



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

June 24, 2014 Government Records Council Meeting

Maurice Torian
Complainant

Complaint No. 2013-245

v.

NJ State Parole Board
Custodian of Record

At the June 24, 2014 public meeting, the Government Records Council (“Council”) considered the June 17, 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 because the Complainant’s OPRA request seeks a class of various documents, rather than a request for specifically named or identifiable records, the request is invalid under OPRA. Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (March 2008); Bradley-Williams v. Atlantic Cnty. Jail, GRC Complaint No. 2011-232 (December 2012). Furthermore, the Custodian is not required to conduct research to locate documents responsive to the Complainant’s request pursuant to MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005), Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005), N.J. Builders Assoc. v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (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 24th Day of June, 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: June 26, 2014

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
June 24, 2014 Council Meeting**

**Maurice Torian¹
Complainant**

GRC Complaint No. 2013-245

v.

**NJ State Parole Board²
Custodial Agency**

Records Relevant to Complaint: [I] want my entire parole folder all with the exception of those documents labeled “Confidential.”

Custodian of Record: Dina I. Rogers
Request Received by Custodian: August 21, 2013
Response Made by Custodian: August 21, 2013
GRC Complaint Received: September 4, 2013

Background³

Request and Response:

On August 21, 2013, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. That same day, the Custodian responded, in writing, denying the Complainant’s request because it is overly broad and fails to seek specific, identifiable government records.

Denial of Access Complaint:

On September 4, 2013, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserts: “[t]here were many requests initiated to the Chairman of Parole with respect to [an individual].”⁴ Further, he states his belief that his requests were forwarded to Ms. Dina I. Rogers. The Complainant does not reference or refute the Custodian’s basis for denying access to his request.

¹ No legal representation listed on record.

² Represented by DAG Christopher Josephson.

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.

⁴ The Complainant identifies an individual, but the name is undecipherable.

Statement of Information:

On October 23, 2013, the Custodian filed a Statement of Information (“SOF”). The Custodian certifies that the Complainant’s request is invalid because it is overly broad and fails to seek specific, identifiable government records pursuant to MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546, 549 (App. Div. 2005). The Custodian argues that the Complainant must identify with reasonable clarity specific records contained in his parole file.

Analysis

Invalid OPRA 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. at 549 (emphasis added). Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005);⁵ N.J. Builders Assoc. v. N.J. Council on

⁵ Affirming Bent v. Stafford Police Dep’t, GRC Complaint No. 2004-78 (October 2004).

Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Additionally, in Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (March 2008), the complainant requested “[a]ny and all documents and evidence” relating to an investigation conducted by the Somerset County Prosecutor’s Office. The Council found that while the complainant’s request was for an entire investigation file identified by number and contained numerous individual records, the complainant failed to identify specific government records. Id. The Council also held 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, *supra* and Bent, *supra* and the Council’s decisions in Asarnow, *supra* and Morgano, *supra*. [citations omitted].”

Id.

In Bradley-Williams v. Atlantic Cnty. Jail, GRC Complaint No. 2011-232 (December 2012), the complainant’s original OPRA request sought “all of [the Complainant’s] incarceration files from October 2005 to April 2006.” Id. The Council held that the complainant’s request was invalid pursuant to Feiler-Jampel, GRC No. 2007-190, as it was “a blanket request for a class of various documents, rather than a request for specifically named or identifiable records.” Bradley-Williams, GRC No. 2011-232.

In the instant matter, the Complainant’s request for his “entire parole folder” with the exception of any document labeled as “confidential,” is similar to the requests found invalid in Bradley-Williams, GRC No. 2011-232, and Feiler-Jampel, GRC No. 2007-190. Notwithstanding the Complainant narrowing the type of records to those that are not confidential, his request still seeks a class of various documents contained within his parole file, rather than a request for specific government records therein.

Therefore, since the Complainant’s OPRA request seeks a class of various documents, rather than a request for specifically named or identifiable records, the request is invalid under OPRA. Feiler-Jampel, GRC No. 2007-190; Bradley-Williams, GRC No. 2011-232. Furthermore, the Custodian is not required to conduct research to locate documents responsive to the Complainant’s request pursuant to MAG, 375 N.J. Super. at 549, Bent, 381 N.J. Super. at 37, N.J. Builders Assoc., 390 N.J. Super. at 180, and Schuler, GRC No. 2007-151.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that because the Complainant's OPRA request seeks a class of various documents, rather than a request for specifically named or identifiable records, the request is invalid under OPRA. Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (March 2008); Bradley-Williams v. Atlantic Cnty. Jail, GRC Complaint No. 2011-232 (December 2012). Furthermore, the Custodian is not required to conduct research to locate documents responsive to the Complainant's request pursuant to MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005), Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005), N.J. Builders Assoc. v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007), and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Prepared By: Samuel A. Rosado, Esq.
Staff Attorney

Approved By: Dawn R. SanFilippo, Esq.
Acting Executive Director

June 17, 2014