



State of New Jersey
GOVERNMENT RECORDS COUNCIL

101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E. CONSTABLE, III
Commissioner

FINAL DECISION

June 26, 2012 Government Records Council Meeting

John Groelly
Complainant

Complaint No. 2010-294

v.

New Jersey Department of Corrections
Custodian of Record

At the June 26, 2012 public meeting, the Government Records Council (“Council”) considered the June 19, 2012 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:

1. Pursuant to Spaulding v. Hudson County Register, GRC Complaint No. 2006- 157 (July 2007), the GRC will treat the Complainant’s September 15, 2010 letter as an OPRA request because the Custodian handled the Complainant’s September 15, 2010 letter as an OPRA request and because the Complainant availed himself of the Council’s adjudicatory process pursuant to N.J.S.A. 47:1A-6 by filing a Denial of Access Complaint with the GRC to challenge the Custodian’s denial of the requested records.
2. The medical, psychiatric and psychological reports requested by the Complainant are exempt from disclosure pursuant to N.J.S.A. 47:1A-9.a. and Executive Order No. 26, paragraph 4.b.1 (Governor McGreevey, 2002) as “information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation.” As such, the Custodian lawfully denied access to said records pursuant to N.J.S.A. 47:1A-6. See Hamilton v. NJ Department of Corrections, GRC Complaint No. 2007-196 (March 2008), Kamau v. NJ Department of Corrections, GRC Complaint No. 2004- 175 (February 2005), and Caban v. NJ Department of Corrections, GRC Complaint No. 2004-174 (March 2005).
3. Because the Complainant’s request failed to specify identifiable government records sought, the Complainant’s request is overly broad and is invalid under OPRA pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J.Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council of Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).



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 26th Day of June, 2012

Steven F. Ritardi, Esq., Acting Chair
Government Records Council

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

Denise Parkinson Vetti, Secretary
Government Records Council

Decision Distribution Date: June 27, 2012

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
June 26, 2012 Council Meeting**

**John Groelly¹
Complainant**

GRC Complaint No. 2010-294

v.

**New Jersey Department of Corrections²
Custodian of Records**

Records Relevant to Complaint: A complete copy of the Complainant's personnel record, including all medical, psychiatric and psychological reports therein.

Request Made: September 15, 2010

Response Made: September 21, 2010

Custodian: John Falvey

GRC Complaint Filed: November 16, 2010³

Background

September 15, 2010

Letter from the Complainant to the New Jersey Department of Corrections ("NJDOC"). The Complainant requests the records relevant to this complaint listed above.⁴

September 21, 2010

Letter from the Custodian to the Complainant. The Custodian responds in writing via letter to the Complainant's letter dated September 15, 2010 on the first (1st) business day following receipt of such request.⁵ The Custodian states that access to the personnel record is denied because the Complainant's request is overly broad and does not adequately identify a government record. The Custodian also states that OPRA only requires a response to a request for specific records, not a request for information and OPRA does not require the Custodian to create any record in order to respond to a request. The Custodian further states that pursuant to case law, a request is invalid where it requires a custodian to conduct research and correlate data from various records. *See MAG Entertainment v. Division of Alcohol Beverage Control*, 375 N.J. Super. 534 (App. Div. 2005). The Custodian additionally states that the Complainant's request for "medical, psychiatric and psychological reports" is also denied because copies of medical

¹ No legal representation listed on record.

² No legal representation listed on record.

³ The GRC received the Denial of Access Complaint on said date.

⁴ The Complainant does not reference OPRA in this letter.

⁵ The Custodian certifies in the SOI that the original Custodian received the Complainant's letter dated September 15, 2010 on September 20, 2010. The original Custodian handled the Complainant's letter dated September 15, 2010 as an OPRA request, although the Complainant did not invoke OPRA.

and/or mental health records are exempt from disclosure pursuant to Executive Order 26 (Governor McGreevey, 2002) (“EO 26”). Lastly, the Custodian states that the Complainant can request a copy of medical records by submitting an Inmate Request for Copies of Medical Records Form (MR-022) at the Complainant’s correctional facility.

