NEPTUNE TOWNSHIP POLICE COMMITTEE, AS APPROVED BY THE NEPTUNE TOWNSHIP COMMITTEE	
AMENDS ORDERS: PROMOTION SOP V2C18 09/18/15 AND ORDER OF 09/13/2017 AND 11/27/17	

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Police Department, the Neptune Township Police Committee and Neptune Township Committee in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief or Acting Deputy Chief shall assume all roles and duties herein that are assigned to the Chief of Police. All promotions require the final authorization, approval and concurrence of the Police Committee as the appropriate authority and the Governing Body of the Township of Neptune by way of Resolution, which is approved at a public meeting.

POLICY: Promotion denotes vertical movement in the organization hierarchy from one rank to another, accompanied by increases in salary. The promotional process begins with identifying employees who have the potential for assuming greater responsibility and who possess the skills, knowledge and abilities required to perform at the level being considered for promotion. This agency will use a promotional process governed by N.J.S.A. Title 40A, as well as one which is in compliance with applicable standards of the New Jersey State Association of Chiefs of Police (NJSACOP).

PROCEDURE:

I. Eligibility and Process

General Considerations: All prior Orders that have established as a minimum requirement for promotion an Associate's Degree from an accredited college/university or an honorable discharge from active duty military service in any branch of the United States Military Service, or which established that as of January 1, 2018 that a minimum requirement

would be to have a Bachelor's Degree are hereby rescinded pending review by the Police Committee and ultimate approval by the Governing Body of the Township of Neptune. Until completion of that review and approval by the Governing Body, existence of an Associate's Degree, honorable discharge from the United States Military Service and/or a Bachelor's Degree will be considerations for point credits in evaluating eligibility, but not be a minimal requirement or dispositive of eligibility, and the existence or non-existence shall be utilized to weigh eligibility of the candidate with other credits, including experience and prior service in the Neptune Township Police Department and/or other law enforcement agencies.

A. Deputy Chief

1. It is recognized that the position of Deputy Chief is an appointment made based on the review and recommendation of the Police Committee and approval by Resolution of the Governing Body of the Township of Neptune; after consultation by the Police Committee with the Chief of Police.
2. Applicants for the position of Deputy Chief, or any other position until further review of the Police Committee and the Governing Body of the Township of Neptune, shall not be required to possess a minimum of an Associate's Degree from an accredited college/university or be honorably discharged from the active military service in the branch of the United States Military, or be in possession of a Bachelor's Degree beginning January 1, 2018; but all such degrees and honorable discharges shall be taken into consideration as point credits in any evaluation.
3. The position of Deputy Chief will consist of an oral interview conducted by the Neptune Township Police Committee. The Police Committee conducting the interview will have access to the candidate's resume; the candidate's experience report; personnel file, consisting of past evaluations, career experience, accommodations, disciplinary notices and sustained abuse of sick time (if any). The Police Committee will also take into consideration the candidate's experience, seniority, accomplishments, time and service with regard to the Neptune Township Police Department or other law enforcement agencies, education and honorable military service. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Police Committee.
 - a. Each candidate shall prepare and provide a typed Personal Profile of himself/herself. This Profile shall include, at a minimum, the candidate's career objectives, educational achievements (including but not limited to academic, law enforcement-related, management, instructor certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all

disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their personal profile. This report is to be completed by the candidate and is to be submitted to the Police Committee with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Deputy Chief.

4. Applicants for the position of Deputy Chief must have held the rank of Captain, and shall have a minimum of five (5) years' experience in a police supervisory capacity, supplemented by the completion of approved course work in police administration, police science or related fields.
5. In accordance with N.J.S.A. 40A:14-129, due consideration shall be given to the length and merit of service and to seniority in service to any candidate for promotion to Deputy Chief. Due consideration shall also be given to the recommendation of the Police Committee after consultation with the Chief of Police, which shall be based on the aforementioned factors and a review of the performance of the candidates.
6. This process shall take place in a private closed-door session.
7. The Governing Body of the Township of Neptune, upon recommendation of the Police Committee, may appoint an Acting Deputy Chief of Police while reviewing the eligibility of the Deputy Chief of Police Position, said appointment of which would not affect the ultimate recommendation of the Police Committee and appointment by the Governing Body of the Township of Neptune of a Deputy Chief of Police.

B. Captain

No change from Order of September 13, 2017; subject to future review and approval by the Police Committee and the Governing Body of the Township of Neptune.

C. Lieutenant

No change from Order of September 13, 2017; subject to future review and approval by the Police Committee and the Governing Body of the Township of Neptune.

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE		
SUBJECT: PROMOTION		
EFFECTIVE DATE: 10/7/19	ACCREDITATION STANDARDS: 2.3.1	
BY THE ORDER OF: POLICE OVERSIGHT COMMITTEE		
SUPERSEDES ALL PRIOR PROMOTIONAL ORDERS AND POLICIES		

PURPOSE: To provide all eligible candidates for promotion with fair notice and equal access to the promotional process. Additionally, to strive to identify the most qualified members of the police department for promotion to leadership positions within the department and to set forth the components of the promotional process that will be utilized by the Police Department, The Neptune Township Police Committee and Neptune Township Committee in carrying out the process. In situations where the Chief of Police position is vacant, the Deputy Chief or Acting Deputy Chief shall assume all roles herein that are assigned to the Chief of Police. All promotions require the final authorization, approval, and concurrence of the Police Committee as the appropriate authority and the Governing Body of the Township of Neptune by way of Resolution with is approved at a public meeting.

POLICY: Promotion denotes vertical movement in the organization hierarchy from one rank to another, accompanied by increases in salary. The promotional process begins with identifying employees who have the potential for assuming greater responsibility and who possess the skills, knowledge and abilities required to perform at the level being considered for promotion. This agency will use a promotional process governed by N.J.S.A. Title 40A, as well as, one, which is in compliance with applicable standards of the New Jersey State Association of Chiefs of Police (NJSACOP).

PROCEDURE

I Eligibility and Process

General Considerations: All prior Orders that have established as a minimum requirement for promotion an Associate's Degree from an accredited college/university or an honorable discharge from active duty military service in any branch of the United States Military Service, or which established that as of January 1, 2018 that a minimum requirement would be to have a Bachelor's Degree are hereby rescinded pending review by the Police Committee and ultimate approval by the Governing Body of the Township of Neptune. Until completion of that review and approval by the Governing Body, existence of an Associate's Degree, honorable discharge from the United States Military Service and/or a Bachelor's Degree will be considerations for points credits in evaluating eligibility, but not be a minimal requirement or dispositive of eligibility of the candidate with other credits, including experience and prior service in the Neptune Township Police Department and/or other law enforcement agencies.

A. Deputy Chief

1. It is recognized that the position of Deputy Chief is an appointment made based on the review and recommendation of the Police Committee and approval by Resolution of the Governing Body of the township of Neptune; after consultation by the Police Committee with the Chief of Police.
2. Applicants for the position of Deputy Chief, or any other position until further review of the Police Committee and the Governing Body of the Township of Neptune, shall not be required to possess a minimum of an Associate's Degree from an accredited college/university or be honorably discharged from the active military service in the branch of the United States Military, or be in possession of a Bachelor's Degree beginning January 1, 2018; but all such degrees and honorable discharges shall be taken into consideration as point credits in any evaluation.
3. The position of Deputy Chief will consist of an oral interview conducted by the Neptune Township Police Committee. The Police Committee conducting the interview will have access to the candidate's resume; the candidate's experience report; personnel file, consisting of past evaluations, career experience, accommodations, disciplinary notices and sustained abuse of sick time (if any). The Police Committee will also take into consideration the candidate's experience, seniority, accomplishments, time and service with regard to the Neptune Township Police department or other law enforcement agencies, education and honorable military service. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Police Committee.
 - a. Each candidate shall prepare and provide a typed personal profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational achievements (including but not limited to academic, law enforcement-related, management, instructor

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Page 2 of 14

Garden State JIF - OPRA Request - 129

certification and military experience), past and current responsibilities with the Police Department, commendations/letters, any and all disciplinary actions taken against the candidate (including the results of each action), any volunteer work performed and record of sick days used in the past five years. The candidate may include any additional information at his or her choosing. Each candidate is responsible for obtaining and ensuring the accuracy of all required information included in this profile. A candidate may be rejected for a deficiency in their personal profile. This report is to be completed by the candidate and is to be submitted to the Police Committee with their resume and letter of intent. This report is an opportunity for the candidate to identify those specific career experiences that the candidate believes qualifies him/her to serve as Deputy Chief.

4. Applicants for the position of Deputy Chief must have held the rank of Captain and shall have a minimum of five (5) years of experience in a police supervisory capacity, supplemented by the completion of approved course work in police administration, police science, or related fields.
5. In accordance with NJSA 40A: 14-129, due consideration shall be given to the length and merit of service and to seniority in service to any candidate for promotion to Deputy Chief. Due consideration shall also be given to the recommendation of the Police Committee after consultation with the Chief of Police, which shall be based on the aforementioned factors and a review of the performance of the candidates.
6. This process shall take place in a private closed-door session.
7. The Governing Body of the Township of Neptune, upon recommendation of the Police Committee, may appoint an Acting Deputy Chief while reviewing the eligibility of the Deputy Police Chief Position, said appointment of which would not affect the ultimate recommendation of the Police Committee and appointment by the Governing Body of the Township of Neptune of a Deputy Chief of Police.

B. Captain

1. Applicants for the position of Captain must have held the rank of Lieutenant for at least two (2) years prior to the notice of posting for the position of Captain, supplemented by the completion of approved course work in police administration, police science, or related fields. Beginning January 1, 2018 applicants for the position of Captain shall possess at a minimum a Bachelor's Degree from an accredited college or university or possess an Associate's Degree and be honorably discharged from active duty military service in any branch of the U.S. Military. Applicants will submit a letter of intent, resume and complete a candidate experience report prior to the deadline established by the Township and affected majority representative(s).
 - a. Candidate Experience Report – Self Assessment
 - i. Each candidate shall prepare and provide a typed Personal Profile of himself/herself. This profile shall include, at a minimum, the candidate's career objective, educational

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Page 3 of 14

Garden State JIF - OPRA Request - 130

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U.S. Department of Justice

MLB:ACP
D.J. 170-16-379United States Attorney's Office
District of New Jersey

U.S. Mail. 970 Broad Street 7th Floor
Newark, New Jersey 07102
Telephone: (973) 645-2700
Facsimile: (973) 645-2702

Civil Rights Division
Employment Litigation Section

U.S. Mail. 950 Pennsylvania Avenue, NW - PHB
Washington, DC 20530
Overnight. 601 D Street, NW
Room 4026
Washington, DC 20004
Telephone: (202) 514-3831
Facsimile: (202) 514-1005

FEB 19 2019

Via U.S. Mail

Doug Long
Grace Marmero, LLP
44 Euclid Street
Woodburn, NJ 08096

Gene Anthony
Township Attorney
Neptune Township
48 South Street
Eatontown, NJ 07724

Re: Investigation of the Employment Practices of Neptune Township, New Jersey,
Regarding its Police Department Pursuant to Section 707 of Title VII of the Civil
Rights Act of 1964, as Amended

Dear Mr. Long and Mr. Anthony:

This letter follows our notice of investigation, dated February 23, 2018, in which the United States Department of Justice notified Neptune Township that it was opening an investigation of the Neptune Township Police Department ("NTPD") under Section 707 of Title VII, 42 U.S.C. § 2000e-6. Specifically, our investigation sought to determine whether NTPD had engaged in a pattern or practice of discrimination, harassment, and/or retaliation.

We appreciate NTPD's cooperation with us during the course of this investigation,

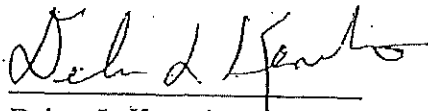
including its provision of requested documents and the scheduling of interviews. After careful consideration, we have decided to close this investigation.

Sincerely,

Eric S. Dreiband
Assistant Attorney General
Civil Rights Division

Craig Carpenito
United States Attorney
District of New Jersey

By:



Delora L. Kennebrew
Chief
Employment Litigation Section

By:



Michael E. Campion
Assistant U.S. Attorney
Chief, Civil Rights Unit

2, (1)

ORDINANCE NO. 17-29

AN ORDINANCE TO AMEND VOLUME I, CHAPTER II, SECTION 2-10 OF THE CODE OF THE TOWNSHIP OF NEPTUNE, ENTITLED "POLICE DEPARTMENT"

BE IT ORDAINED by the Township Committee of the Township of Neptune of the County of Monmouth in the State of New Jersey that the general ordinances of the Neptune Township, and in particular, Chapter II, Article II, Section 2-10, entitled, "Police Department," shall be amended as follows:

§2-10.1 Department Established.

There is hereby created in and for the Township of Neptune Police Department, which shall consist of such employees and officers as shall be deemed necessary by the Township Committee and may include a Police Chief in accordance with N.J.S.A. 40A:14-118. The Township Committee shall, from time to time determine the number of employees and officers of the Police Department together with their compensation. The structure of the Police Department will include at a maximum one (1) Police Chief; one (1) Deputy Police Chief; three (3) Captains, seven (7) Lieutenants, in addition to the number of Sergeants and Patrolmen determined by the Township Committee. The governing body shall also appoint from among its members a Police Committee composed of two (2) Township Committee members, and a third member who may be a designee from the Police Department, or another employee from another department within the Township as chosen by the Township Committee, or a non-employee volunteer or paid professional, in the Township Committee's discretion. The governing body shall designate a person to serve as the Chairperson or Township Police Commissioner of the Police Committee from one of the two members appointed to the Police Committee from the Township Committee. The Police Committee is hereby designated as the appropriate authority as provide for in the New Jersey Statutes, and shall be responsible for the overall performance of the Police Department, as set forth more fully below.

§2-10.2 Designation of Appropriate Authority.

In accordance with N.J.S.A. 40A:14-118, the Police Committee, as set forth above, is hereby designated as the Appropriate Authority, and is hereby vested with the powers and duties of an Appropriate Authority as delegated by law.

§2-10.3 Responsibilities of Police Department, Police Committee and Chief of Police.

