

LAW OFFICES

**STORINO, RAMELLO & DURKIN**

9501 WEST DEVON AVENUE  
ROSEMONT, ILLINOIS 60018

(847) 318-9500

FACSIMILE (847) 318-9509

January 22, 2013  
Via Electronic Mail

MICHAEL R. DURKIN  
THOMAS J. HALLERAN  
ERIN C. MORIARTY

JOSEPH G. KUSPER  
MARK R. STEPHENS  
BRYAN J. BERRY  
ANN M. WILLIAMS  
LEONARD P. DIORIO  
RICHARD F. PELLEGRINO  
DONALD J. STORINO II

OF COUNSEL

IN REPLY REFER TO FILE NO.

EP-1

DONALD J. STORINO  
MICHAEL K. DURKIN  
RICHARD J. RAMELLO  
NICHOLAS S. PEPPERS  
THOMAS M. BASTIAN  
ANGELO F. DEL MARTO  
JAMES E. MACHOLL  
BRIAN W. BAUGH  
ANTHONY J. CASALE  
ANDREW Y. ACKER  
PETER A. PACIONE  
MELISSA A. MIROBALLI  
MATTHEW G. HOLMES  
KATHLEEN M. FELDNER

Mr. Scott McWilliams  
[scottmew@hush.com](mailto:scottmew@hush.com)

**Re: Freedom of Information Act Request**


Dear Mr. McWilliams:

The Village of Elmwood Park is in receipt of your Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) (hereinafter referred to as "FOIA") request, received by the Village of Elmwood Park on January 14, 2013, for the following:

[C]opies of all citizen complaints/grievances – both formal and informal – filed with the Village of Elmwood Park Police Department between 1 July 2012 and 31 December 2012.

Please be advised that pursuant to Section 3(e)(v) of the FOIA, the Village of Elmwood Park requires an additional five (5) business days to respond to your request because "the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions." A response to your FOIA request will be made on January 29, 2013.

Very truly yours,

  
Erin C. Moriarty  
One of the attorneys for  
the Village of Elmwood Park

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January 29, 2013

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[scottmew@hush.com](mailto:scottmew@hush.com)

EP-1

*Re: Freedom of Information Act Request*

Dear Mr. McWilliams:

The Village of Elmwood Park is in receipt of your Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) (hereinafter referred to as "FOIA") request, received by the Village of Elmwood Park on January 14, 2013, for the following:

[C]opies of all citizen complaints/grievances – both formal and informal – filed with the Village of Elmwood Park Police Department between 1 July 2012 and 31 December 2012.

Enclosed please find documents responsive to your request. However, please be advised that certain information in the records being provided has been determined to be exempt from disclosure under the FOIA, and that information has been redacted from the records being provided.

Section 7(1)(b) of the FOIA provides that "private information" is exempt from disclosure. "Private information" is defined in the FOIA as, "unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/2(c-5). Consequently, certain unique identifiers, including employee identification numbers, home or personal telephone numbers, home addresses, and personal license plates, have been redacted from the records being provided.

**STORINO, RAMELLO & DURKIN**

Mr. Scott McWilliams

January 29, 2013

Page 2

Section 7(1)(c) of the FOIA provides that “[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy ...” is exempt from disclosure. Consequently, birthdates have been redacted from the records being provided.


Section 7(1)(d)(iv) of the FOIA provides that “[r]ecords in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes ...” are exempt from disclosure, “but only to the extent that disclosure would: ... unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies ...” Consequently, information that would reveal the identity of persons who have filed complaints with or who have provided information to the Village of Elmwood Park Police Department has been redacted from the records being provided.

The person responsible for the decision to deny a portion of your request is the Village of Elmwood Park Freedom of Information Officer, Elsie Sutter. In accordance with Section 9(a) of the FOIA, you are hereby notified that you have the right to file a request for review regarding the decision made by the Village of Elmwood Park Freedom of Information Officer with the Public Access Counselor at the Illinois Attorney General’s Office. You can file your request for review with the Public Access Counselor by writing to:

Sarah Pratt, Acting Public Access Counselor  
Office of the Attorney General  
500 South 2nd Street  
Springfield, Illinois 62706  
Phone: 312-814-5526  
Fax: 217-782-1396  
E-mail: [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

Also, you are notified that you have the right to judicial review regarding the decision made by the Village of Elmwood Park Freedom of Information Officer pursuant to Section 11 of the FOIA.

Very truly yours,

  
Erin C. Moriarty  
One of the attorneys for  
the Village of Elmwood Park

Enclosures

SUMMARY REPORT DIGEST

DATE OF REPORT

COMPLAINT REGISTER INVESTIGATION NO.: 2012-10-223

31 October 2012

VILLAGE OF ELMWOOD PARK POLICE DEPARTMENT

To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, or  
 in SUSTAINED cases where the Disciplinary Recommendation does not exceed FIVE (5) DAYS SUSPENSION.

SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.  
 SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

TO: CHIEF OF POLICE FRANK FAGIANO

FROM INVESTIGATOR'S NAME:  <b>HOCK, ANDREW J.</b>		RANK  D/C	STAR NO.  █	SOCIAL SEC. NO.  N/A	EMPLOYEE NO.  N/A	UNIT ASSIGN.  N/A	
ADDRESS OF INCIDENT <b>3000 Block N. 76<sup>th</sup> Court, Elmwood Park</b>			DATE OF INCIDENT - TIME <b>October 23, 2012 @ 1015 hours</b>		BEAT OF INCIDENT <b>Zone 1</b>	LOCATION CODE <b>N/A</b>	
NAME OF ACCUSED:  <b>1. MARINO, Donald</b>		RANK  Ptrlm.	STAR NO.  █	SOCIAL SEC. NO.  N/A	EMPLOYEE NO.  █	UNIT ASSIGN.  Patrol	
2.							
SEX/RACE <b>1. M/W</b>	D.O.B. <b>█</b>	DATE OF APPOINTMENT <b>01/06/1992</b>	DUTY STATUS (TIME OF INCIDENT)  <input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY		<input checked="" type="checkbox"/> SWORN  CIVILIAN	PHYS. COND. CODE  01	
2.			<input type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY		SWORN  CIVILIAN		
IF APPLICABLE - DATE ARRESTED/INDICTED		CHARGES	COURT BRANCH		DISPOSITION & DATE		
NAME OF COMPLAINANT:  █		ADDRESS**  █	CITY  █	STATE  █	TELEPHONE  █	SEX/RACE  M/W	D.O.B./AGE  █ 37 YOA
NAME OF WITNESS: <b>KMIECIK, Michael (Peace Officer)</b>		ADDRESS** <b>7420 W. Fullerton Avenue, Elmwood Park, IL</b>	CITY <b>IL</b>	STATE <b>IL</b>	TELEPHONE <b>708 453-2126</b>	SEX/RACE <b>M/W</b>	D.O.B./AGE <b>N/A</b>
NAME OF WITNESS: <b>HOCK, Andrew (Peace Officer)</b>		ADDRESS** <b>7420 W. Fullerton Avenue, Elmwood Park, IL</b>	CITY <b>IL</b>	STATE <b>IL</b>	TELEPHONE <b>708 453-2126</b>	SEX/RACE <b>M/W</b>	D.O.B./AGE <b>N/A</b>

**SUMMARY REPORT DIGEST**  
**REFERENCE C.R. 2012-10-223**  
**COMPLAINT REGISTER NUMBER: 2012-10-223**  
**PAGE-2-**

**ALLEGATIONS:**

Complaint #1:

On October 23, 2012, between the hours of 1015 and 1030, while on duty and in the Village of Elmwood Park, you are accused of violating Elmwood Park Police Department Rule 4.3.6 Obedience to Laws, Rules, Regulations, Policies, Procedures and Directives by issuing a local ordinance citation to [REDACTED], at or about the 3000 block N. 76<sup>th</sup> Court, Elmwood Park, Illinois, without probable cause.

Complaint #2:

On October 23, 2012, between the hours of 1015 and 1030, while on duty and in the Village of Elmwood Park, you are accused of violating Elmwood Park Police Department Rule 4.1.6 Courtesy to General Public by yelling at [REDACTED] without cause, at or about the 3000 block N. 76<sup>th</sup> Court, Elmwood PARK, Illinois.

C.R. No. 2012-10-223

**EVIDENCE ATTACHMENTS**

1. Summary Digest Complaint Registered Investigation
2. Notification of Charges/Allegations.
3. 31 OCT 2012, Deputy Chief Hock Interoffice Memorandum.
4. 26 Oct 2012, Cmdr. KMIECIK [REDACTED] Interoffice Memorandum.
5. 26 Oct 2012, Ofc. Marino Interoffice Memorandum.
6. 23 Oct 2012, Citizen Complaint from [REDACTED].
7. Elmwood Park Police Department Complaint #P2321593.
8. [REDACTED] Illinois Driver's License Image.
9. [REDACTED] Arrest profile.

**SUMMARY REPORT DIGEST**  
**REFERENCE C.R. 2012-10-226**  
**COMPLAINT REGISTER NUMBER: 2012-10-226**  
**PAGE-3-**

Chief Fagiano, on 31 Oct. 2012, you assigned me to conduct an internal investigation. The nature of the internal investigation is regarding incidents that involved on-duty Elmwood Park Police Officer Donald Marino on 23 Oct. 2012 between the approximate hours of 1015 and 1030 hours. I began by reviewing the Elmwood Park Police Complaint #P2321593, including all follow-up investigation reports, memorandums, and statements provided by the complainants, witnesses, and Donald Marino.