November 16, 2010

Denial of Access Complaint filed with the Government Records Council (“GRC”) with the following attachments:

- Letter from the Complainant to NJDOC dated September 15, 2010
- Letter from the original Custodian to the Complainant dated September 21, 2010

The Complainant states that this request does not fall under the purview of OPRA. The Complainant also states that this is a personnel matter regarding access to his own personnel record.⁶ The Complainant further states that NJDOC should photocopy his file since he is incarcerated and has no other means of access. The Complainant states that he is willing to pay the copying costs for these records. The Complainant states that his request seeks medical, psychiatric and psychological reports contained within his personnel record and is not applicable to OPRA. The Complainant also states that the medical records he is seeking are not located in his inmate file but in his personnel file.

The Complainant agrees to mediate this complaint.

November 17, 2010

Offer of Mediation sent to the original Custodian.

November 18, 2010

The Custodian declines mediation.

November 23 2010

Request for the Statement of Information (“SOI”) sent to the Custodian.

December 2, 2010

E-mail from Custodian’s Counsel to the GRC. Counsel requests a five (5) business day extension to submit the SOI.

December 2, 2010

E-mail from the GRC to Custodian’s Counsel. The GRC grants the Custodian five (5) business day extension to complete the SOI. The GRC states that the SOI will be due on December 9, 2010.

December 9, 2010

E-mail from Custodian’s Counsel to the GRC. Counsel states that the SOI is due today. Counsel also states that upon further review of this complaint, it has been determined that mediation is the appropriate course. Counsel requests a new mediation agreement form for the Custodian’s signature.

⁶ It appears from the evidence of record that the Complainant is a former employee of NJDOC. John Groelly v. New Jersey Department of Corrections, 2010-294 – Findings and Recommendations of the Executive Director

December 9, 2010

E-mail from the GRC to Custodian's Counsel. The GRC attaches a new mediation agreement. The GRC requests that the Custodian sign the mediation agreement within five (5) business days.

December 13, 2010

Complaint is referred to mediation.

October 6, 2011

Complaint is referred back to the GRC for adjudication.

October 11, 2011

Request for the SOI sent to the Custodian.

October 18, 2011

E-mail from Ms. Wendy Myers, Custodian's Secretary ("Ms. Myers") to the GRC. Ms. Myers requests a five (5) business day extension for the Custodian to complete the SOI.

October 19, 2011

E-mail from the GRC to Ms. Myers. The GRC grants the Custodian a five (5) business day extension to complete the SOI. The GRC informs Ms. Myers that the SOI must be submitted by October 26, 2011.

October 21, 2011

Custodian's SOI with the following attachments:⁷

- Letter from the Complainant to NJDOC dated September 15, 2010
- Letter from the Custodian to the Complainant dated September 21, 2010.

The Custodian certifies that the records responsive to the request must be kept for three (3) years after termination of employment in accordance with the Records Destruction Schedule established and approved by New Jersey Department of State, Division of Archives and Records Management.⁸

The Custodian argues that the records responsive to the Complainant's request for medical, psychiatric and psychological reports are not disclosable pursuant to *N.J.A.C.* 10A:22-2.3(a)(4): "...the following records shall not be considered government records subject to public access pursuant to N.J.S.A. 47:1A-1... [a]ny information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation." The Custodian also argues that these records are not disclosable pursuant to *N.J.A.C.* 10A:22-2.7(d): "...copies of mental health records generated by professional mental health staff,

⁷ The Custodian also includes correspondence that occurred during the mediation process. Pursuant to the GRC regulations (*N.J.A.C.* 5:105-2.5(j)) and the Uniform Mediation Act (N.J.S.A. 2A:23C-1 et seq.), the GRC cannot consider any submissions of records or arguments made by either party during mediation.

⁸ The Custodian did not certify to the search undertaken to locate the records responsive.

such as evaluative or administrative assessment reports...shall not be provided to inmates without court order or consent protective agreement.”

The Custodian certifies that the Complainant filed this OPRA request prior to his appointment as Records Custodian. The Custodian also certifies that the NJDOC received the Complainant’s OPRA request on September 20, 2010 in which the Complainant requested “[a] complete copy of the Complainant’s personnel record, including all medical, psychiatric and psychological reports therein.” The Custodian also certifies that the original Custodian responded on September 21, 2010 denying him access to the records sought because the request was overly broad and did not adequately identify a government record sought. The Custodian further certifies that at the time of the Complainant’s request, the Complainant did not identify himself as a former NJDOC employee. The Custodian argues that since inmates do not have personnel files, the specificity of the Complainant’s OPRA request was not clear.

