



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

July 29, 2014 Government Records Council Meeting

Eurie Nunley
Complainant

Complaint No. 2013-335

v.

NJ State Parole Board
Custodian of Record

At the July 29, 2014 public meeting, the Government Records Council (“Council”) considered the July 22, 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 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. Torian v. N.J. State Parole Bd., GRC Complaint No. 2013-245 (June 2014); *see also* 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 Alcohol 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), N.J. Builders Ass’n 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 29th Day of July, 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: July 31, 2014

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 29, 2014 Council Meeting**

**Eurie Nunley¹
Complainant**

GRC Complaint No. 2013-335

v.

**NJ State Parole Board²
Custodial Agency**

Records Relevant to Complaint:³ “Please send me a copy of my Inmate Central File, including all materials for reference by the panel to guide during the hearing, i.e., complete parole file, and all other non-confidential material which is relevant to the above stated matter.”

Custodian of Record: Dina I. Rogers, Esq.

Request Received by Custodian: June 25, 2013

Response Made by Custodian: June 25, 2013

GRC Complaint Received: November 18, 2013

Background⁴

Request and Response:

On June 4, 2013, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On June 25, 2013, the Custodian responded, in writing, denying the request as overly broad, and for failing to identify specific records under OPRA.

Denial of Access Complaint:

On November 18, 2013, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant contended that he is not required to specify each individual record within a file. Rather, the Complainant argued that seeking his “complete parole file” reasonably identifies a government record.

¹ No legal representation listed on record.

² Represented by Christopher Josephson, DAG.

³ The Complainant requested additional records, but are not at issue in this matter.

⁴ 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.

Statement of Information:

On December 20, 2013, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that the Complainant’s request is invalid because it does not seek specific, identifiable records. The Custodian further argued that a request for records within a file must specifically identify each document, and a complainant cannot request an entire class of documents therein.

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 Entm’t, LLC v. Div. of Alcohol Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005) (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 *see also* N.J. Builders Ass’n 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).

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

Additionally, in Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (March 2008), the complainant sought “[a]ny and all documents and evidence” related to an investigation conducted by the Somerset County Prosecutor’s Office. The Council found that while the complainant’s request identified an entire investigation file by number, 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.

Moreover, in Torian v. N.J. State Parole Bd., GRC Complaint No. 2013-245 (June 2014), the complainant sought his “entire parole folder” with the exception of any documents deemed confidential. The Council found that the complainant’s request was invalid since it sought a class of various documents with the complainant’s parole file, and did not identify specific government records therein. *See also* Bradley-Williams v. Atlantic Cnty. Jail, GRC Complaint No. 2011-232 (December 2012).

Here, the Complainant’s request parallels the request in Torian, GRC No. 2013-245. The Complainant sought his “Inmate Central File,” which allegedly contained his “complete parole folder.” Additionally, the Complainant sought “all other non-confidential material.” Similar to Torian, rather than identifying specific documents within his “Inmate Central File,” the Complainant sought classes of documents: his entire parole file and all other documents not considered confidential. Id.

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. Torian, GRC No. 2013-245; *see also* 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 Ass’n, 390 N.J. Super. at 180, and Schuler, GRC No. 2007-151.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that 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. Torian v. N.J. State Parole Bd., GRC Complaint No. 2013-245 (June 2014); *see also* 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 Alcohol 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), N.J. Builders Ass'n 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

July 22, 2014