

January 21, 2015

Board of Selectmen
Town of Warren
PO Box 609
Warren, MA 01083-0609

RE: Official Massachusetts "PUBLIC RECORDS REQUEST"

Dear Lorena:

This is a formal written request under the provisions of Massachusetts General Laws (MGL) Chapter 66; Section 10, it is requested you provide a copy of the following record(s) be released to my custody within ten (10) calendar days to comply with Massachusetts State law:

Date of Incident/Time frame: January 1, 2013 to present day, January 21, 2015.

SEEKING THE FOLLOWING TOWN OF WARREN OWNED PUBLIC RECORDS:

1. Any and all correspondences in possession of the Town (i.e. US Mail, fax and Town owned e-mails to/from anyone), including any & all paper documents on file **for**:

a) Mark Chase has been/is employed by the Town of Warren. Seeking photocopies of documents/letter(s) that was submitted to the Town (i.e. Board of Selectmen) changing his employment status to "injured on duty". I'm assuming the purpose of these document(s) was to officially notify the Town that he was injured while employed by the Town and it either came from Mr. Mark Chase, Chief Bruce D. Spiewakowski, or from another source." and is dated between January 1, 2013 to present day, Wednesday, January 21, 2015.

Once you have my request compiled, including photocopied, please call me at (877) 267-7291 [REDACTED] or {preferred} e-mail "[REDACTED]" so that I can arrange a time to pick up the documents and respectfully pay for them.

I also certify the content in this document are true statements and correct to the best of my ability in stating the facts for this formal request.

Respectfully Submitted,



Michael J. Baril
P.O. Box 542
Warren, MA 01083-0542

Delivery by: Hand delivered to Board of Selectmen's office on Wednesday, 1/21/15

BOS
R. 1-21-15
A



BOARD OF SELECTMEN
CHARLES E. SHEPARD MUNICIPAL BUILDING



48 High St. • P.O. Box 609 • Warren, MA 01083-0609 • Tel. 413-436-5701 • Fax 413-436-9754

February 9, 2015

Mr. Michael J. Baril
P.O. Box 542
Warren, MA 01083-0542

Dear Mr. Baril:

I received your public records request dated January 21, 2015 seeking records to the employment status of Mark Chase. On February 3, 2015, when you stopped by the Selectmen's office I informed you that that through inadvertence; I had misplaced the request. I further informed you that the request was located and I would proceed with compiling the documents sought in your request and would contact you when available. You were in agreement and confirmed to me to reach you at the phone number provided on the request.

I regret the delay, but wished to communicate that your request is being addressed at this time.

Very truly yours,

Lorena Prokop
Administrative Secretary



Public Records Request of 1-21-15

3 messages

Warren Selectmen <warrenselectmen@comcast.net>

Tue, Feb 10, 2015 at 10:43 AM

To:

Hi Michael,

Unfortunately things have been tossed upside down with the snow storms. I have attached hereto a formal response to your request.

Thanks -

Lorena

Lorena Prokop

Administrative Secretary

Town of Warren

48 High Street, Box 609

Warren, MA 01083-0609

Tel: 413.436.5701 x 2

Fax: 413.436-9583


warrenselectmen@comcast.net

This electronic message is confidential and intended for the named recipient only.
Any dissemination, disclosure or distribution of the contents of this communication is unlawful and prohibited. If you have received this message in error, please contact me by return e-mail or telephone (413-436-5701 x 2) and delete the copy you received.

Thank you.

 **Baril PRR 012115 re Chase - resp.pdf**
37K


Tue, Feb 10, 2015 at 12:20 PM


To: Warren Selectmen <warrenselectmen@comcast.net>

I was just looking for the documents that someone turned in to the BOS to state that Mr Chase was injured or whatever. I was told part of that was a letter from Chief Spiewakowski inform town payroll to "toggle" his status to "injured on duty". So I'm looking the letter and documents police as well as any other documents.

Mike B

Thu, Feb 19, 2015 at 9:26 PM


To: Warren Selectmen <warrenselectmen@comcast.net>

Hi Lorena:

I wanted to follow up and see if you have the records yet on Mark Chase. That is what I was looking to ask you at the conclusion of the STM tonight.