**CONCLUSION:**

On 23 OCT 2012, Officer Marino was on-duty performing his assigned duties. At approximately 1015 hours he observed a 2001 green Acura parked at the 3000 block N. 76<sup>th</sup> Court, (west side of the street), in violation of Elmwood Park Village Code 32-4, (Street Maintenance). Officer Marino completed Village Ordinance Citation #P2321593 and walked up to the vehicle to issue the ticket. Officer Marino saw [REDACTED] sitting in the driver's seat of the vehicle while talking on a cellular telephone. Officer Marino asked [REDACTED], "What are you doing?" [REDACTED] replied in a loud voice, "I'm picking up my son. Officer Marino advised [REDACTED] that he is improperly parked and handed him the parking citation.

**FINDINGS:**

1. Violation of Rule 4.3.6. Obedience to Laws, Rules, Regulations Policies, Procedures and Directives.  
**Unfounded**

2. Violation of Rule 4.1.6. Courtesy to the General Public.  
**Unfounded**

Based on all available information it is my recommendation that Officer Marino performed his duties within the legal limits of Illinois Law and the Rules, Regulations, Policies, Procedures, and Directives of the Elmwood Park Police Department.


**DATE INITIATED:**

31 OCT 2012

**DATE COMPLETED:**

01 NOV 2012

**INVESTIGATOR'S SIGNATURE**



SUMMARY REPORT DIGEST

DATE OF REPORT

COMPLAINT REGISTER INVESTIGATION NO.: 2012-11-2465

18 November 2012

VILLAGE OF ELMWOOD PARK POLICE DEPARTMENT

To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed FIVE (5) DAYS SUSPENSION.

SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.  
 SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

TO: CHIEF OF POLICE FRANK FAGIANO

FROM INVESTIGATOR'S NAME:  <b>HOCK, ANDREW J.</b>		RANK  D/C	STAR NO.  [REDACTED]	SOCIAL SEC. NO.  N/A	EMPLOYEE NO.  N/A	UNIT ASSIGN.  N/A		
ADDRESS OF INCIDENT <b>8000 Block W. Grand Avenue, River Grove</b>			DATE OF INCIDENT - TIME <b>November 10, 2012 @ 0226 hours</b>		BEAT OF INCIDENT <b>N/A</b>	LOCATION CODE <b>N/A</b>		
NAME OF ACCUSED:  <b>1. MARCHI, Jason</b>		RANK  Ptrlm.	STAR NO.  [REDACTED]	SOCIAL SEC. NO.  N/A	EMPLOYEE NO.  7483	UNIT ASSIGN.  Patrol		
2.								
SEX/RACE <b>1. M/W</b>	D.O.B. <b>[REDACTED]</b>	DATE OF APPOINTMENT <b>01/07/2008</b>		DUTY STATUS (TIME OF INCIDENT)		PHYS. COND. CODE		
				<input checked="" type="checkbox"/> ON DUTY	<input type="checkbox"/> OFF DUTY	<input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN		
2.				<input type="checkbox"/> ON DUTY	<input type="checkbox"/> OFF DUTY	<input type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN		
IF APPLICABLE - DATE ARRESTED/INDICTED <b>11/10/2012</b>		CHARGES <b>1). 720 ILCS 5.0/31-1-A / Resist PC OFF - A (2CTS) 2). 625 ILCS 5.0/11-501-A-2 / DUI - A 3). 625 ILCS 5.0/3-707 / NO INSURANCE 4). 625 ILCS 5.0/11-601-B / SPEEDING 5). 625 ILCS 5.0/6-116 / FAIL TO NOTIFY SOS 6). 625 ILCS 5.0/12-603.1 / DVR. SEATBELT</b>			COURT BRANCH <b>MAYBROOK 4<sup>TH</sup> DISTRICT</b>	DISPOSITION & DATE		
NAME OF COMPLAINANT: <b>[REDACTED]</b>		ADDRESS** <b>[REDACTED]</b>	CITY <b>[REDACTED]</b>	STATE <b>[REDACTED]</b>	TELEPHONE <b>[REDACTED]</b>	SEX/RACE <b>M/H</b>	D.O.B./AGE <b>[REDACTED] 31 YOA</b>	PHYS. COND. CODE <b>01</b>
NAME OF WITNESS: <b>LOGISZ, Robert (Peace Officer)</b>		ADDRESS** <b>7420 W. Fullerton Avenue, Elmwood Park, IL</b>	CITY <b>[REDACTED]</b>	STATE <b>[REDACTED]</b>	TELEPHONE <b>708 453-2126</b>	SEX/RACE <b>M/W</b>	D.O.B./AGE <b>N/A</b>	PHYS. COND. <b>[REDACTED]</b>
<b>DYKAS, Thomas (Aux. Peace Off.)</b>		<b>7420 W. Fullerton Avenue, Elmwood Park, IL</b>	<b>[REDACTED]</b>	<b>[REDACTED]</b>	<b>708 453-2126</b>	<b>M/W</b>	<b>N/A</b>	<b>[REDACTED]</b>
NAME OF WITNESS: <b>BUSCH, David (Peace Officer)</b>		ADDRESS** <b>7420 W. Fullerton Avenue, Elmwood Park, IL</b>	CITY <b>[REDACTED]</b>	STATE <b>[REDACTED]</b>	TELEPHONE <b>708 453-2126</b>	SEX/RACE <b>M/W</b>	D.O.B./AGE <b>N/A</b>	PHYS. COND. <b>[REDACTED]</b>
<b>HOCK, Andrew (Peace Officer)</b>		<b>7420 W. Fullerton Avenue, Elmwood Park, IL</b>	<b>[REDACTED]</b>	<b>[REDACTED]</b>	<b>708 453-2126</b>	<b>M/W</b>	<b>N/A</b>	<b>[REDACTED]</b>

