



State of New Jersey  
GOVERNMENT RECORDS COUNCIL

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CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

RICHARD E. CONSTABLE, III  
Commissioner

**FINAL DECISION**

**February 25, 2014 Government Records Council Meeting**

Ysaías S. Lantigua  
Complainant

Complaint No. 2013-223

v.

New Brunswick Police Department (Middlesex)  
Custodian of Record

At the February 25, 2014 public meeting, the Government Records Council (“Council”) considered the February 18, 2014 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 Request is invalid under OPRA because it fails to specify identifiable government records. *See* MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546, 549 (App. Div. 2005); Bent v. Stafford Police Department, 381 N.J. Super. 30, 30 (App. Div. 2005); N.J. Builders Association v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); LaMantia v. Jamesburg Public Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). The Custodian has thus borne his burden of proving that he lawfully denied access to the Complainant’s 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 25<sup>th</sup> Day of February, 2014

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: February 26, 2014**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
February 25, 2014 Council Meeting**

**Ysaias S. Lantigua<sup>1</sup>  
Complainant**

**GRC Complaint No. 2013-223**

**v.**

**New Brunswick Police Department (Middlesex)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** The Complainant sought copies of the following, generated prior to November 17, 2011:

Any and all computer generated evidence, fact(s), information or other data from Mobile Data Terminals used by the New Brunswick Police Department (“NBPD”) and/or any other investigating police officer(s); or the central computer(s), network server(s), or other computer related system(s) used by the NBPD or to which access was given.

Any and all database searches or queries should include computer generated evidence for the New Jersey Motor Vehicle Commission (“MVC”), the National Criminal Information Center (“NCIC”), and other databases that the NBPD is permitted to access or obtain data from.

Any and all computer generated evidence includes, but is not limited to: name and owner of the database searched or to which access was obtained in connection with the motor vehicle stop; date and time of access into the various databases used to obtain information about the Ysias S. Lantigua; the results of such searches; the elapsed time for each search; the date and time each search was completed; the “username” of the NBPD or any other investigating police officer or dispatcher.

**Custodian of Record:** Captain J.T. Miller  
**Request Received by Custodian:** July 3, 2013  
**Response Made by Custodian:** July 9, 2013  
**GRC Complaint Received:** July 31, 2013

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> The Custodian is represented by T.K. Shamy, Esq. (New Brunswick, N.J.)

Ysaias S. Lantigua v. New Brunswick Police Department (Middlesex), GRC Complaint No. 2013-223 – Findings and Recommendations of the Executive Director

## **Background**<sup>3</sup>

### **Request and Response:**

On July 3, 2013, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On July 9, 2013, the Custodian responded in writing stating that the request was too broad because it sought information generated prior to a certain date without delineating a particular time-frame. The Custodian recommended the Complainant clarify his request by limiting it to a specific start and end date. The Custodian also stated that a general search for documents containing “Ysais S. Lantigua” returned no responsive information.

### **Denial of Access Complaint:**

On July 31, 2013 the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserts that he is attempting to learn why the information requested was never turned over. The Complainant states that the information is being pursued as part of his efforts to obtain post-conviction relief.

### **Statement of Information:**

On November 4, 2013, the Custodian filed a Statement of Information (“SOI”). The Custodian certifies that he received the Complainant’s OPRA request on July 3, 2013 and responded on July 9, 2013. The Custodian states that he requested clarification from the Complainant but did not receive a response prior to receiving a request to participate in mediation from the GRC on August 29, 2013. The Custodian asserts that the Complainant’s request was invalidly over broad. *Citing* MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005); N.J. Builders Assoc. v. N.J. Council on Affordable Hous., 390 N.J. Super. 166 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

## **Analysis**

### **Unlawful Denial of Access**

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.

The New Jersey Appellate Division has held that:

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<sup>3</sup> 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.  
Ysaias S. Lantigua v. New Brunswick Police Department (Middlesex), GRC Complaint No. 2013-223 – Findings and Recommendations of the Executive Director

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.” MAG, 375 N.J. Super. at 546 (citing N.J.S.A. 47:1A-1).

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.

The Court further held that “[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt . . . .” Id. at 549; Bent, 381 N.J. Super. at 37; N.J. Builders Assoc., 390 N.J. Super. at 180; Schuler, GRC 2007-151.

Further, in LaMantia v. Jamesburg Public Library (Middlesex), GRC Complaint No. 2008-140 (February 2009), the complainant requested the number of Jamesburg residents that held library cards. The GRC determined that the complainant’s request was not for an identifiable government record, but for information. Id. As such, the request was deemed invalid pursuant to MAG. Id.; *see also* Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009). Similarly, in Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009), the complainant made an OPRA request in the form of several questions regarding when a property was added to the “tax rolls,” how much tax was owed, and why there was any delay in added the property to the tax roll. The Council determined that the request was an invalid because it failed to identify government records. Id.

In the instant matter, Complainant requested any and all computer generated evidence, facts, information or other data from Mobile Data Terminals used by the NBPB and/or any other investigating police officers, or the central computers, network servers, or other computer related systems used by the NBPB or to which access was given, including databases used by the MVC and NCIC. The Complainant further stated that any and all computer generated evidence “includes, but is not limited to” the name of the databases searched, when such databases were accessed to obtain information about the Complainant, the results of such searches, the dates and

time such searches were completed, and the “username” of the NBPD or “any other investigating police officer or dispatcher.”

While the Complainant attempted to limit his request to documents and information generated before November 17, 2011, and by reference to various databases and types of information, the request is still not for “identifiable government records not otherwise exempt” from disclosure Bent, 381 N.J. Super. at 37; N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC No. 2007-151. The Complainant’s request both seeks information and is overly broad to an extent that it constitutes an open-ended demand that would require the Custodian to perform research. MAG, 375 N.J. Super. at 549; LaMantia, GRC 2008-140. The few identifiers provided by the Complainant do not clarify the request with enough sufficiency to enable the Custodian to respond. As noted, OPRA and the framework it establishes “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG, 375 N.J. Super. at 546.

Therefore, the Complainant’s Request is invalid under OPRA because it fails to specify identifiable government records. *See* MAG, 375 N.J. Super. at 546, 549; Bent, 381 N.J. Super. at 30; N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC 2007-151; LaMantia, GRC 2008-140. The Custodian has thus borne his burden of proving that he lawfully denied access to the Complainant’s request. N.J.S.A. 47:1A-6.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the Complainant’s Request is invalid under OPRA because it fails to specify identifiable government records. *See* MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546, 549 (App. Div. 2005); Bent v. Stafford Police Department, 381 N.J. Super. 30, 30 (App. Div. 2005); N.J. Builders Association v. N.J. Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); LaMantia v. Jamesburg Public Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). The Custodian has thus borne his burden of proving that he lawfully denied access to the Complainant’s request. N.J.S.A. 47:1A-6.

Prepared By: Robert T. Sharkey, Esq.  
Staff Attorney

Approved By: Dawn R. SanFilippo, Esq.  
Senior Counsel

February 18, 2014