- a. Police Department: The Police Department shall preserve the public peace; protect life and property; detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the Township of Neptune; direct and control traffic; provide attendance and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; provide training for the efficiency of its members and officers.

b. Police Committee:

1. The Police Committee shall report to the Township Committee and shall be responsible to review the performance of the Police Department. It shall serve as the administrative and executive head of the Police Department. It shall review and recommend to the Township Committee all adopted and promulgated rules and regulations for the government of the Police Department and for the discipline of its employees. The Police Committee's duties include, but are not limited to:
 - (a) Establishing the procedures to be followed by the Chief of Police and other subordinate officers for the purchase of equipment and supplies. Such procedures may include the requirement that the Police Committee approve all expenditures with regard to the equipment and supplies.
 - (b) The Police Department and Chief Financial Officer shall keep a record of all business transacted by the Police Department and approve all bills for the expense of the Police Department after review and approval of the Police Committee.
 - (c) The Police Department shall keep and maintain accurate records and submit an annual report to the Township Committee, on or before January 31, which shall assess the operations of the Police Department, and its personnel, equipment and property.
 - (d) The Police Department shall keep and maintain all records, reports, documents and other data required to be kept and maintained by the Federal and/or State government, with the Police Committee's right of review to the extent allowed by law.
 - (e) The Police Department shall keep and maintain a record of all appointments, dismissals, removals, resignations and deaths of officers and other department employees as they take place, with such other information as may be necessary, with the Police Committee's right of review to the extent allowed by law.
 - (f) The Police Department and Chief Financial Officer shall develop the annual budget for the Police Department, subject to the Police Committee overseeing any and all expenditures of the Police Department, and reviewing and approving said annual budget.
 - (g) The Police Chief shall analyze crime trends and statistics to ensure that the Police Department makes the best use of available funds, personnel, equipment and supplies, with the Police Committee's right of review.
 - (h) The Police Committee, in conjunction with the Police Department, shall evaluate the effectiveness of work program and procedures of all organizational components within the police Department and developing effective work methods for subordinates.

- (i) The Police Committee, in conjunction with the Police Department, shall undertake special studies pertaining to police functions and promoting close coordination of planning efforts.
 - (j) The Police Committee, in conjunction with the Police Department, shall establish and maintain helpful and cooperative relations with civic and business organizations, schools, and court offices, and with other groups and public authorities and other jurisdictions, and with others interested in the maintenance of law and order.
 - (k) All such other duties not specifically reserved to the Chief of Police pursuant to N.J.S.A. 40A:14-118.
2. The Chief of Police or designee shall report directly to the Police Committee and the Police Committee shall receive daily or other periodic reports, as designated by the Police Committee, from the Chief of Police or designee.
 3. The Police committee shall also be responsible for ensuring that all Police Officers and employees are compensated in accordance with State and Federal Wage and Hour Requirements.
 4. The Police Committee shall be appointed by the Township Committee. The members of the Police Committee shall serve at the pleasure of the Township Committee and may be removed by the Township Committee at their discretion.
 5. In addition to the two (2) members of the Township Committee appointed to the Police Committee, and a third member, the governing body may also appoint, or the Police Committee may request, any professional needed to accomplish its duties, including Labor Counsel, the Township Attorney, Chief Financial Officer or any other consultant or professional that the Police Committee may feel appropriate.
- c. Chief of Police:
1. If a Police Chief is appointed, he/she shall exercise any and all of the rights, authorities, powers and responsibilities reserved solely to the Chief of Police pursuant to N.J.S.A. 40A:14-118. Any other rights, authorities, powers and responsibilities not reserved solely to the Chief of Police by N.J.S.A. 40A:14-118 shall be assumed or delegated by the Police Committee.
 2. If a Police Chief is not appointed, any and all of the rights, authorities, powers and responsibilities reserved solely to the Chief of Police pursuant to N.J.S.A. 40A:14-118, which cannot be performed by the Police Committee, shall be delegated to a Chief Law Enforcement Officer, which shall be highest ranking sworn officer, as designated by the Police Committee.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

The amended Ordinance shall become effective immediately upon its final passage and publication as required by law.

APPROVED ON FIRST READING:

July 10, 2017

APPROVED, PASSED, AND ADOPTED:

July 24, 2017



Richard J. Cuttrel,
Municipal Clerk



Dr. Michael Brantley,
Mayor

PORZIO
BROMBERG & NEWMAN P.C.

Laa(2)

ATTORNEYS AT LAW

MORRISTOWN NJ • NEW YORK NY • PRINCETON NJ • WASHINGTON DC • WESTBOROUGH MA

VITO A. GAGLIARDI, JR.

MEMBER, NJ BAR

CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY

DIRECT DIAL No.: 973-889-4151

E-MAIL ADDRESS: VAGAGLIARDI@PBNLAW.COM

November 5, 2018

VIA E-MAIL

Douglas Long, Esq.
Grace Marmero & Associates LLP
44 Euclid Street
Woodbury, NJ 08096Re: *New Jersey State Association of Chiefs of Police - Chief James Hunt*
Our File No.: 006030.009553

Dear Mr. Long:

This office serves as general counsel to the New Jersey State Association of Chiefs of Police. We write on behalf of the Association and Chief James Hunt. It is our understanding that the Neptune Township Police Oversight Committee sent Chief Hunt a directive dated October 3, 2018 that removes from Chief Hunt the ability to discipline the department's officers. As this is a clear violation of the Police Chiefs' Bill of Rights, our office has been authorized to seek emergent relief to enjoin the unlawful directive. However, prior to instituting legal action, we hereby request that the Township voluntarily withdraw the directive to avoid the need for unnecessary litigation.

The law regarding the responsibilities of a chief of police and the appropriate authority are well-settled. In August 1981, N.J.S.A. 40A:14-118 was amended by L. 1981, c. 266 to provide for what is commonly known as the Police Chiefs' Bill of Rights. The Police Chiefs' Bill of Rights was enacted, in part, to withdraw from the governing body the authority and power to prescribe the chief's duties. See *Quaglietta v. Borough of Haledon*, 182 N.J. Super. 136, 145 (Law Div. 1981). By granting chiefs of police express statutory authority, "the statute sought to avoid undue interference by a governing body into the operation of the police force" and to "prevent meddling by elected officials in the day-to-day operations of local police departments." *Falcone v. DeFuria*, 103 N.J. 219, 222 (1986); *Loigman v. Twp. Comm. of Twp. of Middletown*, 409 N.J. Super. 13, 26 (App. Div. 2009).

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MORRISTOWN, NJ 07962-1997
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4078719

Garden State JIF - OPRA Request - 137

ATTORNEYS AT LAW

The Police Chiefs' Bill of Rights leaves no doubt that the chief of police is "head of the police force" solely in charge of the "day-to-day operations" of the police department, which includes making initial disciplinary determinations. Under N.J.S.A. 40A:14-118, the Chief of Police "shall be the head of the police force and ... shall be directly responsible to the appropriate authority for the efficiency and routine day to day operations thereof..." *Id.* In that context, the Chief of Police is statutorily empowered to "enforce rules and regulations for the disposition and discipline of the force and its officers and personnel" N.J.S.A. 40A:14-118(a) (emphasis added).

The unlawful encroachment by the "appropriate authority" was first discussed in *Quaglietta*, 182 N.J. Super. at 140. In that case, the mayor and council established the "Director of Police" and provided the position with significant authority. *Id.* The court held this new position unlawfully encroached upon the chief of police's authority because the chief of police is to be in "sole control and charge of his department, subject only to the general over-all control of the governing body and its police committee." *Id.* (emphasis added) The court, therefore, found a violation of the Police Chiefs' Bill of Rights, which it held was enacted "to grant statutory powers to police chiefs by mandating that they shall be in charge of their departments and providing for their specific duties and responsibilities." *Id.* at 145.

The Police Chiefs' Bill of Rights does call for a degree of civilian regulatory oversight of police matters by an "appropriate authority." See N.J.S.A. 40A:14-118. Under the statute, the "appropriate authority" refers to the mayor, manager, or such other appropriate executive or administrative office appointed by ordinance. *Id.* However, since the appropriate authority is "civilian in nature," its role is limited to establishing broad policy guidelines for the police department. *Gauntt v. City of Bridgeton*, 194 N.J. Super. 468 (App. Div. 1984); see also *Jordan v. Harvey*, 381 N.J. Super. 112 (App. Div. 2005). For example, in *Gauntt*, the appropriate authority sent a written directive to the chief of police that all assignments to police training schools "are to be discussed with [the appropriate authority] before any assignments are made." *Gauntt*, 194 N.J. Super. at 476. The appropriate authority explained that "he wanted to be informed of potential school assignments before they were actually made because of budgetary considerations and also to ensure that all officers on the force were given an equal opportunity to attend these courses." *Id.* The Appellate Division held that this directive was unlawful because the appropriate authority is limited to providing "broad guides to the chief of police in making his decisions with respect to discharging his responsibility for the efficiency and routine day-to-day operation of the police department." *Id.* at 486 (emphasis added). As a result, the court held that:

[The chief of police] should not have been directed to discuss all school assignments with [the appropriate authority] before they were made. If [the appropriate authority]'s actions were prompted by budgetary considerations as he maintained, he could have simply ordered [the chief of police] to stay within a specific yearly budget allocated for police training course. Similarly, [the appropriate authority]'s concern that all officers on the force be given an equal opportunity to attend school could have been implemented by the promulgation of a policy

ATTORNEYS AT LAW

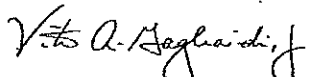
directive to this effect, rather than by interfering with [the chief of police]'s authority to prescribe the assignments of individual police officers in violation of N.J.S.A. 40A:14-118c.

Id. at 488-489.

The October 3, 2018 directive from the Police Oversight Committee is nearly indistinguishable from the directive in *Gauntt*, since both deal with the unlawful encroachment of an "appropriate authority" into a chief of police's "day-to-day" responsibilities as the "head of the police force." It is firmly entrenched in New Jersey law that no individual or entity can infringe on a chief of police's authority to "enforce rules and regulations for the disposition and discipline of the force and its officers and personnel." N.J.S.A. 40A:14-118. No one besides the chief of police has the legal right and/or ability to transfer, reassign, or discipline police officers within the department. See N.J.S.A. 40A:14-118(a),(c). Notwithstanding the clear statutory language and unequivocal case law, the October 3, 2018 directive from the Police Oversight Committee goes well beyond the unlawful requirement in *Gauntt* that a police chief "discuss" an issue with the appropriate authority. Instead, it requires Chief Hunt to seek and obtain approval from the Police Oversight Committee before making an initial disciplinary decision. This clear violation of the Police Chiefs' Bill of Rights unlawfully encroaches upon Chief Hunt's statutory right to be the "head of the police force" and in charge of its "day-to-day" operations. The unlawfulness of your client's action is irrefutable.

Based on the foregoing, the New Jersey State Association of Chiefs of Police and Chief Hunt feel they have no choice but to seek legal recourse to enforce Chief Hunt's statutory right. However, to avoid the need for unnecessary litigation, we request that the Township and the Committee voluntarily rescind the October 3, 2018 directive. Should that not occur within 10 days of the date of this letter, we will take legal action without further notice.

Sincerely,


Vito A. Gagliardi, Jr.

cc: Mitchell Sklar, Esq., Executive Director, NJSACOP
Chief Raymond Hayducka, Legal Aid and Arbitration Chair, NJSACOP
Chief James Hunt



Neptune

Township - NJ

Where Community, Business & Tourism Prosper



2ff
2kk(a)

TO: JAMES HUNT, CHIEF OF POLICE

DATE: 10-23-17

FROM: NEPTUNE POLICE OVERSIGHT COMMITTEE

MEMO # 0002-17

FILE REF: ADM

SUBJECT: NEPTUNE POLICE PUBLIC INFORMATION POLICY

Effective immediately, no information will be disseminated to the public directly from the Police department.

Any and all information previously issued to the Press or Public by the Police shall now be forwarded to the Mayor and the Chairman or alternative member of the Police Oversight Committee. The Police Department will forward such pertinent information in a concise bulleted summary format of any information available at the time of notification.

Once reviewed by the Mayor and member of the Police Oversight Committee, they shall determine if the information will be approved to be issued by Police Department staff or the Mayor or the Mayor's designee to the public or press.

In the event the information is related to investigations led by the Monmouth County Prosecutor's Office, the police shall comply with the county policy and forward the required summary to the Mayor and Police Committee as well as the county. THERE SHALL BE NO DEVIATION OF THIS POLICY BY ANY MEMBER OF THE NEPTUNE POLICE DEPARTMENT.

Information shall be forwarded in a timely fashion as per Notification Memo 001-17.

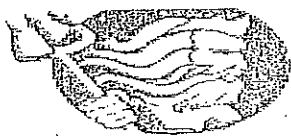
Chief Hunt shall ensure compliance of this memorandum and have the policy made the subject Roll Call Training for one week to all department personnel.

Chief Hunt shall sign a copy of this memorandum and return it to the Police Oversight Committee no later than Wednesday, October 25, 2017 as acknowledgement and receipt.

TICKLER FILE #0002-17

DUE 11/15/17 (for compliance review)

PAGE 1 OF 1



Neptune

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2 Ffz
2kk(b)

TO: JAMES HUNT, CHIEF OF POLICE

DATE : 10-23-17

FROM: NEPTUNE POLICE OVERSIGHT COMMITTEE

MEMO # 0003- 17

FILE REF: ADM

SUBJECT : SUBMISSION OF A FULL AND COMPLETE FILE REFERENCE TO FORMER SGT. PHILIP SEIDEL
TO THE NEPTUNE POLICE OVERSIGHT COMMITTEE:

Chief Hunt shall provide a complete file as to former Neptune Police Sgt. Philip Seidel. This file shall include a full copy of his department personnel file, his disciplinary record, investigative documents, and all emails or memos related to Sgt. Seidel between former Police Director Michael Bascom and the Chief of Police at the time such previous incidents occurred.

This file shall start on the date of Sgt. Seidel's appointment to the Neptune Police Department and extend to his termination.

Chief Hunt shall submit this file no later than Monday October 30, 2017 at 3:00pm.

Chief Hunt shall sign a copy of this memorandum and return it to the Police Oversight Committee no later than Wednesday, October 25, 2017 as acknowledgement and receipt of this directive.

TICKLER FILE # 0003-17

DUE 10/30/17

PAGE 1 OF 1



Neptune

Township - NJ

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2ck(c)

TO: JAMES HUNT , CHIEF OF POLICE

DATE: 02-13-18

FROM: NEPTUNE POLICE OVERSIGHT COMMITTEE

MEMO # 0003- 18

FILE REF: ADM

SUBJECT : REQUEST FOR PREVIOUS AND CURRENTLY USED STANDARD OPERATING PROCEDURES
AND HOW THEY ARE FILED AND ACCESSED BY PERSONNEL FOR USE :

The Police Oversight Committee is hereby requesting the following Standard Operating Procedures utilized by the Neptune Police Department. This is to include all such S.O.P. orders from 2013 to and including February 1,2018

1. ALL RULES AND REGULATIONS ORDERS, AND SUPERSEDED ORDERS.
2. ORGANIZATION AND ADMINISTRATION S.O.P.,CURRENT AND SUPERSEDED.
3. COMMAND PROTOCOL S.O.P. ,CURRENT AND SUPERSEDED.
4. DISCRIMINATION AND HARRASSMENT IN THE WORKPLACE S.O.P., CURRENT AND SUPERSEDED
5. INTERNAL AFFAIRS S.O.P., CURRENT AND SUPERSEDED.
- 6.PUBLIC INFORMATION S.O.P., CURRENT AND SUPERSEDED.
7. ACCREDITATION S.O.P., CURRENT AND SUPERSEDED.