The Custodian certifies that the original Custodian denied the Complainant access to the requested medical, psychiatric and psychological reports pursuant to EO 26 (Governor McGreevey, 2002), which at the time of the Complainant’s OPRA request was still enforceable. The Custodian also certifies that on November 3, 2010, Executive Order 47 (Governor Christie, 2010) approved proposed regulation *N.J.A.C. 10A:22-2.3(a)(4)* which states that “...the following records shall not be considered government records subject to public access pursuant to [OPRA]: ... any information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation.” The Custodian further certifies that this regulation was later adopted on February 7, 2011. The Custodian argues that this portion of the Complainant’s request seeking medical, psychiatric and psychological reports was at that time and is still exempt from disclosure.

The Custodian certifies that the Complainant filed a Denial of Access Complaint in November 2010. The Custodian also certifies that at no time prior to the NJDOC’s receipt of the complaint did the Complainant identify himself as a “former employee” of the NJDOC. The Custodian further certifies that the NJDOC agreed to participate in mediation once this information became known and was confirmed.⁹

Analysis

Whether the Council will treat Complainant’s request for “a complete copy of the Complainant’s personnel record, including all medical, psychiatric and psychological reports therein” as an OPRA request?

“A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may...in lieu of filing an action in Superior Court, file a complaint with the Government Records Council.” N.J.S.A. 47:1A-6.

In the instant complaint, the Complainant argued in his Denial of Access Complaint that his request does not fall under the purview of OPRA. The Complainant

⁹ The Custodian makes additional certifications of what occurred during the mediation process. Pursuant to the GRC regulations *N.J.A.C. 5:105-2.5(j)* and the Uniform Mediation Act (N.J.S.A. 2A:23C-1 et seq.), the GRC cannot consider any submissions of records or arguments made by either party during mediation. John Groelly v. New Jersey Department of Corrections, 2010-294 – Findings and Recommendations of the Executive Director

stated that his request for medical, psychiatric and psychological reports contained within his personnel record is not applicable to OPRA, but rather a personnel matter. The Complainant sent a letter to the Custodian on September 15, 2010 requesting the records in the instant complaint, however, said letter did not reference OPRA, nor did the Complainant complete an OPRA request form. However, the Custodian responded to the Complainant's letter on September 21, 2010, and treated this matter as an OPRA request.

In Spaulding v. Hudson County Register, GRC Complaint No. 2006- 157 (July 2007), although the Complainant submitted an OPRA request that was not on the Register's official records request form, the Custodian made an attempt to fulfill the Complainant's request, yet subsequently argued in the SOI that the Complainant had not filed such request on an official OPRA request form. The GRC held that "the Custodian's *attempt to fulfill* said request results in the request being considered a *valid OPRA request* ..." (emphasis added); thus negating the Custodian's argument that the Complainant's OPRA request was invalid.

Although in the matter before the Council the Complainant's request was not submitted on an official OPRA request form and did not reference OPRA, the Custodian's response treated the request as one subject to OPRA and indeed referenced OPRA as well as caselaw interpreting OPRA. Furthermore, notwithstanding the Complainant's assertion that his request was not made pursuant to OPRA, the Complainant affirmatively availed himself of the GRC adjudicatory process when he filed a Denial of Access Complaint with the GRC after the Custodian's denial of access to the requested records. N.J.S.A. 47:1A-6.

Therefore, pursuant to Spaulding, supra, the GRC will treat the Complainant's September 15, 2010 letter as an OPRA request because the Custodian handled the Complainant's September 15, 2010 letter as an OPRA request and because the Complainant availed himself of the GRC adjudicatory process pursuant to N.J.S.A. 47:1A-6 by filing a Denial of Access Complaint with the GRC to challenge the Custodian's denial of the requested records.

Whether the requested records, "all medical, psychiatric and psychological reports," are subject to disclosure under OPRA?

OPRA provides that:

"...government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, *with certain exceptions*..." (Emphasis added.) N.J.S.A. 47:1A-1.

Additionally, OPRA defines a government record as:

"... any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been *made, maintained or*

kept on file ... or that has been received in the course of his or its official business ...” (Emphasis added.) N.J.S.A. 47:1A-1.1.

OPRA places the onus on the Custodian to prove that a denial of access is lawful. Specifically, OPRA states:

“...[t]he public agency shall have the burden of proving that the denial of access is authorized by law...” N.J.S.A. 47:1A-6.