**ATTACHMENT 1**

**SUMMARY REPORT DIGEST  
REFERENCE C.R. 2012-11-2465  
COMPLAINT REGISTER NUMBER: 2012-11-2465  
PAGE-2-**

**ALLEGATIONS:**

Complaint #1:

On November 10, 2012, at approximately 0226 hours, while on duty and in the Village of Elmwood Park or its close proximity, you are accused of using profanity and excessive force while making a lawful arrest of [REDACTED] at or about the 8000 block W. Grand Avenue, (Elmwood Park Police Department Incident Number 12-11174).

C.R. No. 2012-11-2465

**EVIDENCE ATTACHMENTS**

1. Summary Digest Complaint Registered Investigation
2. Notification of Charges/Allegations.
3. 12 Nov 2012, Ofc. Jason MARCHI Interoffice Memorandum.
4. 13 Nov 2012, Cmdr. BUSCH [REDACTED] Interoffice Memorandum.
5. 13 Nov 2012, PPO. Robert LOGISZ # [REDACTED] Interoffice Memorandum.
6. 10 Nov 2012, Citizen Complaint from [REDACTED].
7. Elmwood Park Police Department Complaint #12-11174.
8. [REDACTED] Illinois Driver's License Image.
9. [REDACTED] Arrest profile.



**SUMMARY REPORT DIGEST**  
**REFERENCE C.R. 2012-11-2465**  
**COMPLAINT REGISTER NUMBER: 2012-11-2465**  
**PAGE-3-**

Chief Fagiano, on 14 Nov. 2012, you assigned me to conduct an internal investigation. The nature of the internal investigation is regarding incidents that involved on-duty Elmwood Park Police Officer Jason MARCHI on 10 Nov. 2012 between the approximate hours of 0227 and 1100 hours. I began by reviewing the Elmwood Park Police Complaint #12-11174, including all follow-up investigation reports, memorandums, and statements provided by the complainants, witnesses, and electronic communications and video devices.

**CONCLUSION:**

On 10 NOV 2012, Officer Marchi was on-duty performing his assigned duties. At approximately 0227 hours he observed a green vehicle, (Illinois Registration # [REDACTED]), traveling at a high rate of speed, (58mph in a 30mph speed zone. Marchi stopped the vehicle and spoke to the driver [REDACTED] appeared to be under the influence of alcohol. Officer MARCHI performed field sobriety tests on [REDACTED] which he failed. Officer Marino arrested [REDACTED] for DUI. As [REDACTED] was placed in handcuffs he began to resist. Officer MARCHI used reasonable force, (approximately three to four knee strikes) in order for [REDACTED] to comply. Officer MARCHI was in compliance with Elmwood Park Police Department general order # 91-12-017 titled Use of Force.

**FINDINGS:**

1. Violation of Rule 4.3.6. Obedience to Laws, Rules, Regulations Policies, Procedures and Directives.

**Unfounded**

2. Violation of Rule 4.1.6. Courtesy to the General Public.

**Unfounded**

Based on all available information it is my recommendation that Officer Marchi performed his duties within the legal limits of Illinois Law and the Rules, Regulations, Policies, Procedures, and Directives of the Elmwood Park Police Department.

**DATE INITIATED:**

14 NOV 2012

**DATE COMPLETED:**

18 NOV 2012

**INVESTIGATOR'S SIGNATURE**