These Standard Operating Procedure orders shall reflect the original effective date and date the order was revised and superseded.



Neptune

Township - NJ

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Where Community, Business & Tourism Prosper



TO: JAMES HUNT, CHIEF OF POLICE

DATE: 9-26-18

FROM: NEPTUNE POLICE OVERSIGHT COMMITTEE

MEMO # 0005-18

FILE REF: ADM

SUBJECT: NEPTUNE POLICE DEPARTMENT POC APPROVAL FOR NATIONAL ACADEMY SELECTION :

Chief Hunt,

The POC is aware that you have made a decision to send a Neptune Police supervisor to the FBI National Academy in the very near future. In light of that fact, the Committee would require the following information to review and render an approval of the selection.

1. Please provide the name of your staff selection and the reasoning why he or she would be the best candidate to represent the Neptune Police Department.
2. Please provide the impact of the loss of the selected supervisor for an 8 week period on the day to day operations and any need for overtime expenditures.
3. Finally, also provide your plan for providing him or her a Township vehicle for such a long period of time and expenditures for fuel and meals.

Please provide this information by Friday, September 28, 2018 to provide the Committee ample time to meet and forward a decision.

Thanks.

Dr. Michael Brantley, Chairman

TICKLER FILE # 0005-18

DUE Friday 9/28/2018



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2Ffa
2kk(e)

TO: JAMES HUNT, CHIEF OF POLICE

DATE : 5-2-18

FROM: NEPTUNE POLICE OVERSIGHT COMMITTEE

MEMO # 0004- 18

FILE REF: ADM

SUBJECT : NEPTUNE POLICE DEPARTMENT OVERTIME POLICY :

Chief Hunt , after a comprehensive evaluation by the Police Oversight Committee it was determined that presently there is no policy in place for equal and fair distribution of overtime among the rank and file of the Neptune Police Department. In light of that fact, The Police Oversight Committee has developed the following policy to be implemented by May 3,2018 to alleviate and continue to work towards our goals of improving the Neptune Police Department. Please implement the following by May 4,2018 :

A. Chief Hunt shall designate a member of his supervisory staff as an "Overtime Detail Officer" in charge of this policy reporting and assignments.

B. The Chief of Police shall assign overtime in a fair and equitable manner. The overtime will be distributed among all members of the Neptune Police Department.

C. Chief Hunt will execute a rotating schedule for overtime assignments and this schedule shall be monitored and maintained by the designate overtime detail officer.

D. All assigned, authorized or approved overtime, whether regular overtime, call in or special assignment, outside of an officers regularly scheduled tour of duty shall first be assigned by seniority within the specific division, squad or ranks. Such assignments shall rotate by seniority. The division, section or rank members shall have first preference in filling the vacancy. If the overtime position remains open it will be filled by the next in line outside the section or rank. An officer that refuses an overtime assignment shall be returned to the bottom of the rotation list.

E. The overtime detail officer shall establish and maintain a current and accurate record of all hours of overtime worked and or refused or scheduled for the week. A detailed comprehensive ledger or excel

+ 2LL

THE LAW OFFICES OF
GENE J. ANTHONY

48 South Street, Eatontown, NJ 07724
Telephone: 732 542-3320
Fax: 732 542-9024
E-Mail: gantpol@aol.com

October 4, 2018

Police Chief James Hunt, Jr.
c/o Township of Neptune
25 Neptune Blvd.
Neptune, NJ 07753

James Hunt, Jr., Police Chief
Township of Neptune
40 Dekker Court
Brick, NJ 08724

RE: Personnel Matter – Punitive Damage Claim Representation

Dear Chief Hunt:

Please be advised that pursuant to N.J.S.A. 10:4-12 (b) 8 and Rice v. Union County Regional High School Board of Education, 155 N.J. Super 64 (App. Div.1977) NOTICE IS HEREBY GIVEN that the Township Committee has requested your presence during the Executive Session of the Township Committee Meeting scheduled for Monday, October 22, 2018 at 6 p.m. in the Township Committee Meeting Room at Township Hall, 25 Neptune Blvd., Neptune Township, New Jersey.

[REDACTED]

You may, in accordance with the Open Public Meetings Act, request that this hearing be held before the public instead of the Executive Session.

Thank you for your courtesies in this matter.

Very truly yours,

Gene J. Anthony, Esq.

GJA/ja

Cc: Joseph P. Maddaloni, Esq. (email and regular mail)
Mayor and Township Committee (email)
V. Gadaleta (email)
R. Cuttrell (email)
D. Long, Esq.

2LL

**THE LAW OFFICES OF
GENE J. ANTHONY**

48 South Street, Eatontown, NJ 07724
Telephone: 732 542-3320
Fax: 732 542-9024
E-Mail: gantpol@aol.com

October 4, 2018

Joseph P. Maddaloni, Esq. (via email and regular mail)
200 Park Avenue
PO Box 991
Florham Park, NJ 07932

**Re: Appropriation of Legal Fees in Lawsuits Seeking Punitive Damages –
Police Chief James M. Hunt, Jr. and Michael Bascom**

Dear Mr. Maddaloni:

Please be advised that this office presently represents Neptune Township in the above referenced matter.

You have been serving as legal counsel for both Police Chief, James Hunt, Jr. and Michael Bascom, with regard to lawsuits brought by Kyheem Davis, Christine Savage and Elena Gonzalez with regard to the claims of Punitive Damages.

On August 13, 2017, the Township Committee adopted Resolution No. 17-348; later amended by Resolution No. 17-40, which approved your selection to represent Police Chief James Hunt, Jr. in the aforesaid claims and authorized legal fees in an amount not to exceed \$7,500.00. A similar Resolution, namely Resolution No. 17-347; later amended by Resolution 17-410 was approved concerning representation of Michael Bascom with regard to the aforesaid claims. Those initial Resolutions also authorized legal fees in the amount not to exceed \$7,500.00.

A series of Resolutions thereafter, approved on January 22, 2018 increased the amount of legal fees by \$15,000.00; for a total of authorized appropriations of \$22,500.00 per party. Further Resolutions, No. 18-197 and 18-198 passed by the Township Committee on May 24, 2018 authorized further expenditure of legal fees for representation concerning claims of Punitive Damages. They represented a further appropriation of \$20,000.00 per employee for a total authorization appropriation of \$42,500.00 per employee.

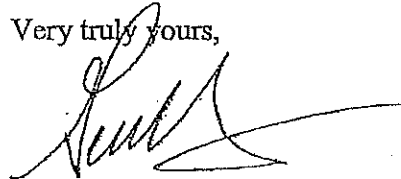
Now, apparently there has been a request for a further Resolution authorization of \$20,000.00; bringing the total legal fees for the Punitive Damage Claims to \$62,50.00 per employee.

Joseph P. Maddaloni, Esq.
October 4, 2018
Page 2

The Township Committee would like to meet with you concerning these matters with your clients, if desirable, at its Township Committee Meeting scheduled for Monday, October 22, 2018 at 6 pm. at the Municipal Hall at 25 Neptune Blvd., Neptune Township, NJ in the Township Committee Meeting Room on the second floor.

Should there be a problem with this request, please do not hesitate to contact me.

Very truly yours,



Gene J. Anthony, Esq.

GJA:ja

Cc: Mayor and Township Committee (email)
V. Gadaleta (email)
R. Cuttrell (email)
M. Bascom (email)
Police Chief Hunt (email)

EXHIBIT C

PATRICIA F. BURKE, ESQUIRE
77 MANTOLOKING ROAD
BRICK NEW JERSEY 08723
732-604-4635
EMAIL: PATRICIAFOLEYBURKE@GMAIL.COM

*CERTIFIED BY THE NJ SUPREME COURT
AS A CIVIL TRIAL ATTORNEY*

MEMBER OF THE BARS OF NJ AND NY

*STEPHEN J. FOLEY, ESQUIRE
1954 to 2015*

August 28, 2020

Richard J. Cuttrell
Municipal Clerk
Township of Neptune
25 Neptune Blvd.
Neptune, New Jersey 07753

Re: Government Records Request

Dear Mr. Cuttrell:

As you know, I represent Barry Colicelli, whose contract with the Township of Neptune was terminated. I requested the complete report of Ellen O'Connell with relevant exhibits and related communications as referenced therein that formed the basis for Mr. Colicelli's termination. I requested the records pursuant to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 *et seq.*, as well as the common law right of citizens of the State of New Jersey to obtain access to public documents and the New Jersey Constitution. You denied my request for the complete report and relevant exhibits" claiming same are exempt under N.J.S.A. 47:1A-1.1(1) as intra-agency advisory material related to personnel matter and N.J.S.A. 47:1A-1.1(7) as attorney-client privilege. You claim the request for "relevant exhibits" is overly broad when it is clear "relevant documents" are the documents provided to and/or reviewed and referenced by the investigator in her executive summary. The investigator stated on page 3 of her April 24, 2020 Executive Summary that "Chief Hunt gave me documents, including four 3-ring binders." Relevant documents include the four 3-ring binders and the request is not overbroad nor require you to 'conduct a search.' I also requested "Communications related to the allegations made by Chief Hunt, the investigation of those charges between or among Ellen O'Connell of Inglesino, Webster, Wyciskala & Taylor, LLC and her firm and Barry Colicelli, members of the Neptune Township Administration and governing body including:

- Chief Hunt,
- Deputy Chief Fisher,

- Captain Gualario,
- Captain McGhee,
- Lt. Cox,
- Sgt. Arce,
- Mayor Lane,
- Deputy Mayor Kevin McMillan,
- Committee member Carol Rizzo,
- Committee Member Michael Brantley
- Committee Member Nicholas Williams”

You did not respond to this request nor did you conduct an analysis under common law balancing the government’s interests in secrecy with the requestor’s right to the government records. My review of the records provided reveal the agreement between the investigator and Neptune Township and communications regarding scope of work, and billing were not provided although a “fully executed agreement” is referenced in an email dated February 6, 2020 from Justin Marchetta to Stephanie Oppegaard. Please confirm there are no records authorizing the Township Council to hire the investigator.

As you know, in a prior lawsuit against Neptune Township and you as Custodian of Records, the same position was raised on your behalf in response to a government records request and rejected by the Court. The Court held the deliberative process privilege did not shield documents relevant to the termination of an employee and that a workplace investigation is not subject to the attorney client privilege even when conducted by someone who is an attorney. Pursuant to that opinion, I ask that you consider redaction as a tool to protect privacy of the records to be released to the public and we would agree to keep the unredacted report confidential. Mr. Colicelli has the right to the full and complete report as well as the relevant exhibits.

Please let me know if proceeding in this way is acceptable. If we do not hear from you, we will file suit and seek attorney’s fees.

Thank you.

Very Truly Yours,

Patricia F. Burke

Patricia F. Burke, Esq.

EXHIBIT D

Robert Lane Jr., Mayor
Kevin McMillan, Deputy Mayor
Dr. Michael Brantley
Carol Rizzo
Nicholas Williams



Vito D. Gadaleta, R.M.C., Q.P.A.
Business Administrator
Richard J. Cuttrell, R.M.C.
Township Clerk
Michael J. Bascom, C.M.F.O., C.T.C.
Chief Financial Officer

September 25, 2020

Via Email to patriciafoleyburke@gmail.com

Patricia F. Burke, Esq.
77 Mantoloking Road
Brick, New Jersey 08723

Re: OPRA Request

Dear Ms. Burke:

I, as the Custodian of Records for the Township of Neptune (hereinafter referred to as the "Township"), received your supplemental correspondence upon my return from vacation on or about September 8, 2020. Your supplemental correspondence raised issues and/or concerns as to the Township's response to your recent OPRA request of August 18, 2020. Please accept the following as a response to the aforementioned supplemental correspondence.

Please note that the Township has undertaken its analysis under the common law access to public records and has enclosed a copy of the complete report prepared by Ms. O'Connell, Esq., as the summary report was previously provided to you under those same auspices. In addition, please also find a copy of the executed professional services agreement with the investigator, which same was inadvertently omitted from the Township's August 27, 2020 response.

However, in conducting the common law analysis regarding the "relevant exhibits", the Township maintains its position contained in its June 23, 2020 response to the subject OPRA request. The complete report provides you as the requestor with all of the information the public would need to know regarding this situation. The relevant exhibits utilized by the investigator were appropriately noted and summarized in the report being provided under the common law. There is no need of the public to have access to those actual documents as same could be detrimental to the Township. Namely, actual production of those documents could be detrimental to the Township in impeding agency functions and would impede on citizens and/or employees reasonable expectation of privacy. The Township does not believe that for the "relevant exhibits" and/or those documents identified in your August 18, 2020 OPRA request, which items were subsequently denied by the Township in its subsequent response thereto, your interest and/or your client's interest as a requestor in disclosure outweighs the need for those documents to remain confidential from public disclosure. Many of

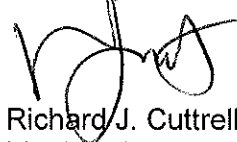
those records are personnel records, attorney client privileged, deliberative and/or consultative, and same along with those individuals' privacy concerns must be acknowledged. The complete report provides the entire picture and, pursuant to the common law balancing test, the right to disclosure is heavily outweighed by those detrimental concerns raised above.

Therefore, based upon said analysis, please find enclosed a copy of the report submitted by the investigator, Ms. O'Connell, Esq. to the Township of Neptune. Absent the enclosed, the Township's maintains that its position as it pertains to the other records denied in its August 27, 2020 correspondence both under OPRA and the common law.

As previously advised, please take notice that if your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Custodian of Records to deny access. At your option, you may either institute 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 by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in Monmouth County.

I thank you for your time, patience and consideration. Should you have any questions on this matter, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard J. Cuttrell', written over a horizontal line.

Richard J. Cuttrell,
Municipal Clerk

DONALD F. BURKE, ESQ. #008011983
LAW OFFICE OF DONALD F. BURKE
45 GALE ROAD
BRICK, N.J. 08723
TEL: (732) 966-4922
ATTORNEYS FOR PLAINTIFFS
BARRY COLICELLI AND ON TARGET
LAW ENFORCEMENT AND SECURITY
CONSULTANTS LLC

BARRY COLICELLI and ON TARGET
LAW ENFORCEMENT AND SECURITY
CONSULTANTS LLC,
Plaintiffs,

v.