OPRA further provides that:

“[t]he provisions of [OPRA], *shall not abrogate any exemption of a public record or government record from public access* heretofore made pursuant to [OPRA]; any other statute; resolution of either or both Houses of the Legislature; *regulation promulgated* under the authority of any statute or Executive Order of the Governor; *Executive Order of the Governor*; Rules of Court; any federal law; federal regulation; or federal order.” (Emphasis added.) N.J.S.A. 47:1A-9.a.

Paragraph 4 of EO 26, (Governor McGreevey 2002), provides in relevant part that:

“[t]he following records shall not be...subject to public access pursuant to [OPRA]...: Information relating to medical, psychiatric, or psychological history, diagnosis, treatment or evaluation.”

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request “with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

In the instant complaint, the Complainant requested “a complete copy of [his] personnel record, including all medical, psychiatric and psychological reports.” The Custodian timely responded to the Complainant’s OPRA request via letter stating that the request for “medical, psychiatric and psychological reports” was denied because copies of medical or mental health records are exempt from disclosure pursuant to EO 26 (Governor McGreevey, 2002). The Complainant asserted in his Denial of Access Complaint that his request for medical, psychiatric and psychological reports are within his personnel record and are not applicable to OPRA.

N.J.S.A. 47:1A-9.a provides that OPRA shall not abrogate any exemption of a government record made pursuant to an Executive Order of the Governor. EO 26 paragraph 4.b.1 (Governor McGreevey, 2002) specifically exempts “information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation” from public access under OPRA.

Additionally, in Hamilton v. NJ Department of Corrections, GRC Complaint No. 2007-196 (March 2008), the requestor sought access to records from the Medical Department regarding the implants in [Complainant's] gums. The Council stated that:

“[i]n Kamau v. NJ Department of Corrections, GRC Complaint No. 2004-175 (February 2005), the Complainant requested medical records relating to his treatment by Correctional Medical Services. The Council dismissed the complaint “on the basis that the records requested are not disclosable under N.J.S.A. 47:1A-9 pursuant to Executive Order 26 as they are medical records.” The Council reached a similar conclusion in Caban v. NJ Department of Corrections, GRC Complaint No. 2004-174 (March 2005).”

As such, the Council concluded in Hamilton, *supra*, that:

“[b]ecause the requested records relating to the Complainant's dental implants are medical records, the requested dental records are exempt from disclosure pursuant to N.J.S.A. 47:1A-9.a., Executive Order No. 26 (Governor McGreevey 2002), Kamau v. NJ Department of Corrections, GRC Complaint No. 2004-175 (February 2005), and Caban v. NJ Department of Corrections, GRC Complaint No. 2004-174 (March 2005). As such, the Custodian has borne the burden of proving a lawful denial of access to item # 1 of the Complainant's request pursuant to N.J.S.A. 47:1A-6.”

Like the complainant in Hamilton, *supra*, the Complainant in the instant complaint sought access to his own medical, psychiatric and psychological reports. Similar to the prior GRC decisions cited above, the requested reports are medical, psychiatric or psychological records that are exempt from disclosure.

Therefore, the medical, psychiatric and psychological reports requested by the Complainant are exempt from disclosure pursuant to N.J.S.A. 47:1A-9.a. and Executive Order No. 26, paragraph 4.b.1 (Governor McGreevey, 2002) as “information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation.” As such, the Custodian lawfully denied access to said records pursuant to N.J.S.A. 47:1A-6. See Hamilton, *supra*, Kamau, *supra*, and Caban, *supra*.

Whether the Complainant's request for “a complete copy of the Complainant's personnel record...” is valid under OPRA?

The Complainant's request for “a complete copy of the Complainant's personnel record...” is overly broad and fails to identify a specific government record, and it is therefore invalid under OPRA. The New Jersey Superior Court has held that “[w]hile 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.” (Emphasis added.) MAG Entertainment,

LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). As the court noted in invalidating MAG's request under OPRA:

"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.