Thanks,
Mike Baril

February 9, 2015

Mr. Michael J. Baril
P.O. Box 542
Warren, MA 01083-0542

Dear Mr. Baril:

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Very truly yours,

Lorena Prokop
Administrative Secretary



KOPELMAN AND PAIGE, P.C.
The Leader in Public Sector Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

February 20, 2015



Brian W. Riley
briley@k-plaw.com

Mr. Michael J. Baril
P.O. Box 542
Warren, MA 01083-0542

Re: Public Records Request dated January 21, 2015

Dear Mr. Baril:

Please be advised that this office serves as Town Counsel to the Town of Warren and I am responding to your records request dated January 21, 2015, a copy of which I have enclosed for reference. Please be further advised that while the Town does have records responsive to your request, these records are exempt from disclosure and the Town is declining to provide access to or copies of said records.

You request copies of documents concerning the employment status of Town employee Mark Chase. To the extent that the Town has such records, they are exempt from disclosure as falling within one or more of the following exemption categories: (a) personnel files or information, (b) medical files or information, and/or (d) attorney-client privileged.

Exemption (c) – G.L. c.4, §7(26)(c)

Exemption (c) of the Public Records Law permits a custodian to withhold records that constitute:

Personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy. G.L. c.4, §7, cl.26(c)

Thus, records constituting “personnel” records, i.e., information with regard to a particular candidate or employee that would be “useful in making employment decisions,” may be withheld as “personnel information” under the first clause of exemption (c) of the Public Records Law. Wakefield Teachers Association v. School Committee of Wakefield, 431 Mass. 792, 798 (2000). Similarly, medical information regarding a particular individual is absolutely exempt from disclosure under the first clause of exemption (c) and will be withheld.

In Wakefield, the Court discussed exemption (c) at length and reiterated that the legislative placement of the semi-colon ensured that records falling within the first clause of exemption (c) (“personnel and medical files or information”) were not subject to the language of the modifying clause (“the disclosure of which may constitute an unwarranted invasion of personal privacy”)! Wakefield, 431 Mass. at 797; see also, Globe Newspaper Co., 388 Mass. at 438 (records that clearly

Mr. Michael J. Baril
February 20, 2015
Page 2

referenced the medical condition of a specifically named individual, were held to be absolutely exempt from disclosure pursuant to the first clause of exemption (c)). Thus, pursuant to the above case law, information falling within the scope of the first clause of exemption (c) as "personnel and medical files or information" is absolutely exempt from disclosure. Globe Newspaper Co., 388 Mass. at 438; see also Brogan, 401 Mass. at 308. This exemption applies to essentially all of the records you requested and, therefore, they will not be produced.

The Board of Selectmen conducted an executive session regarding this matter, but such records are also exempt pursuant to exemption (c) as discussed above. The Open Meeting Law, G.L. c.30A, §22(f), provides that all executive session records are exempt from disclosure in their entirety "as long as publication may defeat the lawful purposes of the executive session." Where the session records consist of personnel or medical information, however, they are exempt from disclosure.

Finally, you are advised that there is a responsive record consisting of exchanges between Town officials and this office. Such communications were made and delivered in confidence, however, and are absolutely exempt from disclosure pursuant to the attorney-client privilege. Suffolk Construction Co. v. Division of Capital Asset Management, 449 Mass. 444 (2007).

Pursuant to 950 CMR 32.08, you may appeal this response to the Supervisor of Public Records within 90 days.

Very truly yours,



Brian W. Riley

BWR/bp

Enc.

cc: Board of Selectmen

515820/WARN/0001

January 21, 2015

Board of Selectmen
Town of Warren
PO Box 609
Warren, MA 01083-0609

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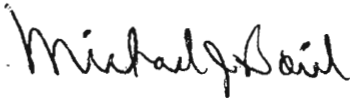
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I also certify the content in this document are true statements and correct to the best of my ability in stating the facts for this formal request.

Respectfully Submitted,



Michael J. Baril
P.O. Box 542
Warren, MA 01083-0542

Delivery by: Hand delivered to Board of Selectmen's office on Wednesday, 1/21/15

BOS
RECEIVED
1-21-15
11:53AM



KOPELMAN AND PAIGE, P.C.

101 Arch Street
Boston, MA 02110

BOSTON

MA 021

20 FEB '15

PM 4 L

RECEIVED
Mon, 2/23/15



Mr. Michael J. Baril
P. O. Box 542
Warren, MA 01083-0542

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02/20/2015

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