NEPTUNE TOWNSHIP, RICHARD J.
CUTTRELL, VITO GADALETA, ELLEN
O'CONNELL, JAMES M. HUNT, JR.,
ROBERT LANE, JR., KEVIN MCMILLAN,
CAROL RIZZO, JOHN DOES 1-10 AND
JOHN DOE CORPORATIONS 1-10
(BEING PERSONS AND ENTITIES WHOSE
TRUE IDENTITIES ARE UNKNOWN) (IN
THEIR INDIVIDUAL AND OFFICIAL
CAPACITIES),
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

CIVIL ACTION No.:

ORDER TO SHOW CAUSE

THIS MATTER being brought before the Court by the LAW OFFICE OF PATRICIA F. BURKE, Patricia F. Burke, Esq. appearing on behalf of plaintiffs BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC, seeking relief by way of summary action pursuant to *Rule* 4:67-1(a), and based upon the facts set forth in the Verified Complaint filed herewith the Court having determined that this matter may be commenced by Order to Show Cause as a summary proceeding pursuant to N.J.S.A. 47:1A-1 to -13, and for good cause shown;

IT IS on this _____ day of November 2020,

ORDERED that the defendants appear and show cause on the _____ day of _____, 2020 before the Superior Court at the Monmouth County Courthouse in Freehold, New Jersey or remotely via other suitable means at _____ o'clock in the _____ noon, or as soon thereafter as counsel may be heard, why judgment should not be entered:

1. Declaring said actions of defendants to be in violation of OPRA, N.J.S.A. 47:1A-1 to -13 by failing to grant access to records that are not wholly exempt from access;
2. Ordering defendants to release the requested records with lawful redactions pursuant to OPRA;
3. In the alternative, directing defendants to provide all records responsive to plaintiff's request to the Court *in camera* and then require defendants to delete or excise from the records the portion(s), if any, that are exempt from public access and promptly permit access to the remainder of the record;
4. Awarding counsel fees and costs pursuant to N.J.S.A. 47:1A-6;
5. Granting access to the records pursuant to the common law; and
6. For such other relief as the Court may deem just and equitable.

AND IT IS FURTHER ORDERED that:

1. A copy of this Order to Show Cause, Verified Complaint and all supporting affidavits or certifications submitted in support of this application be served upon defendants by personal service or Certified Mail, Return Receipt Requested, on or before _____, 2020, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The Court will conduct a case management conference via telephone on _____ at _____ a.m./p.m. Defendants' counsel shall provide contact information to plaintiff's counsel by _____, 2020.

The Court and all parties shall use information provided by plaintiff to access the call.

3. The plaintiff must file with the court a certification of service of the pleadings on the defendants no later than three (3) days before the return date.

4. Defendants shall file and serve a written answer and opposition papers to this Order to Show Cause and the relief requested in the Verified Complaint and proof of service of the same by _____, 2020. The opposition papers must be filed with the Clerk of the Superior Court in the county listed above via eCourts.

5. The Plaintiff must file and serve any written reply to the Defendants' opposition to the Order to Show Cause by _____, 2020. The reply papers must be filed with the Clerk of the Superior Court in the county listed above via eCourts.

6. If the defendants do not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of Order at least three days prior to the return date.

7. If plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date must be filed on eCourts no later than three (3) days before the return date.

8. Defendants: take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer and opposition papers and proof of service before the return date of the Order to Show Cause.

These documents must be filed with the Clerk of the Superior Court in the county listed above via eCourts. A directory of these offices is available in the Civil Division Case Management Office in the county listed above and online at <http://www.judiciary.state.nj.us/prose/10153deptyclerklawref.pdf>. Include a \$175 filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer and opposition papers to the plaintiff's attorney whose name and address appear above. A telephone call will not protect your rights; you must file and serve your answer and opposition papers (with the fee) or judgment may be entered against you by default.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the

county listed above and online at
<http://www.judiciary.state.nj.us/prose/10153deptyclerklawref.pdf>.

10. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause.

Honorable Lisa P. Thornton, A.J.S.C.

DONALD F. BURKE, ESQ. #008011983
 LAW OFFICE OF DONALD F. BURKE
 45 GALE ROAD
 BRICK, N.J. 08723
 TEL: (732) 966-4922
 ATTORNEYS FOR PLAINTIFFS
 BARRY COLICELLI AND ON TARGET LAW
 ENFORCEMENT AND SECURITY
 CONSULTANTS LLC

BARRY COLICELLI and ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC, Plaintiffs, v. NEPTUNE TOWNSHIP, RICHARD J. CUTTRELL, VITO GADALETA, ELLEN O'CONNELL, JAMES M. HUNT, JR., ROBERT LANE, JR., KEVIN McMILLAN, CAROL RIZZO, JOHN DOES 1-10 AND JOHN DOE CORPORATIONS 1-10 (BEING PERSONS AND ENTITIES WHOSE TRUE IDENTITIES ARE UNKNOWN) (IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES), Defendants.
--

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: MONMOUTH COUNTY

CIVIL ACTION NO.:

ORDER

THIS MATTER being brought before the Court by the LAW OFFICE OF DONALD F. BURKE, Donald F. Burke, Esq. appearing on behalf of plaintiffs BARRY COLICELLI AND ON TARGET LAW ENFORCEMENT AND SECURITY CONSULTANTS LLC, seeking relief by way of summary action pursuant to *Rule* 4:67-1(a); and the Court having entered an Order to Show Cause; and having considered the submissions of the parties in support of and in opposition to this application; and for good cause shown;

IT IS on this _____ day of November 2020,

ORDERED that defendants shall release the records and information requested by plaintiff within _____ days;

IT IS FURTHER ORDERED that plaintiff is awarded a reasonable attorney's fee and costs, to be established by Certification which shall be submitted for the Court's review within _____ days; and

IT IS FURTHER ORDERED that a copy of this Order shall be served via eCourts.

Honorable Lisa P. Thornton, A.J.S.C.

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-003597-20

Case Caption: COLICELLI BARRY VS NEPTUNE TOWNSHIP

Case Initiation Date: 11/09/2020

Attorney Name: DONALD FRANCIS BURKE

Firm Name: DONALD F. BURKE

Address: 45 GALE RD

BRICK NJ 08723

Phone: 7329664922

Name of Party: PLAINTIFF : COLICELLI, BARRY

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)

Document Type: NJ eCourts Case Initiation Confirmation

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? YES

Are sexual abuse claims alleged by: BARRY COLICELLI? NO

Are sexual abuse claims alleged by: ON TARGET LAW ENFORCEMENT? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

11/09/2020
Dated

/s/ DONALD FRANCIS BURKE
Signed

PATRICIA F. BURKE, ESQUIRE
77 MANTOLOKING ROAD
BRICK NEW JERSEY 08723
732-604-4635
EMAIL: PATRICIAFOLEYBURKE@GMAIL.COM

*CERTIFIED BY THE NJ SUPREME COURT
AS A CIVIL TRIAL ATTORNEY*

MEMBER OF THE BARS OF NJ AND NY

STEPHEN J. FOLEY, ESQUIRE
1954 to 2015

August 15, 2020

VIA CERTIFIED MAIL AND EMAIL

Honorable Robert Lane, Jr.
Mayor of Neptune Township
25 Neptune Boulevard
Neptune, New Jersey 07753

Honorable Kevin McMillan
Deputy Mayor of Neptune Township
25 Neptune Boulevard
Neptune, New Jersey 07753

Honorable Carol Rizzo
Committee Member of Neptune Township
25 Neptune Boulevard
Neptune, New Jersey 07753

Honorable Michael Brantley
Committee Member of Neptune Township
25 Neptune Boulevard
Neptune, New Jersey 07753

Honorable Nicholas Williams
Committee Member of Neptune Township
25 Neptune Boulevard
Neptune, New Jersey 07753

Re: Barry Colicelli and On Target Law Enforcement, Security Consultants and Investigations LLC, Claimant v. Neptune Township, Kevin McMillan, Carol Rizzo, Robert Lane Jr., Vito Gadaleta, Ellen O'Connell, James Hunt, and John Does 1-10, Defendants.

NOTICE OF CONTRACT AND TORT CLAIM

Dear Mayor Lane and Members of the Township Committee:

Enclosed please find a Notice of Tort Claim/Notice of Contract Claim on behalf of Barry Colicelli and On Target Law Enforcement, Security Consultants and Investigations LLC directed to Neptune Township and Kevin McMillan, Carol Rizzo, Robert Lane Jr., Vito Gadaleta, Ellen O'Connell, James Hunt, and John Does 1-10 and John Does 1-10.

Please let us know if you need any additional information.

Thank you.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Patricia F. Burke". The signature is fluid and cursive, with the first name "Patricia" and last name "Burke" clearly distinguishable.

Patricia F. Burke, Esq.

Enclosure

cc: Vito Gadaleta, Neptune Township Business Administrator
Rick Cuttrell, Neptune Township Municipal Clerk
Gene Anthony, Esq., Neptune Township Attorney

NOTICE OF TORT CLAIM
(N.J.S.A. 59:1-1 et seq.)

and

NOTICE OF CONTRACT CLAIM

Barry Colicelli and On Target Law Enforcement, Security Consultants and Investigations LLC,

Claimants,

v.

Neptune Township, Kevin McMillan, Carol Rizzo, Robert Lane Jr., Vito Gadaleta, Ellen O'Connell, James Hunt, and John Does 1-10 (being agents, servants and employees of the foregoing entities as a continuing investigation may reveal who are fictitiously named because their true identities are unknown) (in their individual and official capacities); and John Doe Corporations 1-10 (being entities whose acts and/or omissions caused and/or contributed to the injuries sustained by Claimant whose true identities are currently unknown but may be revealed through further discovery),

Defendants.

a. The name and post office address of the Claimant;

Barry Colicelli
On Target Law Enforcement, Security Consultants and Investigations LLC
c/o Patricia F. Burke, Esq.
77 Mantoloking Road
Brick, New Jersey 08723

b. Address to be used to contact Claimant:

Patricia F. Burke, Esq.
77 Mantoloking Road
Brick, New Jersey 08723

c. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted;

Claimant Barry Colicelli is a retired Newark Police Captain and President and CEO of On Target Law Enforcement and Security Consultants LLC. He has had a long and distinguished career in Law Enforcement. Claimant was a member of the Neptune Township Police Oversight Committee which was created to perform oversight of the Neptune Township Police Department and act as the statutorily authorized Appropriate Authority. Subsequently, Neptune Township

hired Claimant as a consultant to counsel and advise the Neptune Township Police Oversight Committee on police matters effective January 1, 2020 as a result of a “need for professional consultant services in the area of police practices.” The contract provided either party may terminate the Agreement “for cause.”

Among issues the Police Oversight Committee was to address were discrimination, retaliation and concerns of disparate treatment occurring within the Police Department. The problems have included, among other things, a charge of discrimination on the basis of race and sex filed with the Equal Employment Opportunity Commission; a claim of race discrimination and retaliation; claims of sexual harassment and retaliation filed by; the resignation of a number of female officers; the murder of his wife by a Neptune Police Sergeant; the death while in custody of a female prisoner; the questioning of the fitness for duty of officers opposing discrimination and retaliation in the Police Department; the disparate treatment of officers who violate or are alleged to violate rules and regulations including disproportionate discipline of officers who oppose discrimination and wrongdoing. the use of discipline to unfairly punish officers who opposed discrimination and retaliation; and placing the only female police supervisor on administrative leave.

The ordinance creating the Police Oversight Committee required James Hunt, the Chief of the Neptune Township Police Department, to report directly to the Committee and to provide daily or other periodic reports. This was intended to allow for monitoring and correction, if necessary, of certain actions being taken in the Police Department.

Rather than follow the direction of the Police Oversight Committee, James Hunt, the Chief of the Neptune Township Police Department, fought required change every step of the way, including threatening suit regarding the oversight of the Police Oversight Committee and making baseless complaints about the actions being taken by the Police Oversight Committee.

Claimant Barry Colicelli opposed among other things, improper practices, discrimination, retaliation, and disparate treatment taking place in the Neptune Township Police Department and reported it to the Neptune Township Committee members. Council Members Lane, Rizzo and McMillan, worked to undermine Claimant and the other members of the Police Oversight Committee in their attempts to effectuate positive change.

Chief Hunt failed to keep the Police Oversight Committee informed including as to incidents which occurred in May, August and September 2018. The Police Oversight Committee provided a plan for improvement of Chief Hunt’s performance.

Questions arose as to the propriety of how funds in the Federal and County Forfeiture Funds Account were collected, accounted for and spent. At Claimant’s suggestion, the Police Oversight Committee requested a breakdown of the Federal and County Forfeiture Funds Account, which Chief Hunt refused to provide. The Neptune Township Committee, specifically, Council Members Lane, Rizzo and McMillan, worked to undermine Claimant and the other members of

the Police Oversight Committee in their attempts at oversight of the Federal and County Forfeiture Funds Account.

The Police Oversight Committee requested information regarding Municipal Court overtime at Claimant's suggestion and the Police Oversight Committee directed Chief Hunt to provide information and records, which Chief Hunt refused to provide.

Chief Hunt's resistance to change as directed by the Police Oversight Committee became so drastic and Chief Hunt so emboldened by Council Members Lane, Rizzo and McMillan, he acted unprofessionally and inappropriately to Claimant and the Police Oversight Committee. On December 15, 2019, Dr. Michael Brantley, Chairman of the Neptune Township Police Oversight Committee, served Chief James Hunt via email an "Employee Warning Notice" dated December 12, 2019 concerning an incident that occurred on December 4, 2019. Again, Chief Hunt resisted and opposed the Police Oversight Committee. Chief Hunt's opposition was so pronounced the Neptune Township Labor Counsel said of Chief Hunt, "[N]o other employee has consistently alleged that they are the target of harassment or a hostile work environment in response to their Department Head requesting basic information necessary to promulgate effective policies for the running of the Department."

Rather than cooperate with the Police Oversight Committee to effectuate needed change in the Neptune Township Police Department, Chief Hunt launched baseless attacks of hostility and retaliation by the Police Oversight Committee and Claimant. Chief Hunt complained about their "offensive and hostile behavior to [him]."

In response, Vito Gadaleta, the Neptune Township Business Administrator, upon information and belief without consulting with the Township Committee and without being directly authorized by the Township Committee, handpicked Ellen O'Connell to conduct an investigation of Chief Hunt's complaints. This action is highly suspicious because other officers had requested impartial investigations of their complaints of discrimination, retaliation and disparate treatment which were ignored.

Ellen O'Connell's conducted an unfair, biased and partial investigation intended to prevent efforts of Claimant and the Police Oversight Committee to effectuate needed and positive change including to address a lack of diversity, discrimination, retaliation, harassment and disparate treatment in the Police Department under Chief Hunt's leadership; questionable accounting of forfeiture funds and other matters. Based upon her unfair, incomplete and flawed investigation, Ellen O'Connell concluded that Committeemen Michael Brantley and Nicholas Williams and Claimant engaged in harassment of Chief Hunt on the basis of his race which is Caucasian (White).

Claimant was never given an adequate opportunity to respond to the charges made by Chief Hunt and, indeed, he was never interviewed by Ellen O'Connell. Documents gathered and relied upon by Ellen O'Connell have never been provided to Claimant. In fact, only an Executive Summary of Ellen O'Connell's biased investigation and conclusions has been provided to Claimant and only after he had already been fired.

During her investigation, Ellen O'Connell demanded Neptune Township Committee Members Brantley and Williams answer written questions. When the Township Counsel asked for records that would allow them to respond to the written questions, Ellen O'Connell unilaterally concluded that the Committee Members had chosen not to participate and closed the record on April 22, 2020.

