



State of New Jersey

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JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

June 25, 2024 Government Records Council Meeting

John Bellocchio
Complainant

Complaint No. 2022-60

v.

Middlesex County Prosecutor's Office
Custodian of Record

At the June 25, 2024 public meeting, the Government Records Council ("Council") considered the June 18, 2024 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that the Complainant's OPRA request seeking "any and all" criminal "records" is invalid under prevailing case law. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015). Thus, the Custodian lawfully denied access to the request. N.J.S.A. 47:1A-6.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk's Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the
Government Records Council
On The 25th Day of June 2024

Robin Berg Tabakin, Esq., Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: June 27, 2024



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
June 25, 2024 Council Meeting**

**John Bellocchio¹
Complainant**

GRC Complaint No. 2022-60

v.

**Middlesex County Prosecutor's Office²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of:

“[A]ny and all records, redacted where necessary, in the possession of the Middlesex County Prosecutor's Office (“MCPO”) related to crimes committed at the former Middlesex County General Hospital from 1958-1986, prior to the hospital being designated Robert Wood Johnson University Medical Center.

[A]ll investigatory records, interviews with witnesses, and records of charges filed against any individual who committed a crime under the laws of the State of New Jersey in that time period.”

Custodian of Record: Connor J. E. Ouellette, Esq.

Request Received by Custodian: March 14, 2022

Response Made by Custodian: March 15, 2022

GRC Complaint Received: March 16, 2022

Background³

Request and Response:

On March 13, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On March 15, 2022, the Custodian responded in writing stating that the request sought a variety of unidentified records over a twenty-eight (28) year period without identifying any specific criminal matters. The Custodian stated that when the request fails to specifically identify government records, it is not “encompassed” by OPRA, citing N.J. Builders Ass’n v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 172 (App. Div. 2007).

¹ No legal representation listed on record.

² No legal representation listed on record.

³ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

The Custodian further stated that he was not required to conduct research on behalf of a requestor, citing Donato v. Twp. of Union, GRC Complaint No. 2005-182 (February 2007). The Custodian added that a custodian was not required to identify and siphon useful information on the requestor's behalf, and to collate, analyze, or compile data, citing MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 548-49 (App. Div. 2005). The Custodian stated that processing the request required searching for records that may have been retained over a twenty-eight (28) year period and reviewing each document to determine whether it was responsive to the Complainant's request. The Custodian thus denied the Complainant's request as vague, broad, and complex, and would also require research.

Denial of Access Complaint:

On May 16, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant did not elaborate on the circumstances surrounding his request beyond stating he was denied access by the MCPO.

Statement of Information:

On April 20, 2022, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that he received the Complainant's OPRA request on March 14, 2022. The Custodian certified that he responded in writing on March 15, 2022, denying the request as invalid.

The Custodian asserted that investigatory records and witness interviews are exempt from disclosure as criminal investigatory records. See N.J.S.A. 47:1A-1.1; Kovalcik v. Somerset Cnty. Prosecutor's Office, 206 N.J. 581, 591 (2011); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 38-39 (App. Div. 2005). The Custodian further asserted that the exemption applied to all investigations, "resolved and unresolved," and without reference to the status of the investigation. Janezko v. Div. of Criminal Justice, GRC Complaint Nos. 2002-79 *et seq.* (June 2004).

The Custodian further reiterated his initial response to the Complainant, that the request was invalid and required him to conduct research to process, which he was not obligated to perform under OPRA. See MAG, 375 N.J. Super. 534.

Analysis

Validity of Request

The New Jersey Appellate Division has held that:

While OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records "readily accessible for inspection, copying, or examination."* N.J.S.A. 47:1A-1.

[MAG, 375 N.J. Super. at 546 (emphasis added).]

The court reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (emphasis added).]

The court further held that “[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt . . . In short, OPRA does not countenance open-ended searches of an agency's files.” Id. (emphasis added). Bent, 381 N.J. Super. at 37;⁴ N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (Interim Order dated December 19, 2007).

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all,” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato, GRC 2005-182. The second is those requests seeking information or asking questions. See e.g. Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See e.g. Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. See also Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 *et seq.* (Final Decision dated April 25, 2012) (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request) Id. at 12-13.

⁴ Affirmed on appeal regarding Bent v. Stafford Police Dep’t, GRC Complaint No. 2004-78 (October 2004).

Moreover, in Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008), the Council similarly held that a request seeking “[a]ny and all documents and evidence” relating to an investigation being conducted by the Somerset County Prosecutor’s Office was invalid, reasoning that:

[B]ecause the records requested comprise an entire SCPO file, the request is overbroad and of the nature of a blanket request for a class of various documents rather than a request for specific government records. Because OPRA does not require custodians to research files to discern which records may be responsive to a request, the Custodian had no legal duty to research the SCPO files to locate records potentially responsive to the Complainant’s request pursuant to the Superior Court’s decisions in [MAG], [Bent] and the Council’s decisions in Asarnow v. Department of Labor and Workforce Development, GRC Complaint No. 2006-24 (May 2006) and Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (February 2008).

[Id. See also Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015) (holding that the portion of the request seeking “all documents” was overly broad and thus invalid).]

In the matter before the Council, the Complainant’s OPRA request sought “any and all” “records” of crimes committed at a hospital during a more than 20-year period, as well as accompanying investigatory “records” of those crimes. The Custodian responded to the March 14, 2022 OPRA request stating that the request was vague and did not specifically identify government records. The Custodian subsequently reiterated in the SOI that the Complainant’s request was invalid, but also that a request for criminal records were exempt, nonetheless.

Regarding requests seeking “records,” the GRC has routinely held that such a term is generic and fails to identify a specific type of record. As was the case in Schulz, the Complainant’s request items were invalid since the request failed to specifically identify the type of criminal record desired and provided only the location of the crime and a date range for the Custodian. Processing the request would require the Custodian to research MCPO’s criminal files to determine whether a criminal incident took place at the hospital at an extensive period of time.

Accordingly, the Complainant’s OPRA request seeking “any and all” criminal “records” is invalid under prevailing case law. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; Feiler-Jampel, GRC 2007-190; Schulz, GRC 2014-390. Thus, the Custodian lawfully denied access to the request. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Complainant’s OPRA request seeking “any and all” criminal “records” is invalid under prevailing case law. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008);

Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015).
Thus, the Custodian lawfully denied access to the request. N.J.S.A. 47:1A-6.

Prepared By: Samuel A. Rosado
Staff Attorney

June 18, 2024