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

Jason DiCampli
Complainant
v.
NJ State Police
Custodian of Record

Complaint No. 2013-338

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 the Council has no authority over the content of the record provided. N.J.S.A. 47:1A-7(b); Kwanzaa v. Dep't of Corrections, GRC Complaint No. 2004-167 (March 2005). *See also* Valdes v. Twp. of Belleville (Essex), GRC Complaint No. 2010-258 (March 2012). Further, the Custodian did not unlawfully deny access to the requested mobile video recording footage since the evidence of record supports that he provided same to the Complainant in a timely manner and no evidence contradicting this fact has been provided. N.J.S.A. 47:1A-6; Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005)(holding that the Custodian did not unlawfully deny access to Complainant's OPRA request because the Custodian provided all records that existed).

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

Jason DiCampli[1] **GRC Complaint No. 2013-338**
Complainant

v.

New Jersey State Police[2]
Custodial Agency

Records Relevant to Complaint: Electronic copy on DVD of New Jersey State Police ("NJSP") mobile video recordings ("MVR") from car No. 726 of the Somerville NJSP Barracks on February 16, 2012 between the hours of 00:15 and 01:10

Custodian of Record: Sergeant Dave Robbins
Request Received by Custodian: June 5, 2013
Response Made by Custodian: October 24, 2013
GRC Complaint Received: November 25, 2013

Background[3]

Request and Response:

On June 5, 2013, the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On June 6, 2013, the Custodian contacted the Complainant advising that there were incomplete clips within the time frame specified in the Complainant's OPRA request. On June 14, 2013, the seventh (7th) business day after receipt of the request, the Custodian responded in writing advising that additional time until June 28, 2013 would be necessary because he has not received any records from the appropriate units possibly maintaining the responsive MVR.

On June 28, 2013, the Custodian responded to the Complainant advising that additional time until July 10, 2013, would be necessary because he is still awaiting a response from the appropriate units. On July 10, 2013, the Custodian responded to the Complainant advising that a third (3rd) extension until July 24, 2013 was necessary for the reasons previously stated. On July 24, 2013, the Custodian responded to the Complainant advising that he sent a copy of the responsive record (without redactions) on DVD to the Complainant.

[1] No legal representation listed on record.
[2] Represented by Deputy Attorney General Megan E. Shafrankski.
[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.

Denial of Access Complaint:

On November 25, 2013, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant contended that the MVR footage provided by NJSP was missing audio and video from beginning to end. The Complainant asserted that video plays from 00:42:57 to 00:56:59 and the audio plays from 00:43:22 to 00:55:43. The Complainant stated that his issue is with the remaining audio and video that was not provided within his specified time frame.

Statement of Information:

On February 14, 2014, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that he received the Complainant's OPRA request on June 5, 2013, and responded to same on three (3) occasions seeking extensions before providing the Complainant with a DVD copy (without redactions) of his traffic stop on July 24, 2013. The Custodian noted that he advised the Complainant that there were incomplete clips within the specified time frame.

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.

OPRA delineates the Council's powers and duties. N.J.S.A. 47:1A-7(b). Such powers and duties do not include authority over the content of a record. Kwanzaa v. Dep't of Corrections, GRC Complaint No. 2004-167 (March 2005)(holding that the Council "does not oversee the content of documentation" but "does oversee the disclosure and non-disclosure of documents.")

Here, the Complainant claimed that the record he received was incomplete or was missing information. However, prior to initially responding to the request, the Custodian advised the Complainant, in writing, that the time frame specified in the OPRA request contained incomplete clips. After the filing of this complaint, the Custodian certified to this fact. This issue is thus one of content, in that the Complainant believed he was unlawfully denied access to records because of the absence of audio and video on the MVR footage. However, notwithstanding the Custodian's SOI certification that MVR footage within the Complainant's specified time frame was incomplete, the Council has no authority over this issue.

Therefore, the Council has no authority over the content of the record provided. N.J.S.A. 47:1A-7(b); Kwanzaa, GRC 2004-167. *See also* Valdes v. Twp. of Belleville (Essex), GRC Complaint No. 2010-258 (March 2012). Further, the Custodian did not unlawfully deny access to the requested MVR footage since the evidence of record supports that he provided same to the Complainant in a timely manner and no evidence contradicting this fact has been provided.

N.J.S.A. 47:1A-6; Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005)(holding that the Custodian did not unlawfully deny access to Complainant's OPRA request because the Custodian provided all records that existed).

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Council has no authority over the content of the record provided. N.J.S.A. 47:1A-7(b); Kwanzaa v. Dep't of Corrections, GRC Complaint No. 2004-167 (March 2005). *See also* Valdes v. Twp. of Belleville (Essex), GRC Complaint No. 2010-258 (March 2012). Further, the Custodian did not unlawfully deny access to the requested mobile video recording footage since the evidence of record supports that he provided same to the Complainant in a timely manner and no evidence contradicting this fact has been provided. N.J.S.A. 47:1A-6; Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005)(holding that the Custodian did not unlawfully deny access to Complainant's OPRA request because the Custodian provided all records that existed).

Prepared By: Frank F. Caruso
Senior Case Manager

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

July 22, 2014