

18-1045

Donna Belton

From: PSNJ, Ironbound Media <opra+request-2353-a08df36f@requests.opramachine.com>
Sent: Tuesday, August 21, 2018 9:14 AM
To: clerkforms
Subject: OPRA request - Police Officer Dan Davison #674 Violation of Citizen's Constitutional Rights under Threat of Arrest

Howell Township,

This is a request for public records made under OPRA and the common law right of access. Please acknowledge receipt of this message.

Records requested:

On 8/20/2018, Howell Township Police Officer Dan Davison, badge #674, stopped an individual walking down a public road. Officer Davison articulated NO CRIME, yet demanded this individual's personal identification information UNDER THREAT OF ARREST, merely claiming the individual was "suspicious". The officer repeatedly threatened to arrest the individual if he did not comply with unlawful demands, and additionally threatened to break the individual's property. Howell Township Police Officer Dan Davison exhibited extreme ignorance of the law, his oath, his duties, and the safety and Rights of the public.

The interaction can be seen here:

<https://youtu.be/NiM6XbwBWQo>

- 1) Body camera footage of police officer "Dan Davison, badge 674" relating to a "suspicious person" encounter on 8/20/2018 approximately 2215 hours with an individual walking along West Farms Road. (footage to be uploaded to a private YouTube link for viewing at no charge with no special software)
- 2) Any and all reports generated in regard to the above described incident, including but not limited to CAD records, operations reports, incident reports, activity logs, etc.
- 3) Any and all CAD records generated in regards and/or relating to police officer Dan Davison #674's activities during his 8/20/2018 - 8/21/2018 shift.
- 4) Roster of all Howell Police Department police personnel on duty during the above described incident, including officer Dan Davison's immediate supervisor, the shift Watch Commander, and the individual who performed the ACS/ATS/NCIC check via computer, to include rank and badge numbers of all.
- 5) Copies of any and all Howell Police Department policies and/or procedures regarding and/or relating to the demand by a police officer of a citizen's personal identification information under threat of arrest when no crime has been committed.
- 6) Copies of any and all Howell Police Department policies and/or procedures regarding and/or relating to conduct of police officers when engaging the public.
- 7) Copies of any and all Howell Police Department policies and/or procedures regarding and/or relating to the requirement of police officers to identify themselves to the public when requested.
- 8) Any and all releaseable records concerning Howell Police Officer Dan Davison #674's police academy attendance and academic performance.

9) Howell Police Officer Dan Davison #674 date of hire.

10) Any and all field training records of Howell Police Officer Dan Davison #674.

11) Any and all Howell Police Department training records regarding and/or relating to the Constitutional Rights of the public.

12) Any document naming the Howell Township Attorney.

13) Any document naming Howell Police Officer Dan Davison's "Police Misconduct Insurance" policy carrier.

14) Any and all documents and interoffice communications generated concerning the fulfillment of this OPRA request, including but not limited to reports, emails, memos, notes, phone calls, etc.

Ironbound Media, NJ
Police Officer Accountability Department

Please use this UNIQUE email address for all replies to this request and no other:

opra+request-2353-a08df36f@requests.opramachine.com

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View this OPRA request & responses online:

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

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

3. Contents of any department record or report filed in the police department shall not be exhibited or divulged to any person other than a duly authorized person, except on approval of the Chief of Police, or under due process of law, or as permitted under department regulations.
4. Employees shall not release or expose any employee's home address, home telephone, pager number, or personal information to a non-employee without the express permission of the Chief of Police.

3:6. PUBLIC ACTIVITIES

3:6.1 Conduct Toward the Public

Employees shall be courteous in their dealings with the public. They shall perform their duties, avoiding harsh, violent, profane or insolent language and shall remain calm regardless of provocation. Upon request, they are required to supply their names, photo identification and badge numbers in a courteous manner. They shall attend to all reasonable requests from the public quickly and accurately, avoiding unnecessary referral to other parts of the department.

3:6.2 Impartial Attitude

All employees must remain completely impartial toward all persons coming to the attention of the department. Violations of the law are against the people of the state and not against the individual officer. All citizens are guaranteed equal protection under law. Exhibiting partiality for or against a person because of race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, disability, atypical hereditary cellular or blood trait, genetic information, nationality, pregnancy or other protected class (**NJSA 10:5-1 et seq.**) is conduct unbecoming a public employee. Similarly, unwarranted interference in the private business of others when not in the interests of justice is conduct unbecoming a public employee.