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." (Emphasis added.) *Id.*

In addition, in Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005),¹⁰ the Superior Court references MAG in that the Court held that a requestor must specifically describe the document sought because OPRA operates to make identifiable government records "accessible." "As such, a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents."¹¹

Moreover, in New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007), the court enumerated the responsibilities of a custodian and a requestor as follows:

"OPRA identifies the responsibilities of the requestor and the agency relevant to the prompt access the law is designed to provide. The custodian, who is the person designated by the director of the agency, N.J.S.A. 47:1A-1.1, must adopt forms for requests, locate and redact documents, isolate exempt documents, assess fees and means of production, identify requests that require "extraordinary expenditure of time and effort" and warrant assessment of a "service charge," and, when unable to comply with a request, "indicate the specific basis." N.J.S.A. 47:1A-5(a)-(j). The requestor must pay the costs of reproduction and submit the request with information that is essential to permit the custodian to comply with its obligations. N.J.S.A. 47:1A-5(f), (g), (i). *Research is not among the custodian's responsibilities.*" (Emphasis added), NJ Builders, 390 N.J. Super. at 177.

Further, the court cited MAG by stating that "...when a request is 'complex' because it fails to specifically identify the documents sought, then that request is not 'encompassed' by OPRA..." The court also quoted N.J.S.A. 47:1A-5.g in that "[i]f a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable

¹⁰ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

¹¹ As stated in Bent, *supra*.

solution with the requestor that accommodates the interests of the requestor and the agency.” The court further stated that “...the Legislature would not expect or want courts to require more persuasive proof of the substantiality of a disruption to agency operations than the agency’s need to...generate new records...” Accordingly, the test under MAG then, is whether a requested record is a *specifically identifiable* government record.

Under such rationale, the GRC has repeatedly found that blanket requests are not valid OPRA requests. In the matter of Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009), the relevant part of the Complainant’s request sought:

- Item No. 2: “From the Borough Engineer’s files: all engineering documents for all developments or modifications to Block 25, Lot 28; Block 25, Lot 18; Block 23, Lot 1; Block 23, Lot 1.02.
- Item No. 3: From the Borough Engineer’s files: all engineering documents for all developments or modifications to North St., to the south and east of Wilson St.
- Item No. 4: From the Borough Attorney’s files: all documents related to the development or modification to Block 25, Lot 28; Block 25, Lot 18; Block 23, Lot 1; Block 23, Lot 1.02.
- Item No. 5: From the Borough Attorney’s files: all documents related to the development or modification to North Street, to the south and east of Wilson St.”

In reviewing the complainant’s request, the Council found that “[b]ecause the Complainant’s OPRA requests # 2-5 are not requests for identifiable government records, the requests are invalid and the Custodian has not unlawfully denied access to the requested records pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005) and Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005).”

In the matter before the Council, the Complainant’s OPRA request sought “a complete copy of the Complainant’s personnel record...” The Complainant’s request failed to identify a specific government record sought. Rather, the Complainant filed a blanket request for all records contained in his personnel file. Consistent with Bent and MAG, a requestor seeking records cannot make a broad request for all of a state agency’s records and should properly name specific records so that a Custodian will not have to conduct research or fulfill an overly broad request that is outside the scope of their duties.

Therefore, because the Complainant’s request failed to specify identifiable government records sought, the Complainant’s request is overly broad and is invalid under OPRA pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council of Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. Pursuant to Spaulding v. Hudson County Register, GRC Complaint No. 2006-157 (July 2007), the GRC will treat the Complainant's September 15, 2010 letter as an OPRA request because the Custodian handled the Complainant's September 15, 2010 letter as an OPRA request and because the Complainant availed himself of the Council's adjudicatory process pursuant to N.J.S.A. 47:1A-6 by filing a Denial of Access Complaint with the GRC to challenge the Custodian's denial of the requested records.
2. The medical, psychiatric and psychological reports requested by the Complainant are exempt from disclosure pursuant to N.J.S.A. 47:1A-9.a. and Executive Order No. 26, paragraph 4.b.1 (Governor McGreevey, 2002) as "information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation." As such, the Custodian lawfully denied access to said records pursuant to N.J.S.A. 47:1A-6. See Hamilton v. NJ Department of Corrections, GRC Complaint No. 2007-196 (March 2008), Kamau v. NJ Department of Corrections, GRC Complaint No. 2004- 175 (February 2005), and Caban v. NJ Department of Corrections, GRC Complaint No. 2004-174 (March 2005).
3. Because the Complainant's request failed to specify identifiable government records sought, the Complainant's request is overly broad and is invalid under OPRA pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J.Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council of Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Prepared By: Harlynn A. Lack, Esq.
Case Manager

Approved By: Karyn Gordon, Esq.
Acting Executive Director

June 19, 2012