

**From:** Derek Brouwer <[derek@sevendaysvt.com](mailto:derek@sevendaysvt.com)>  
**Sent:** Tuesday, April 13, 2021 4:45 PM  
**To:** Clark, Charity <[Charity.Clark@vermont.gov](mailto:Charity.Clark@vermont.gov)>  
**Subject:** Fwd: 2020-10-16 Waszak Response to Brouwer.pdf

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Hi Charity,

I'd like to resubmit my records request from October 13, 2020 (see attached response) in light of the fact that two other investigations involving Mark Schwartz have been closed with a decision not to prosecute.

Best,  
Derek

**THOMAS J. DONOVAN, JR.**  
ATTORNEY GENERAL

**JOSHUA R. DIAMOND**  
DEPUTY ATTORNEY GENERAL

**SARAH E.B. LONDON**  
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 828-3171

<http://www.ago.vermont.gov>

**STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001**

October 16, 2020

Derek Brouwer  
c/o Seven Days  
P.O. Box 1164  
Burlington, VT 05401  
By Electronic Mail: [derek@sevendaysvt.com](mailto:derek@sevendaysvt.com)

Re: Public Records Request of October 13, 2020

Dear Mr. Brouwer:

I was forwarded a Public Records Act request from you wherein you state:

“I request access to and digital copies of case files reviewed by the Vermont Attorney General’s office related to former St. Albans police officer Mark Schwartz, including, but not limited to, matter opening forms, indices, case summaries and findings, police reports and use of force reports.”

My understanding is that you were made aware that use of force incidents involving the named individual are currently under investigation and review by the Office of the Attorney General. Therefore, at this time, the requested “case files” are not available for inspection or disclosure pursuant to the following statutory exemptions:

- 1 V.S.A. § 317(c)(3) - Records which, if made public pursuant to the PRA, would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State. Please see Rules 1.1 (Competence), 1.6 (Confidentiality of Information), 3.6 (Trial Publicity), and 3.8 (Special Responsibilities of a Prosecutor) of the Vermont Rules of Professional Conduct.
- 1 V.S.A. § 317(c)(4) - Records which, if made public pursuant to the PRA, would cause the custodian to violate any statutory or common law privilege other than the common law

deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the State of Vermont. Please see Rule 502 (Lawyer-Client Privilege) and Rule 510 (Waiver of Privilege and Work-Product by Disclosure) of the Vermont Rules of Evidence. Please see Rule 26(b)(4)-(6) of the Vermont Civil Rules of Procedure and Rule 16(d)(1) of the Vermont Rules of Criminal Procedure (Attorney Work-Product Privilege/Doctrine).

- 1 V.S.A. § 317(c)(5)(A)(i) - Records dealing with the detection and investigation of crime that could reasonably be expected to interfere with enforcement proceedings.
- 1 V.S.A. § 317(c)(5)(A)(ii) - Records dealing with the detection and investigation of crime that would deprive a person of a right to a fair trial or an impartial adjudication.
- 1 V.S.A. § 317(c)(5)(A)(iii) - Records dealing with the detection and investigation of crime that could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- 1 V.S.A. § 317(c)(5)(D) - Records dealing with the detection and investigation of crime that could reveal information that could be used to facilitate the commission of a crime or the identity of a private individual who is a witness to or victim of a crime.
- 1 V.S.A. § 317(c)(14) - Records which are relevant to litigation to which the public agency is a party of record.
- 1 V.S.A. § 317(c)(24) - Records of, or internal materials prepared for, the deliberations of any public agency acting in a judicial or quasi-judicial capacity. (Deliberative process records for a prosecutorial agency acting in a quasi-judicial capacity in the exercise of prosecutorial discretion.)

To the extent you feel records have been wrongfully withheld, you may appeal to Deputy Attorney General Joshua Diamond.

Sincerely,

/s/ John D.G. Waszak  
John D.G. Waszak  
Assistant Attorney General

Electronically Transmitted