3:6.3 Disparaging Nationality, Race, or Creed or Protected Class

Courtesy and civility toward the public is required of all employees of the department. Employees shall not use words which humiliate, disparage, demean, degrade, ridicule, or insult a person because of their race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, disability, atypical hereditary cellular or blood trait, genetic information, nationality, pregnancy or other protected class (**NJSA 10:5-1 et seq.**).

3:6.4 Public Statements

Employees of the department shall not make public statements concerning the work, plans, policies, or affairs of the department, which may impair or disrupt the operation of the department or which are obscene, unlawful or defamatory except for those permitted by law.

3:6.5 Subversive Organizations

No employee shall be a member of or connected with any subversive organization except when necessary in the performance of duty and then only under the direction of the Chief of Police. A subversive organization is an organization with the purpose for revolutionary and rebellious acts against a government entity.

- F. A frisk is an external feeling of the outer garments of an individual for weapons only; see search and seizure general order.
- G. The following guidelines should be followed when conducting a field interview.
1. Notify communications of the stop.
 2. When approaching the person, personnel should clearly identify themselves as police officers; if not in uniform, by announcing their identity and displaying agency badge and identification.
 3. Personnel should not stand directly in front of a subject. Instead, personnel should stand at an angle to the subject with their strong side (sidearm side) away from the subject(s), unless impracticable.
 4. Personnel should announce the purpose of the inquiry and begin with exploratory questions regarding the subjects' identity.
 - a. To verify information obtained from the subject, it may be necessary to remove them from within earshot of any radio or telephone conversation.
 - b. Under some circumstances, the subject may be placed into the rear seat of a police vehicle, when applicable. (Examples: heavy traffic, extreme weather, hostile crowd gathering, etc.)
 5. Personnel should be courteous at all times during the contact; but, must remain cognizant and alert to any suspicious movements that may indicate that the person being detained is attempting to gain access to a weapon, conceal or discard contraband, or other articulable suspicious actions.
 6. Before approaching more than one person, personnel should determine whether the circumstances justify a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
 7. Personnel should confine their questions to those necessary to resolve their suspicions. However, personnel shall not detain persons longer than is reasonably necessary to make these limited inquiries.
 8. Personnel are not required to give suspects Miranda warnings unless the person is in custody and about to be interrogated.
 9. Persons are not required nor can they be compelled to answer any questions posed during field interviews. Failure to respond to an officer's inquiries is not, in and of itself, sufficient grounds to make an arrest although it may provide justification for additional observation and investigation.
 10. Personnel should conduct the necessary warrant/records checks for stopped persons and act upon positive hits as appropriate.

- H. Field interviews resulting from an investigative detention shall be documented on a field intelligence report or on the report of the precipitating event/investigation, if applicable.

IV. INTERROGATIONS

- A. Persons being subjected to custodial interrogation shall be advised of their constitutional rights (Miranda warnings). An individual is considered in custody for Miranda purposes when the circumstances convey to them that they are not free to leave. Whenever there is doubt about custody, the Miranda warnings should be given.
- B. Unless impracticable, warnings should be given using a Miranda Rights Form. Personnel should read the warning statements directly from the form to avoid confusion and/or omissions. The subject, the advising personnel, and whenever possible, a witness should then sign the form where indicated. Further:
 - 1. Miranda Waiver Forms are available in both English and Spanish. Use the appropriate form where indicated.
 - 2. When electronically recording statements, ensure that the Miranda Warnings are memorialized on the medium used.
- C. Miranda waivers must be knowingly, intelligently, and voluntarily given. Investigators should clarify ambiguous responses when necessary to differentiate between the person's right to counsel and the right to silence.
- D. The custodial interview or interrogation of a juvenile requires a specific level of advisement to guarantee the rights of the juvenile and the rights of the parent.
 - 1. The state has the burden of establishing that the juvenile's will was not overborne and that the confession was the product of a free choice.
 - 2. Whenever possible and especially in the case of juveniles under the age of 14, no juvenile should be interviewed except in the presence of his/her parents or guardian.
 - 3. At no time may the police refuse to allow a parent or guardian the opportunity to speak to the juvenile while he/she is in police custody.
 - 4. Police may interrogate a juvenile without the parents or guardians present only if the juvenile has withheld their names and addresses, a good faith effort to locate them is unsuccessful, or they simply refuse to attend the interrogation.
 - 5. When a juvenile is under the age of 14, an adult's absence will render the statement inadmissible as a matter of law unless the parent or guardian is truly unavailable.
 - 6. All attempts to notify a parent/guardian/custodian shall be memorialized in the investigation report.