At the Township Committee meeting held on April 27, 2020, an Executive Session was held, and Mr. Williams, Dr. Brantley, and the Township Attorney Gene Anthony, Esq. were not permitted to participate. Excluding governing body members from Executive session without providing a reason publicly is unprecedented.

On April 28, 2020, likely as a result of what occurred in the Executive Session in which Mr. Williams, Dr. Brantley, and the Township Attorney Gene Anthony, Esq., were excluded, Neptune Township Business Administrator Vito Gadaleta advised Claimant of Neptune Township's intent to terminate his contract for harassing Chief Hunt, creating a hostile work environment and discriminating against him.

Subsequently, the matter involving Claimant's employment with the Township was placed on the Township Committee agenda. There is some question as to how it was placed on the agenda because Mayor Lane was quoted in the newspapers as saying that he did not ask that the resolution be placed on the agenda. Even though the matter involving Claimant's employment with the Township was placed on the agenda without affording an opportunity for Claimant to provide his side of the story, the Township Committee terminated his contract at the Township Committee meeting on May 18, 2020.

Dr. Brantley stated that Claimant should have the chance to address the reason for his termination and he offered a motion, seconded by Mr. Williams, to table this resolution. The motion failed on the following vote: Brantley, aye; McMillan, no; Rizzo, no; Williams, aye; and Lane, no.

A motion to terminate Claimant's contract was made and the resolution was adopted on the following vote: Brantley, no; McMillan, aye; Rizzo, aye; Williams, no; and Lane, aye.

Public statements were made by Township officials that were knowingly and/or recklessly false and which placed Claimant in a false light which have harmed his reputation.

Claimant was terminated because he opposed the lack of diversity, discrimination, harassment, retaliation and unlawful practices. The termination was without just cause and without due process. The statements made about Claimant were intentionally and/or in reckless disregard for the truth and placed Claimant in a false light which detrimentally impacted his reputation.

The following causes of action are asserted:

- Breach of Contract;
- Violation of the Covenant of Good Faith and Fair Dealing;
- Defamation;
- False Light;

- Conscientious Employee Protection Act;
- New Jersey Civil Rights Act;
- New Jersey Law Against Discrimination;
- Pierce Claim;
- Additionally, Claimant reserves the right to assert all causes of action in law or equity suggested by the above facts and facts that a continuing investigation may reveal.

- d. A general description of the injury, damage or loss incurred so far as it may be known at the time of presentation of the claim;

The deprivation of Claimant's rights as set forth above has resulted in damage to reputation, emotional distress and economic loss.

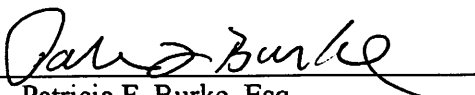
Claimant seeks compensatory damages in an amount to fully and fairly compensate Claimant plus interest in addition to attorneys' fees and costs and punitive damages in an amount to punish defendants and to deter defendants from future misconduct. The full extent of Claimant's injuries cannot be determined at the present time.

- e. The name or names of the public entity, employee or employees causing the injury, damage or loss, if known;

Neptune Township and their agents, servants and employees and those acting in concert including unknown persons whose identities will be revealed through further discovery.

- f. The amount claimed as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Compensatory damages in an amount to fully and fairly compensate Claimant. Punitive damages to punish defendants for their conduct and to deter future misconduct.

By: 
 Patricia F. Burke, Esq.
 On behalf of Barry Colicelli

Dated: August 15, 2020

SCIARRA & CATRAMBONE, L.L.C.
 Charles J. Sciarra, Esq. (#011371996)
 Jeffrey D. Catrambone, Esq. (#024491996)
 1130 Clifton Avenue
 Clifton, New Jersey 07013
 (973) 242-2442
 (973) 242-3118 [Facsimile]
Attorneys for Plaintiff

JAMES M. HUNT, Jr.,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MONMOUTH COUNTY
Plaintiff,	:	
	:	CIVIL ACTION
	:	
v.	:	DOCKET # MON-L-_____ -20
	:	
TOWNSHIP OF NEPTUNE,	:	<u>COMPLAINT & JURY DEMAND</u>
	:	
Defendant.	:	
	:	

Plaintiff James M. Hunt, Jr. ("Plaintiff"), by way of this Complaint brought for relief permitted under the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1 *et seq.* ("CEPA"), and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.* ("LAD"), for judgment against his employer, Defendant Township of Neptune ("Defendant" or "the Township"), alleges as follows:

THE PARTIES

1. Plaintiff is currently the Chief of Police for Defendant Township of Neptune.

2. Plaintiff is an employee of the Township within the meaning of CEPA and the LAD.

3. Plaintiff's race is Caucasian.

4. The Township is an employer within the meaning of CEPA and the LAD.

5. The Township is a public entity, municipality and political sub-division of the State of New Jersey.

JURISDICTION & VENUE

6. Jurisdiction is properly laid in this Court under the CEPA and LAD statutes, and Defendant Township is subject to personal jurisdiction in the State of New Jersey.

7. Venue is proper in that the events giving rise to the Complaint occurred within the County of Monmouth.

STATEMENT OF FACTS

8. Plaintiff has been employed as a sworn law enforcement officer for the Township of Neptune since in or about October 1988.

9. During his distinguished 32-year career Plaintiff received special assignments to narcotics details and DEA taskforces as well as received valor awards and special recognitions for his work on major police investigations.

10. Plaintiff has served as the duly appointed Officer in Charge of the Neptune Township Police Department ("the Police Department" or "the Department") since in or about May 2013.

11. Upon being hired as a Police Officer, Plaintiff worked as a patrol officer for eight years and was subsequently assigned to the Detective Bureau.

12. Plaintiff was promoted to the ranks of Sergeant and Lieutenant and served as a Detective-Sergeant and Detective-Lieutenant; during the time he served in those ranks Plaintiff implemented and supervised the Department's Street Crime Bureau, and as a Lieutenant he supervised the Department's Detective Bureau.

13. Plaintiff was then promoted to Captain and while he served in that rank he supervised the Department's Patrol Division.

14. In 2013 Plaintiff was promoted to the rank of Deputy Chief. Shortly thereafter, he became the Officer in Charge of the Department and the acting Chief upon the retirement of Police Chief Robert Adams on June 1, 2013 while Plaintiff was still formally serving in the rank of Deputy Chief.

15. On or about June 20, 2013, Defendant appointed Michael Bascom as Police Director, to whom Plaintiff reported directly as the Township's "appointing [or appropriate] authority". Prior Chiefs of Police had reported directly to the Business Administrator.

16. The Township Committee, Neptune Township's governing body, consists of a Mayor, Deputy Mayor and three (3) Committee Members.

17. Defendant formally appointed Plaintiff as Chief of Police on or about September 14, 2014 and he has served in that rank continuously since that date.

18. In or about the latter part of 2014, Plaintiff reported to Bascom complaints of improper dismissals and down-grading of quasi-criminal matters in Neptune Township Municipal Court, including driving while intoxicated ("DWI")-related offenses, drug offenses and motor vehicle summonses, as well as the failure of the Municipal Court and Municipal Prosecutor to properly subpoena officers in the Department for cases scheduled to be heard in the Municipal Court.

19. Bascom reported Plaintiff's complaints to the Township Committee, who took no action.

20. As a result, Plaintiff advised Bascom that his recourse was to bring his concerns about and objections to these municipal court practices, which Plaintiff reasonably believed to be a violation of law or public policy, to the Office of the Monmouth County Prosecutor, which Plaintiff did.

21. Specifically, on July 15, 2014 Plaintiff emailed Marc LeMieux, the First Assistant to Monmouth County Prosecutor Christopher Gramiccioni, regarding what Plaintiff reasonably believed was the Prosecutor Office's systematic and improper downgrading of drug-related offenses and the remanding of those cases to the Neptune Municipal Court for prosecution.

22. Specifically, Plaintiff felt that this practice was too lenient in prosecuting drug offenses and thus failed to adequately

address the very significant heroin epidemic which exists in society and was a significant public safety issue in the Township.

23. Plaintiff forwarded his email to Bascom the following day, July 16, 2014.

24. On July 17, 2014, Plaintiff also advised Bascom via email of his concerns about the need to subpoena all officers in the Department to appear in Municipal Court in the event there is a "not guilty" plea in any case in which the officer[s] is involved, be it a motor vehicle summons, a DWI matter or a criminal charge; specifically, Plaintiff told Bascom:

The municipal court process in Neptune is broken, none of my officers ever testify or rarely get subpoenaed for cases. When the[y] do the deal is cut already, they appear for 15 minutes, collect two hours OT and the bad guy walks as the other day on a municipal ordinance ... It is common knowledge all attorneys want to come to Neptune or have cases transferred so they get the deal. This is an embarrassment.

25. Defendant took no action in response to Plaintiff's concerns about and objections to the legality of the Township's Municipal's Court's practices but instead retaliated against Plaintiff by way of sustained, continuing course conduct as outlined below.

26. During 2015, Plaintiff on several occasions emailed Police Director Bascom, Neptune Township Municipal Court Administrator Ursula Postell, Municipal Prosecutor James Butler, and Municipal Court Judge Robin Wernik, regarding his concerns about the improper handling and dismissals of municipal court matters including DWI's.

27. Plaintiff as a matter of course had regular contact with Postell as Court Administrator regarding scheduling issues and the subpoenaing of witnesses, including officers, to testify in municipal court matters, pursuant to his role as Police Chief and Head of the Police Department which is responsible for the prosecution of quasi-criminal matters in the Township's Municipal Court.

28. In response, Plaintiff received a letter from Judge Wernik dated September 16, 2015 dismissing his concerns, admonishing Plaintiff for having raised these issues, and falsely suggesting that Plaintiff was in some way attempting to intrude upon the neutrality of the court, despite Plaintiff having done so legitimately and in good faith.

29. On December 30, 2015, Plaintiff emailed Municipal Prosecutor Butler expressing his concerns about the downgrading of shoplifting charges and a DWI matter during a recent court session and requested a meeting with Butler and Bascom.

30. On April 13, 2016, in response to a complaint raised by Plaintiff through Sergeant Michael Zarro of the Department, the Prosecutor's Office issued a memorandum regarding "Prosecution of DWI's in Neptune Township", concluding that the Municipal Prosecutor's rationale for the dismissal of three DWI matters purportedly based upon the 20-minute observation period prior to administration of a breathalyzer test, about which Plaintiff

complained, was without merit and is "directly contrary to governing, published New Jersey law".

31. In the memo Assistant Prosecutor Monica de Outeiro noted that the dismissal rate for DWI's in Neptune Township Municipal Court (34%) was double the dismissal rate of Wall Township (17%), a neighboring municipal court with the highest volume of DWI's in Monmouth County.

32. On April 20, 2016, Plaintiff emailed Bascom regarding what he reasonably believed was the improper disposition of several municipal court matters during a recent court session, including N.J.S.A. Title 39 motor vehicle matters involving license suspensions for defendants with a significant history of violations, and the disposition of a shoplifting matter for a defendant with a very significant history of prior convictions.

33. In his email, Plaintiff stated that "this is probably the best way to document it each week, I wonder how a judge can allow this"; Plaintiff also forwarded his email to First Assistant Prosecutor Lemieux on May 9, 2016.

34. On June 21, 2016, Township Attorney Gene Anthony emailed Plaintiff and Bascom, copying all members of the Township Committee regarding Plaintiff's complaints about and objections to municipal court practices outlined above, reminding Plaintiff and Bascom that Anthony was demanding a meeting regarding Plaintiff's contacts with the County Prosecutor.

35. Commencing in January 2016, newly elected Township Committee Member and Deputy Mayor Nicholas Williams had been appointed as the Committee's "Police Liaison" to the Department and began meeting with members of the Department stating to officers such as Sergeant Elena Gonzalez that he did not like Plaintiff and things were going to change in the future, or words to that effect.

36. On September 27, 2016, a meeting took place between Plaintiff, Bascom, Williams, Municipal Prosecutor Butler and Township Attorney Anthony.

37. During the meeting it was apparent that Anthony and Township Committeeman/Deputy Mayor Williams were displeased with Plaintiff having raised these issues with the County Prosecutor; specifically, Bascom told Plaintiff that they were angry at Plaintiff because "this was a good ole boys' network with the court and the attorneys taking care of each other," or words to that effect.

38. Nonetheless, Plaintiff left the meeting with the understanding that the Municipal Prosecutor will confer with officers prior to any downgrading of any charges, and all officers would be subpoenaed for all DWI cases and motor vehicle cases wherein the driver is alleged to not have insurance coverage or to have operated a vehicle with a suspended license, and that insurance cards would be produced in cases prior to those cases being downgraded.

39. On July 7, 2017, Anthony sent an email to Plaintiff, Bascom, Township Business Administrator Vito Gadaleta, Township Clerk Richard Cuttrell, and all members of the Township Committee, including the Mayor, attaching a letter and a revised ordinance for the Police Department to be proposed at the July 10th Committee meeting, per the instruction of then-Mayor Michael Brantley.

40. The revised ordinance eliminated the position of Police Director and replaced it with a "Police Oversight Committee" ("POC") and named Mayor Brantley, Township Committeeman and Deputy Mayor Williams, and a yet-to-be-identified civilian, as the "appropriate [or appointing] authority", so as to usurp and undermine Plaintiff's authority as Chief of Police, in retaliation for his protected whistle-blowing activity outlined *supra* protected under CEPA and based upon his protected class under the LAD.

41. The ordinance specifically states that the POC "shall be responsible to review the performance of the Police Department", "shall serve as the Executive Head of the Police Department", and "shall review and recommend to the Township Committee all adopted and promulgated rules and regulations for the government of the Police Department and for the discipline of its employees".

42. Plaintiff via email on July 10, 2017 advised Bascom of his objections to and concerns about the proposed ordinance as being

illegal and as interfering with Plaintiff's control over the day-to-day operations of the Police Department.

43. Bascom in turn advised Anthony, Gadaleta and Cuttrell of Plaintiff's concerns and that the matter would be raised with the County Prosecutor, which Plaintiff did via email to Prosecutor Gramiccioni on the evening of July 10, 2017, and which Gramiccioni acknowledged the following day by way of reply email to Plaintiff.

44. The Township Committee approved the ordinance by a vote of 4-1 at its meeting on July 10, 2017, with Mayor Brantley, Deputy Mayor Williams, Township Committeewoman Carol Rizzo, and Committeeman Robert Lane all voting in favor, and Committeeman Kevin McMillian, who was then the police liaison for the Township Committee, voting against the ordinance.

45. On July 17, 2017, Vito Gagliardi, an attorney representing Plaintiff as Chief of Police, wrote a letter to Township Attorney Anthony advising of Plaintiff's objections to the ordinance as usurping his authority by, *inter alia*, naming a subordinate officer to the POC, giving the POC a role in police discipline, assignments and procedures, and requiring Plaintiff to provide as Chief of Police daily reports to the POC, all of which are in violation of state statutory law, including N.J.S.A. 40A:14-118, commonly known as the "Chief's Bill of Rights", and Attorney General Guidelines governing the operations of a Police Department in the State of New Jersey.

46. The Township Committee again approved the ordinance upon a second reading at its meeting on July 24, 2017.

47. On August 10, 2017, Plaintiff's counsel wrote to Anthony and advised that legal action would be filed if the ordinance was not modified.

48. On September 1, 2017, Defendant, by way of Mayor Brantley, removed McMillian as the Township Committee's police liaison.

49. On September 12, 2017, Plaintiff met with Brantley, who was identified as the "Chairman" of the POC, and Williams, at which time they discussed issues related to the Police Department, including a new off-duty scheduling system for officers in the Department, 'Jobs4Blue', which was to be approved at the next Township Committee meeting; nonetheless, Brantley unilaterally tabled the issue.

50. Brantley also failed to communicate with Plaintiff regarding other issues critical to the Police Department during September 2017, including the need to amend the Department's rules and regulations to reflect the implementation of the POC as was required for the Department's pending re-accreditation by the New Jersey State Association of Chiefs of Police.

51. Plaintiff contacted Williams to discuss department-related issues on September 28, 2017 by phone and identified himself as "Chief", and Williams dismissively replied, "Chief? I know a lot of Chiefs".

52. Shortly after that meeting, a copy of an email message was anonymously provided to Plaintiff; the email is dated November 4, 2013 from then-Township Committeeman Brantley to several individuals, including Township Business Administrator Gadaleta, then-Township Committeeman and Mayor Randy Bishop, and then-Township Committeeman and Deputy Mayor Eric Houghtaling, and reads as follows:

Friends,

Enough time has passed that Neptune Township has becomes [sic] that polished gem that I spoke of in my first campaign for township committee. *Moving forward I expect that only black candidates will be considered for the positions of Neptune Chief of Police and Superintendent of Schools.* (emphasis added).

53. On October 2, 2017, Cuttrell notified Plaintiff that the Township, specifically Mayor Brantley and Deputy Mayor Williams, named Barry Colicelli, a civilian and private consultant, Chairman of the POC.

54. Colicelli's appointment was illegal as the applicable ordinance provided that only a member of the Township Committee could be designated as POC Chairman.

55. Plaintiff was never introduced to Colicelli, consulted on his appointment, or even advised that Plaintiff was required to answer to him.

56. Immediately upon Colicelli's appointment, Defendant, specifically Colicelli, Williams and Brantley, excluded Plaintiff

from discussions regarding the approval of a settlement agreement for a police officer who had been suspended without pay due to disciplinary and fitness for duty issues.

57. By way of email on October 3, 2017, Plaintiff advised Defendant of his concerns regarding the settlement agreement, specifically about the officer being found by a doctor as unfit for duty.

58. Plaintiff also previously denied Colicelli access to the officer's internal affairs files pursuant to applicable law, including Attorney General Guidelines.

59. Plaintiff attended a long-planned and approved conference for the International Association of Chiefs of Police in Philadelphia from October 20th-25th 2017 in Philadelphia.

60. While Plaintiff was at the conference, on October 23, 2017, Colicelli emailed Plaintiff six (6) memoranda demanding Plaintiff's "immediate attention and action", specifically requiring Plaintiff to acknowledge receipt of the 6 memoranda within two (2) days and to provide the information demanded and otherwise comply with Colicelli's illegal demands by wholly unreasonable and onerous deadlines.

61. The subject memoranda are contrary to law in that they demand that Plaintiff, a Chief of Police, comply with the directives of a civilian police consultant regarding, *inter alia*: [a] the requirement that Plaintiff provide notification to the POC of

"unusual incidents" such as serious crimes or incidents within the Township; [b] prohibiting the Department from making public safety notifications to the public but instead requiring those to go through the POC; [c] the disclosure of the personnel, disciplinary, and internal affairs records for a Neptune Township Police Sergeant to a civilian "consultant"; [d] requiring Plaintiff to provide a breakdown of Neptune Police overtime expenditures from 2014-2016; [e] requiring Plaintiff to provide a copy of all current Department policies and procedures; & [f] requiring Plaintiff to provide a written explanation as to his review of grievances filed by PBA Local 74, the collective bargaining unit for sworn law enforcement officers of the Department.

62. On October 26, 2017, Plaintiff engaged in protected whistle-blowing activity regarding Colicelli's illegal directives by contacting the Monmouth County Prosecutor's Office, advising Colicelli, both in writing, that the directives contained in the memoranda were in violation of Attorney General Guidelines and state statute[s].

63. In response, Prosecutor Gramiccioni emailed Plaintiff directly advising that his office was "looking into it" and "there's some issues for sure".

64. The following day, on October 27, 2017, Colicelli replied by way email in a disrespectful tone dismissing Plaintiff's good faith concerns regarding the illegality of Colicelli's demands, and also

imposed further unreasonable deadlines upon Plaintiff for compliance.

65. On Friday October 27, 2017, Colicelli via email demanded that Plaintiff meet with the POC that Monday, October 30, 2020, without any prior notice.

66. Plaintiff responded by advising Colicelli that the tone of Colicelli's emails and his demands upon Plaintiff, a Chief of Police, were condescending and disrespectful, reminded Colicelli that they have never met and Colicelli had never even been to the Department, and that Plaintiff was experiencing a hostile work environment created by Defendant.

67. In response to Plaintiff's disclosures to the Monmouth County Prosecutor, Prosecutor Gramiccioni wrote a letter to Colicelli dated October 30, 2017 advising that "we have concerns over some of the information requested by the Oversight Committee as it pertains to existing State law and State/County law enforcement policies applicable to each municipal police department".

68. At the meeting on October 30th, during which Plaintiff, Brantley, Williams, Anthony, Colicelli (whom Plaintiff had still never met before) were present, Plaintiff explained his concerns about and objections to Colicelli's directives contained in the memoranda cited *supra* and provided legal authority to support his arguments that Colicelli's demands were illegal.

69. In that regard, Plaintiff continued to refuse to disclose any officers' internal affairs records to Colicelli, a civilian consultant, in compliance with his good faith understanding of his legal obligation not to do so.

70. Colicelli and Anthony begrudgingly acknowledged that Plaintiff was correct and agreed to redraft the memoranda but ultimately never did so.

71. On November 14, 2017, Plaintiff met with Colicelli. During that meeting, Plaintiff expressed his concerns about the potential promotion of then-Police Captain Larry Fisher, who is African American, to the rank of Deputy Chief, which Mayor Brantley was actively advocating should occur immediately.

72. Plaintiff advised Colicelli that he was concerned that Fisher was not eligible to be promoted to Deputy Chief because did not have the educational background and degree requirements under the existing Standard Operating Procedure ("SOP") governing police promotions.

73. Plaintiff reduced his concerns to writing by way of email to Colicelli on November 16, 2017, stating that "I feel strongly that violating the attached SOP or changing the eligibility requirements for one individual will have great consequences for the agency in the form of damaged morale and costly litigation".

74. On November 27, 2017, Anthony submitted via email to all members of the Township Committee and the Township Administration

including Plaintiff a proposed amendment to the police promotional SOP, eliminating the educational requirement for all officers but implementing a requirement that all candidates for Deputy Chief have ten years supervisory experience, thereby effectively eliminating all candidates except Fisher.

75. On that same date Colicelli emailed Plaintiff in response to his November 16th email, wherein Colicelli explicitly took issue with Plaintiff raising his concerns about fairness in the promotional process and Plaintiff asserting that the Township acting in an arbitrary and capricious manner.

76. Defendant through Colicelli sought to silence Plaintiff by admonishing him for raising his concerns, specifically warning Plaintiff that "we take issue with that statement and want to caution you on such verbiage in the future".

77. In response, on December 3, 2017 Plaintiff emailed Colicelli, Brantley and Williams, reaffirming his reasonable belief that the Township was acting in an arbitrary and capricious manner in disregarding the requirements of the promotional SOP and that the POC was attempting to bully and intimidate Plaintiff from expressing his good faith and well-grounded concerns.

78. Plaintiff also emailed Colicelli, Brantley and Williams on December 8, 2020 stating his objections to, *inter alia*: [a] not being given notice that personnel issues related to Fisher, specifically his potential promotion to Deputy Chief, were going

to be discussed at a Township Committee meeting on December 4, 2017; and [b] the Township Committee falsely suggesting at the most recent public meeting that Plaintiff had not followed proper procedure regarding an amendment to the policy for the police promotional process removing the Police Director's role in that process.

79. Plaintiff wrote a letter to all members of the Township Committee, as well as Anthony, Colicelli, and Gadaleta, on December 15, 2017 reaffirming his concerns in his December 8th email and his objections to the POC excluding him from discussions regarding police-related matters, which is in violation of law, including but not limited to the Chief's Bill of Rights.

80. The Township ultimately promoted Fisher to Acting Deputy Chief on December 21, 2017 and improperly excluded Plaintiff from that process including directing that Plaintiff was not permitted participate in candidate interviews; Defendant did not permanently promote Fisher to the Deputy Chief rank until in or about February 2020.

81. Plaintiff had memorialized his concerns about being shut out of the promotional process in an email to Colicelli, Williams and Brantley on December 18, 2017.

82. On or about January 18, 2018, Plaintiff learned that he was excluded from a meeting between Brantley, Williams, Gadaleta, and

new labor counsel for the Township wherein legal matters involving the Department were discussed.

83. On or about January 26, 2018, Colicelli submitted two memoranda to Plaintiff requesting clarification on budgetary issues which were purportedly not previously addressed, and issues regarding chain of command within the Department.

84. In reality, Plaintiff had previously met with the POC and Colicelli regarding the budgetary issues and no one had indicated that there were any outstanding issues, and Plaintiff had properly and in compliance with law governing the Police Department sought to ensure that officers were not reporting directly to civilian members of the POC.

85. Plaintiff documented these legitimate concerns in emails dated January 30th and 31st 2018 and received a sarcastic and unprofessional response from Colicelli.

86. On February 20, 2018, Plaintiff learned that the POC was scheduled to meet with representatives of the PBA, without any prior notice to Plaintiff, at which time Plaintiff was concerned that members of the POC would illegally review confidential internal affairs documents and would discuss confidential internal affairs investigations, as well as new scheduling requests.

87. This is illustrative of Plaintiff's overall and very substantial concerns outlined throughout this Complaint about the

POC's systematic, continuing, and illegal attempts to interfere with his day-to-day operations of the Department.

88. Plaintiff memorialized his concerns in an email to Colicelli, Williams, Brantley, Township Labor Counsel Douglas Long, Gadaleta, and the other members of the Township Committee on February 21, 2018.

89. At a meeting on February 22, 2018, Colicelli referred to Deputy Chief Fisher as "Chief" verbally in Plaintiff's presence as well as in several emails beginning in March 2018, in order to undermine and harass Plaintiff and disrespect his authority.

90. At a meeting on or about April 17, 2018 during which the members of the Command Staff of the Police Department were present, including Deputy Chief Fisher, Captains McChee and Gualario, and Lieutenant Zarro, Colicelli stated that the Plaintiff "was here to cause trouble," or words to that effect, in order to again usurp Plaintiff's authority and to harass him.

91. On May 2, 2018, Colicelli emailed Plaintiff an overtime policy prepared by the POC without the input of anyone from the Department, including Plaintiff, and ordered its implementation within 1-2 days, again interfering with the day-to-day operations of the Department over which Plaintiff has control by statute.

92. The following day, May 3, 2018, Plaintiff sent an email to Colicelli, the POC, the other members of the Township Committee, Township counsel, Gadaleta, and members of the Police Command

Staff, outlining Plaintiff's concerns about and objections to the implementation of the police overtime policy, including that it was in several respects incompatible with existing Department policies and procedures.

93. On May 17, 2018, Bascom notified Plaintiff via email that the Township Committee, without previously consulting Plaintiff, sought to hire Colicelli as an "advisor" to the POC at a monthly pay rate of \$2,000, or \$24,000 per year, and wished to pay him retroactively for his "volunteer" work as Chairman of the POC for the past seven (7) months.

94. Bascom advised Plaintiff, the POC, and the Township Committee via emails on May 17th, 18th & 21st that the Township could not pay Colicelli retroactively, and that the funds to pay Colicelli going forward would have to come out of the Police Department's budget, which did not account for Colicelli's hiring, and thus there would have to be cuts to the Department's budget in other areas.

95. On May 21, 2018, Colicelli resigned from his unpaid position as Chairman of the POC in which he had been serving since October 2017.

96. Pursuant to a Township Committee Resolution adopted on June 11, 2018, Defendant appointed Colicelli as "consultant to the Police Oversight Committee" at a rate of \$2,000 per month for the balance of 2018.

97. On August 7, 2018, Plaintiff emailed Gadaleta, Williams and Brantley as an FYI about a media inquiry he received about an arrest by the Department the prior Friday night, August 3rd; then-Mayor Williams responded and advised that he had received an inquiry about the incident.

98. Plaintiff responded to Williams stating that the Department had conducted an investigation of the circumstances of the arrest, and Plaintiff requested that the Mayor contact him if he receives any such inquiries in the future, as the Department, not Township Administration, is responsible for media contacts regarding public safety issues such as accidents, road closures, and police responses to crimes and other critical incidents.

99. Williams was reportedly and misguidedly angry at Plaintiff that Williams had not been given notification of what was in reality a police matter which Plaintiff and his Department were handling.

100. On August 9, 2018, Williams emailed the Neptune Township PBA President Thomas Blewitt about a meeting to occur regarding the overtime policy for the Department without any intention of including Plaintiff, the head of the Department, in the meeting, which is another attempt by Defendant to illegally circumvent and arrogate Plaintiff's authority as Police Chief.

101. On August 19, 2018, Colicelli emailed Williams, Brantley and Township counsel regarding Plaintiff's proposed overtime policy

which he submitted on August 10, 2018, and that email was subsequently forwarded to Plaintiff.

102. In his email Colicelli falsely suggested that Plaintiff "shirks his responsibilities as Chief executive of the Department" and suggested that because Plaintiff supposedly did not comply with Colicelli's illegal directives to Plaintiff, which were in fact illegal, disciplinary action against Plaintiff would be appropriate.

103. On September 8, 2018, Plaintiff emailed Township counsel regarding his concerns about Colicelli being provided with information related to an internal affairs investigation of an officer in the Department, as that would be violative of Attorney General Guidelines.

104. On September 17, 2018, Plaintiff emailed Mayor Williams regarding the issue of the notification required by Plaintiff to Township Administration about critical incidents in the Township.

105. Plaintiff told Williams he was incorrect in stating that Plaintiff refused to advise the Mayor of any incident until the investigation of it is complete; instead, Plaintiff reminded him that he and Brantley had been immediately notified of critical incidents such as accidents, road closures, fires, and shootings which may result in requests for information from the media or the public.

106. Plaintiff also again advised Williams that a meeting with the POC was required to discuss important administrative issues affecting the Police Department which had not been addressed by the POC.

107. On September 26, 2018, Brantley emailed Plaintiff, wherein Brantley identified himself as the Chairman of the POC for the first time, demanding that Plaintiff provide his rationale for Plaintiff's selection of a supervising officer from the Department to attend the FBI National Academy for eight weeks and the impact of that selection upon the Department's operations.

108. Plaintiff responded via email on September 28, 2018 that: [a] Plaintiff had notified the POC back on July 24th via email that he had selected Captain Gualario to attend the academy and provided a detailed description of the training involved; & [b] training was within the Chief's authority under statutory and case law and no prior approval was required.

109. Thus, Defendant, through Williams and the POC, again sought to undermine Plaintiff as Chief and cast doubt upon a decision he had made two months prior to send one of his Captains to training which he had worked hard to attain.

110. On October 4, 2018, the day before a long-scheduled and approved conference from October 5th-10th in Orlando, Florida Plaintiff was attending for the International Association of Chiefs of Police, Plaintiff received via email from Brantley: [a]

a directive that all of Plaintiff's decisions as Chief regarding police disciplinary matters involving a suspension or termination be subject to review by the POC prior to the imposition of any such discipline; & [b] an "employee warning notice" from the POC against Plaintiff for alleged neglect of duty and failure to comply with POC department policy, arising out of Chief Hunt's alleged failure to notify the Mayor and the POC of three incidents which took place within the Township, with a demand for a purported "plan for improvement" and threatened suspension of Plaintiff for future purported violations.

111. The warning notice was without any legitimate basis and was imposed upon Plaintiff by Defendant with harassing, discriminatory, and/or retaliatory intent in violation of the LAD and CEPA.

112. Also on October 4, 2018, Township Attorney Anthony sent letters, one to Chief Hunt directly, questioning whether the Township would continue to provide defense and indemnification to Plaintiff in lawsuits in which he is named as a Defendant, notwithstanding that the Township is statutorily required to do so under N.J.S.A. 40A:14-155, and advising that the representation of Plaintiff by attorneys provided by the Township would be discussed at a Township Committee meeting on October 22, 2018.

113. By way of email on October 17, 2018 Plaintiff advised Township labor counsel Douglas Long that the disciplinary directive

referenced above was illegal and that he intended to challenge the warning notice as being meritless.

114. On October 19, 2018, the agenda for the October 22nd Township Council meeting was posted indicating that an unidentified individual would be named as a member of the POC; that individual turned out to be Adrienne Sanders, a vocal and public critic of the Police Department and President of the local chapter of the NAACP.

115. Also, on the morning of the October 22nd meeting Defendant added an agenda item regarding a purported agreement with the PBA providing for the implementation of a 12-hour "Pittman" work schedule for officers in the Department, a very significant change to the operations of the Department, as well as changes to the overtime policy.

116. Plaintiff was never consulted or advised by the POC about these issues and this is yet another tactic by Defendant to usurp Plaintiff's authority as Chief and obstruct his lawful day-to-day operations of the Police Department.

117. By way of letter from his counsel dated November 5, 2018 to the Township's counsel, Plaintiff objected to the disciplinary directive served upon Plaintiff by the POC on October 4, 2018 as it removed Chief Hunt's ability to discipline officers in the Department, in violation of N.J.S.A. 40A:14-118, the Chief's Bill of Rights, as well as applicable case law.

118. Also, on November 5, 2018, Plaintiff emailed the County Prosecutor expressing his concern about cases in Neptune Township Municipal Court wherein marijuana-related offenses were being dismissed and instead municipal ordinances were then issued by an officer who was not the arresting officer or otherwise involved in the case at issue.

119. Prosecutor Gramiccioni responded via email to Plaintiff on November 7, 2018 advising Plaintiff that his office was "reviewing the actions by your municipal prosecutor" and that the Prosecutor's Office would advise Plaintiff of their findings and how they will proceed.

120. On November 7, 2018, Plaintiff provided in writing via email a detailed response to the warning notice dated October 4, 2020 issued by the POC upon Plaintiff, asserting that there was no legal or factual basis for the notice.

121. Plaintiff's 6-page memo refutes in detail the allegations regarding the notification of three incidents for which Defendant issued the warning notice with discriminatory, harassing and/or retaliatory intent, and addresses the issues detailed *supra* regarding Defendant's illegal conduct in violation of the LAD and CEPA which seeks to undercut and seize Plaintiff's authority as Chief of Police in violation of law.

122. On November 20, 2018, Plaintiff issued an SOP to all officers in the Department to maintain a process to ensure that the Police

Chief, members of the Command Staff and other Police Department personnel, and the Monmouth County Prosecutor's Office, where appropriate, are advised of "notable occurrences arising from police-initiated or public requests for police services".

123. Plaintiff's issuance of this SOP to the Department is consistent with Plaintiff's duties and authority as Police Chief.

124. On or about November 21, 2018, Defendant rescinded the POC's directive dated October 3, 2018 and served upon Plaintiff on October 4, 2018 regarding police discipline but never provided formal notice to Plaintiff that the directive had been rescinded; Defendant's meritless "warning notice" to Plaintiff was never rescinded.

125. On or about December 20, 2018, Plaintiff emailed Cuttrell, members of the POC and the Township Committee, Gadaleta, and Township counsel expressing his concerns about and objections to Defendant's approval of an agreement with the PBA regarding the Department-wide implementation of the new 12-hour Pittman schedule, which very significantly impacted the operations of the Department and resulted in additional tax-payer cost, without consulting Plaintiff.

126. On or about January 4, 2019, Plaintiff learned via email from Township Clerk Cuttrell that Defendant would adopt changes to the Police Department rules and regulations required for the Department to obtain accreditation, changing the appointing

authority from the Police Director to the POC, which Plaintiff had openly and repeatedly advocated for as being required for the past three years without Defendant taking any action.

127. On January 7, 2019, Defendant ordered Plaintiff to include the POC in the Department's organizational chart, or "table of organization ("TO").

128. This was another attempt by Defendant to improperly place the POC within the chain of command in the Police Department and assert control over the day-to-day operations of the Department, which is contrary to law and directly obstructs Plaintiff's authority as Police Chief.

129. On January 11, 2019, Brantley as Chairman of the POC issued a directive to Plaintiff that Colicelli be copied on all correspondence related to the POC.

130. By way of email dated January 15, 2019 to Defendant including members of the POC and the Township Committee and Gadaleta, Plaintiff acknowledged that while he is required to make certain disclosures to the POC on very specific matters, disclosure of personnel and internal affairs records to a private consultant is violative of Attorney General Guidelines.

131. Plaintiff further stated that if Defendant did not reconsider the order then he would report the matter to the County Prosecutor; Township Committeewoman/then-Mayor Carol Rizzo tersely replied within eight minutes of Plaintiff's email, "No"; Williams

responded that the POC would forward to Colicelli all notifications from Plaintiff to the POC "as we deem appropriate".

132. Plaintiff reported his concerns about and objections to this illegal order via email to Prosecutor Gramiccioni on January 15, 2019.

133. On January 17, 2019, Plaintiff emailed Defendant, specifically Township counsel, Brantley and Williams, again expressing his objections to the POC being placed in the Police Department's organizational and administration SOP, specifically the Department's TO or "flow chart".

134. The POC should not be in the chain of command in the ranks of the Police Department but should instead only be designated as the appointing authority under Rules and Regulations to whom the Chief reports regarding administrative functions of the Department only.

135. Plaintiff as Police Chief directs the day-to-day law enforcement operations of the Department and reports directly to the County Prosecutor and the State Attorney General in that regard, not the POC or its private civilian consultant.

136. In short, Defendant's continuing, blatant interference with and obstruction of, and its brazen attempts to arrogate, Plaintiff's control over the Police Department as outlined throughout this Complaint, are contrary to well-established law and constitute a continuing course of illegal, harassing and

retaliatory conduct against Plaintiff in violation of CEPA and the LAD.

137. In fact, via email on February 1, 2019 in direct reply to an email from Plaintiff approximately one hour earlier attaching a revised TO for the Department, Williams illogically, and revealingly, expressed his misplaced and troubling concern about the County Prosecutor's Office and the Attorney General's Office being included in the Neptune Police Department's table of organization, notwithstanding that those two agencies indisputably have direct oversight over the law enforcement functions of the Police Department pursuant to well-established law, whether the POC and Colicelli like it or not.

138. By way of email dated February 1, 2019, Plaintiff made Township Committee members and the POC, including then-Mayor Rizzo, Brantley and Williams, aware of the disposition of cases in Neptune Township Municipal Court, which is further evidence of Defendant's notice of Plaintiff's concerns about and objections to the manner in which cases were being disposed of in the Municipal Court, which Plaintiff reasonably believed was in violation of law and/or public policy; in fact, Plaintiff had consistently been sending weekly updates to the POC of the municipal court calendar and dispositions of cases and Defendant took no action in response thereto.

139. On February 11, 2019, the Township approved an increase in the monthly payment to Colicelli as the POC's "consultant", which came out of the Department's budget, from \$2,000 to \$2,500.

140. On February 19, 2019, the United States Department of Justice issued a letter to the Township advising that it had closed out an investigation, without any action being taken, of allegations by Adrienne Sanders, President of the NAACP who was also a member of the POC as of October 2018, that the Department, specifically Plaintiff, had engaged in a pattern of or practice of discrimination, harassment or retaliation, as those allegations were without merit.

141. In March 2019, Defendant, specifically the POC, failed to consult with and advise Plaintiff of the settlement of a disciplinary matter of an officer in the Department.

142. On April 4, 2019, while Plaintiff was on vacation, Brantley as Chairman of the POC forwarded to Plaintiff a directive regarding municipal court overtime that "no other officers should be assigned to the court other than what is necessary for security purposes".

143. On April 9, 2019, Plaintiff responded to Brantley via email, copying among other individuals Bascom, Brantley, Rizzo, Gadaleta, members of his Command Staff and the Municipal Court Administrator Ursula Postell, stating that while Plaintiff was open to measures to attempt to minimize overtime, the Department has no authority to interfere with the Court's oversight over the matters before it

and its scheduling and subpoenaing of officers ordering them to appear for individual cases.

144. The day prior, on April 8, 2019, Plaintiff received via email, from Brantley's Township email account while Plaintiff was at a meeting with Brantley, a notice of Plaintiff's alleged failure to properly notify the POC about an incident at the Township's high school in which the POC falsely asserts that Plaintiff was in some way derelict in his duties.

145. Plaintiff responded via email on April 9, 2019 outlining why the POC's allegations against Plaintiff were inaccurate and thus without any factual basis.

146. Nonetheless, Plaintiff emailed Brantley and Deputy Chief Fisher on April 11, 2019 confirming their prior conversation about the alleged issue, Brantley's admission that Plaintiff was doing a good job as Chief, and that Plaintiff or in his absence Fisher are available to Brantley via phone at any time, "24/7".

147. A meeting to discuss administrative issues within the Department occurred on April 19, 2019 between Plaintiff, Fisher, members of the POC, and Colicelli.

148. Colicelli surreptitiously audio-recorded the meeting, was disruptive and incessantly interrupted whenever Plaintiff spoke.

149. On April 24, 2019, Plaintiff emailed Township counsel about his concerns regarding Colicelli and his behavior at the April 19th meeting, including that he felt Colicelli provides incorrect and

illegal directives to the POC, is not proficient in contemporary police practices, should not attend future POC meetings where internal affairs and disciplinary matters are discussed, that Colicelli is performing a disservice to the POC and the Department, and that he has continually threatened and targeted Plaintiff by way of baseless charges and accusations.

150. On or about June 4, 2019, Plaintiff learned that the POC was going to meet with union representatives from the Fraternal Order of Police ("FOP") which represented a group of officers in the Department about a new proposed policy for the police promotional process, even though the POC had never discussed any such proposed policy with Plaintiff as Chief.

151. At a meeting between Plaintiff and the POC on or about July 15, 2019, Williams asked Plaintiff if he had a meeting with then-Mayor Rizzo where Plaintiff advised her that the POC does not like him, or words to that effect.

152. On or about August 8, 2019, Plaintiff received a phone call from Monmouth County Assistant Prosecutor Michael Costanza who advised Plaintiff that Township Attorney Anthony had contacted the Prosecutor's Office via letter dated April 10, 2019, without copying Plaintiff on the letter or otherwise advising or noticing him, wherein Anthony requested information about the Township's use of forfeiture funds and approvals for usage of those funds.

153. By way of Anthony's request, the Township sought to circumvent Plaintiff's role as Chief in making use of forfeiture funds, to illegally bestow that role upon the POC, and to purportedly allow those funds to be utilized for normal budgeted operating expenses, salary and/or overtime, which is contrary to law.

154. Assistant Prosecutor Costanzo confirmed to Plaintiff that he has always communicated with the Department directly and had always found its requests for usage of forfeiture funds to be proper and complete.

155. Costanzo also told Plaintiff that the Prosecutor will advise the Township that funds will be distributed only for non-budgetary items and only by Plaintiff as Chief of Police.

156. Prosecutor Gramiccioni confirmed by way of letter to Anthony dated August 9, 2019 that Attorney General Guidelines and statutory law provide that the chief executive of a law enforcement agency, here Plaintiff as Police Chief, has the sole discretion to administer forfeited funds and property, and "to date, a review of expenditure requests from the Neptune Township Police Department finds all requests comport with the relevant AG Guidelines".

157. The Prosecutor also reminded the Township that forfeiture funds can only be used for a "law enforcement purpose" and not for budgeted operating expenses or salary or overtime.

158. On August 12, 2019, Plaintiff advised the POC, the Township Committee, Gadaleta and Cuttrell of new State legislation signed

into law the week prior banning law enforcement-style badges previously provided to Neptune Township elected officials per their request identifying them as "police commissioners" or "public safety" officials.

159. A meeting was scheduled to occur between Plaintiff, with Deputy Chief Fisher also attending, and the POC on September 24, 2019.

160. On September 20, 2019 Plaintiff confirmed his attendance with Township labor counsel Michael Burns so long as Colicelli was not going to be present, per Plaintiff's email to Township counsel on April 24, 2019 outlined *supra*.

161. Nonetheless it was apparent to Plaintiff that Colicelli was going to attend the meeting, and Plaintiff received an agenda for the meeting which was prepared by Colicelli; ultimately, Defendant postponed the meeting for reasons unrelated to Plaintiff's concerns.

162. Ultimately, the meeting occurred on October 2, 2019 with Plaintiff, Fisher, Burns, Williams, Brantley and Colicelli being present; Plaintiff voiced his objection to Colicelli's presence at the meeting.

163. At the meeting, Brantley admitted that correspondence from the POC is in reality routinely drafted and sent by Colicelli.

164. During the meeting, scheduling, overtime, and promotional issues were discussed; a new promotional policy was being

negotiated at that time between the POC and the police unions without Plaintiff's involvement, and Plaintiff had still not been presented with a copy of that policy.

165. On October 31, 2019 Plaintiff sent via email to the Monmouth County Prosecutor the most current list of DWI cases where the motorist was charged under N.J.S.A. 39:4-50 et seq., including "DRE" cases which require a drug recognition expert, for review by the County Prosecutor.

166. This is in relation to Plaintiff's ongoing concerns about and objections to the downgrading and dismissal of DWI cases over the prior three years in the Neptune Township Municipal Court where those cases should instead have been prosecuted, as outlined *supra*.

167. In his October 31, 2019 submission to the Prosecutor, Plaintiff provided written summaries of three cases where the Municipal Prosecutor dismissed DWI charges, and the Court accepted those dismissals, where in fact there existed sufficient evidence to prosecute those matters and the Neptune Township Police Officer involved in the matter was prepared to move forward to trial.

168. The County Prosecutor replied to Plaintiff advising that his office would investigate the matter and confer with the County Prosecutor's Appellate Unit Director, Monica Do Outeiro, who also oversees the DRE program and is the Municipal Court Liaison.

169. The POC was fully aware of Plaintiff's complaints regarding the issue of improper downgrading and dismissals of DWI matters in

Neptune Township Municipal Court and Plaintiff's related disclosures to the Prosecutor's Office; Defendant retaliated against Plaintiff based upon this protected whistle-blowing activity.

170. At a Township Committee meeting on November 25, 2019, Brantley falsely and maliciously informed the Committee that Plaintiff did not make himself available to the POC.

171. On November 27, 2019 Plaintiff emailed the POC and the Township Committee, Gadaleta, Township counsel and Fisher, advising that: [a] Brantley's statements at the November 25th meeting were false as the POC had not reached out to Plaintiff since the October 2, 2019 meeting outlined *supra*; [b] Plaintiff nonetheless had made all notices to the POC regarding administrative issues within the Department as was legitimately required; & [c] Plaintiff had previously advised the POC that he is always available by phone, 24/7, as also outlined *supra*.

172. A POC meeting occurred on December 4, 2019 at which Plaintiff, Fisher, Brantley, Williams, Colicelli and Burns were present.

173. Brantley opened the meeting, which Colicelli was again audio recording, by raising Plaintiff's November 27, 2019 email.

174. Plaintiff stated that the POC was targeting him, which they denied, and Plaintiff demanded that Colicelli leave, which he refused to do; ultimately, issues related to the Pittman schedule, grants, and the promotional policy were discussed at the meeting.

175. On December 16, 2019, Defendant, through Brantley, served Plaintiff via email with an "Employee Counseling Notice", falsely alleging that Plaintiff was "insubordinate" and "unprofessional" during the POC meeting on December 4th.

176. Defendant's Employee Counseling Notice states that Plaintiff was to be "counseled" with the threat of future discipline, including suspension.

177. That employee counseling notice is without any legitimate basis and Defendant issued it to Plaintiff with discriminatory, harassing, and/or retaliatory intent.

178. On December 17, 2019, Plaintiff submitted his response to the notice to all members of the Township Committee and the POC, Gadaleta, and Township counsel, demanding that it be immediately withdrawn and removed from his employee file.

179. Plaintiff also objected to the notice being disclosed to Fisher, his subordinate, reiterated his prior and continuing complaints regarding the conduct of Colicelli and the POC, and advised that he was being targeted, was being harassed, and was the victim of a hostile work environment.

180. Plaintiff again provided a written complaint of harassment and retaliation by way of email on December 18, 2019.

181. The Township, through a memorandum from its Human Resources Director dated December 27, 2019 to Plaintiff, acknowledged Plaintiff's "complaint of harassment, retaliation, and hostile

work environment allegedly created by the Police Oversight Committee, their consultant, the township attorney and labor attorneys", and advised that a "prompt and thorough investigation will be conducted".

182. Defendant was nonetheless aware of throughout, and is liable for, the intentional, illegal conduct of Colicelli and the POC against Plaintiff for the prior three years in violation of the LAD and CEPA.

183. The Township Committee was reorganized as of January 2, 2020 for that year with the five (5) Committee Members in the following positions: Robert Lane as Mayor, Kevin McMillian as Deputy Mayor, Committeeman Michael Brantley and Nicholas Williams remaining in their role as POC members, and Carol Rizzo also serving as a Committeewoman.

184. On or about November 21, 2020, Brantley advised Plaintiff that he would not be permitted to participate in candidate interviews for the pending Deputy Chief promotional process, which had never been the case in the past with any promotional process in the Department.

185. With regard to Plaintiff's complaints outlined *supra* regarding practices in the Neptune Township Municipal Court, members of County Prosecutor Gramiccioni's staff conferred and met with Neptune Township Municipal Prosecutor James Butler in February 2020 to address Plaintiff's good faith concerns and

objections regarding those municipal court practices, including the issues related to DWI downgrades and dismissals cited by Plaintiff, wherein, for example, the Municipal Prosecutor was directed going forward to confer with the charging officer prior to any matter being resolved, as that was not done in the past.

186. At a Township Committee meeting on January 27, 2020, Brantley announced that the Township would be promoting four Police Officers to the rank of Sergeant, without any prior notification by the POC to Plaintiff of this decision being announced to the public.

187. On February 14, 2020, Plaintiff met with attorney Ellen O'Connell of Inglesino, Webster, Wyciskala & Taylor, a law firm whom the Township hired to investigate Plaintiff's December 2019 complaints of a hostile work environment.

188. On April 20, 2020 Plaintiff provided a written complaint to the Township via email regarding incidents that had occurred to that point in 2020 constituting a "continued pattern of harassment, being excluded from the promotional process, not being contacted on promotional process notifications, contacting of subordinates under [my] command without notification, the purposely done after-hours weekend notifications which continues against me by the POC creating the hostile work environment reported in the past and which they continue with to this day".

189. The Inglesino firm issued a report dated April 24, 2020, making the following findings of fact: **[a]** the disciplinary action

taken by the POC against Plaintiff in December 2019 violated Plaintiff's due process rights under the Township's Personnel Police Guidebook, N.J.S.A. 40:14-118, Township Ordinance, Police Department SOP's, and New Jersey Attorney General Guidelines; **[b]** the POC and Colicelli engaged in offensive and hostile behavior towards Plaintiff as Police Chief from October 2017 through December 2019, including baseless disciplinary action and racial animus, finding that *"there is a motivation to remove Chief Hunt because of his race"* (emphasis added); **[c]** Colicelli and the POC engaged in the "Usurpation of the Chief's Authority" and the imposition of "Constructive Discipline, Discharge" against Plaintiff, specifically, "commencing with the July 10, 2017 Ordinance replacing the Police Director with a three-member Police Committee, the Committeeman and Mr. Colicelli repeatedly attempted to and, in fact, *stripped the Chief of authority to run the day-to-day operations of the Police Department delegated under N.J.S.A. 40A:14-118, thereby disciplining him without due process, or, at worst, constructively discharging him from office without due process of law*" (emphasis added); & **[d]** the POC and Colicelli "have been taking over and exercising powers delegated solely to the Chief, ultimately taking over and removing Chief Hunt's authority over the following key area[s] of police operations": discipline, overtime scheduling and policy, work scheduling, labor and management relations, Police SOP's, promotional criteria and

policy, civilian police consultant's access to confidential information, and attempting to "take charge of other powers delegated to the police, and were unsuccessful when the Chief objected and was joined by the Monmouth County Prosecutor or the N.J. State Association of Chiefs of Police", including interference with the Chief's discretion regarding release of information to the public, improperly requesting review of internal affairs files, inquiring into distribution of SOP's to police personnel, interfering with training decisions, and attempting to interfere with police officers' appearances in municipal court and overtime pay.

190. The Inglesino report concludes with its finding that "*Chief James Hunt's charges of harassment and allegations of a hostile work environment have been sustained, and that the actions were based on a motivation to replace him with an African-American*" (emphasis added).

COUNT ONE

(Violation of the New Jersey Conscientious Employee Protection Act, "CEPA", N.J.S.A. 34:19-1, et seq.)

191. Plaintiff reasserts and re-alleges each and every previous paragraph as if fully set forth herein.

192. Plaintiff engaged in "whistle-blowing" activities in that he: [a] disclosed, or threatened to disclose to a supervisor or to a public body an activity, policy or practice of Defendant that Plaintiff reasonably believed is in violation of a law, or a rule

or regulation promulgated pursuant to law; or [b] provided information to a public body conducting an investigation, hearing or inquiry into any violation of a law, or a rule or regulation promulgated pursuant to law by Defendant; or [c] objected to, or refused to participate in an activity, policy or practice which Plaintiff reasonably believed: (1) is in violation of a law, or rule or regulation promulgated pursuant to law; or (2) is fraudulent or criminal; or (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare.

193. In retaliation for his whistle-blowing activities, Plaintiff suffered adverse employment action(s) and other retaliatory acts at the hands of Defendant, as outlined above.

194. Further, in addition to retaliation, Plaintiff has suffered harassment constituting a hostile work environment at the hands of Defendant, for which Plaintiff's protected whistle-blowing activity was a motivating factor.

195. Defendant's collective actions against Plaintiff combine to make up a pattern and continuing course of retaliatory and harassing conduct against Plaintiff. Same was done by Defendant in retaliation for Plaintiff's whistle-blowing activities described herein, in violation of CEPA.

196. Defendant's adverse employment actions against Plaintiff were without any legitimate and/or lawful purpose. The purported rationale for Defendant's adverse employment actions were pre-

textual and were advanced in order to mask Defendant's retaliatory intent.

197. Defendant's collective retaliatory and harassing actions against Plaintiff constitute violations of CEPA.

198. As a result, Plaintiff's statutory rights have been violated and his protections under the law have been eviscerated. Plaintiff has also suffered economic and non-economic loss.

199. Plaintiff has suffered damages resulting in the loss of compensation and benefits, loss of earning power, physical injury, mental injury, the loss of opportunities for prospective employment, the loss of fringe benefits, and is incurring legal expenses and other expenses as a result of Defendant's actions.

200. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and civil rights, and Plaintiff is entitled to punitive damages under applicable law.

COUNT TWO

**(Hostile Work Environment in violation of the New Jersey Law
Against Discrimination, "LAD", N.J.S.A. 10:5-1, *et seq.*)**

201. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.

202. Defendant violated Plaintiff's rights protected under the New Jersey Law Against Discrimination ("LAD"), N.J.S.A. 10:5-1, *et seq.*

203. Defendant's complained of conduct would not have occurred but for Plaintiff being a member of a protected group.

204. Defendant's conduct was sufficiently severe or pervasive to make a reasonable person who is a member of a protected group, in this case Plaintiff's race, believe that the conditions of employment were altered and the working environment was hostile or abusive.

205. By and through the actions described herein, Defendant engaged in a continuing course of conduct against Plaintiff and created a harassing and hostile work environment for Plaintiff.

206. Defendant Township is strictly liable for the intentional conduct alleged herein.

207. Defendant's actions and activities were unwarranted and uninvited.

208. Despite repeated requests for these activities to cease, Defendant failed to take timely, sufficient action with regard to ceasing these activities.

209. As a result, Plaintiff's statutory rights have been violated and his protections under the law have been eviscerated.

210. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendant's actions.

211. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and civil rights, and Plaintiff is entitled to punitive damages under applicable law.

COUNT THREE

(Race Discrimination in violation of the LAD)

212. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.

213. Defendant's actions against Plaintiff outlined herein constitute discrimination and disparate treatment of and against Plaintiff based upon his race in violation of the LAD, N.J.S.A. 10:5-1, *et seq.*

214. The stated rationale for Defendant's adverse actions against Plaintiff was pretextual and thus demonstrative of Defendant's discriminatory intent.

215. As a result, Plaintiff's statutory rights have been violated and his protections under the law have been eviscerated.

216. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendant's actions.

217. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and

civil rights, and Plaintiff is entitled to punitive damages under applicable law.

COUNT FOUR
(Retaliation in violation of the LAD)

218. Plaintiff reasserts and realleges each and every previous paragraph as if fully set forth and reiterated herein.

219. Defendant's adverse actions as outlined above constitute retaliation against Plaintiff as a result of Plaintiff having engaged in protected activities in violation of the LAD, N.J.S.A. 10:5-1, *et seq.*

220. Plaintiff's complaints constituting protected activity were reasonable and made in good faith.

221. The stated rationale for Defendant's adverse actions against Plaintiff was pretextual and thus demonstrative of Defendant's retaliatory intent.

222. As a result, Plaintiff's statutory rights have been violated and his protections under the law have been eviscerated.

223. Plaintiff has suffered damages resulting in the loss of compensation, loss of earning power, loss of self-esteem, physical injury, mental injury, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendant's actions.

224. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory and

civil rights, and Plaintiff is entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

a. Awarding Plaintiff damages, including, but not limited to, any and all equitable, punitive and compensatory damages, lost benefits, wages and rights, including but not limited to front and back pay, as well as all commensurate pension/retirement benefits, and other benefits with respect to Plaintiff's employment, and non-economic damages for emotional distress, any statutory fines, compensation for the adverse tax consequences of a lump sum award, together with both pre-judgment and post judgment interest and attorneys' fees and costs under the LAD and/or CEPA's fee-shifting provisions, as well as any enhancements pursuant to the case law, and all litigation-related costs and expenses;

b. For an Order of the Court directing Defendant to expunge Plaintiff's personnel and all other employment records of all disciplinary matters which are the subject of this Complaint;

c. For an Order of the Court entering dismissal with prejudice and expungement of all disciplinary charges and all resulting disciplinary action and penalties against Plaintiff imposed by Defendant, as outlined herein; and

d. For such other, further, additional and different relief as this Court deems just and proper.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that *Charles J. Sciarra, Esq.* (# 011371996) is hereby designated as trial counsel for Plaintiff.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues involved herein.

Respectfully submitted,
SCIARRA & CATRAMBONE, L.L.C.,
Attorneys for Plaintiff

By: /s/ Jeffrey D. Catrambone, Esq. (#024491996)

Dated: November 30, 2020

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned, of full age, hereby certifies as follows:

1. The matter in controversy is not the subject of any other pending action before any Court.
2. No other action or arbitration proceeding is contemplated.
3. There are no other parties to be joined in this action at the present time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the said statements made by me are willfully false, I am subject to punishment.

By: /s/ Jeffrey D. Catrambone, Esq. (#024491996)

Dated: November 30, 2020

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-003834-20

Case Caption: HUNT, JR. JAMES VS TOWNSHIP OF NEPTUNE

Case Initiation Date: 11/30/2020

Attorney Name: JEFFREY DANIEL CATRAMBONE

Firm Name: SCIARRA & CATRAMBONE

Address: 1130 CLIFTON AVE

CLIFTON NJ 070130000

Phone: 9732422442

Name of Party: PLAINTIFF : Hunt, Jr., James, M

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA)

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: James M Hunt, Jr.? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

11/30/2020

Dated

/s/ JEFFREY DANIEL CATRAMBONE

Signed