



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

FINAL DECISION

November 14, 2017 Government Records Council Meeting

Vincent Mastropasqua
Complainant

Complaint No. 2016-04

v.

Stafford Township Police Department (Ocean)
Custodian of Record

At the November 14, 2017 public meeting, the Government Records Council (“Council”) considered the November 8, 2017 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 records provided. N.J.S.A. 47:1A-7(b); Kwanzaa v. Dep’t of Corr., GRC Complaint No. 2004-167 (March 2005). Further, the Custodian did not unlawfully deny access to the OPRA requests since the evidence of record supports that she certified that she timely provided same to the Complainant. *See* Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005) (custodian did not unlawfully deny access to complainant’s OPRA request because the custodian certified that 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 14th Day of November, 2017

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: November 17, 2017

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
November 14, 2017 Council Meeting**

**Vincent Mastropasqua¹
Complainant**

GRC Complaint No. 2016-4

v.

**Stafford Township Police Department (Ocean)²
Custodial Agency**

Records Relevant to Complaint: Hard copies of:³

October 23, 2015 OPRA Request:

Audio recording of call from Thomas Lynch to the police related to incident #2015-017180 and #2015-017181, dated July 7, 2015.

November 13, 2015 OPRA Request:

Stafford Township Police Department Incident Report #2015-017181, including dash cam audio/video.

November 20, 2015 OPRA Request:

Stafford Township Police Department Incident Report #2015-017180, including dash cam audio/video.

Custodian of Record: Bernadette Park

Request Received by Custodian: October 23, 2015; November 13, 2015; November 20, 2015

Response Made by Custodian: October 26, 2015; November 13, 2015; November 23, 2015

GRC Complaint Received: January 7, 2016

Background⁴

Request and Response:

On October 23, 2015, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On October 26, 2015, the

¹ No legal representation listed on record.

² Represented by Christopher J. Dasti, Esq., of Dasti, Murphy, McGuckin, Ulaky, Koutsouris & Connors (Forked River, NJ).

³ The Complainant sought additional records that are not at issue in this complaint.

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.

Vincent Mastropasqua v. Stafford Township Police Department (Ocean), 2016-4 – Findings and Recommendations of the Executive Director

Custodian responded in writing, providing responsive records to the Complainant. On November 13, 2015, the Custodian submitted another OPRA request seeking the above-mentioned records. That same day the Custodian responded in writing, providing responsive records to the Complainant. On November 20, 2015, the Complainant submitted a third OPRA request seeking the above-mentioned records. On November 23, 2015, the Custodian responded in writing, providing responsive records.

Denial of Access Complaint:

On January 7, 2016, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the responsive records were incomplete, that the dash cam footage received was “truncated,” contained missing audio, and did not contain the full time of the event requested.

Statement of Information:

On February 9, 2016, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA requests on October 23, November 13, and November 20, 2015. The Custodian certified that she responded in writing on October 26, November 13, and November 26, 2015, respectively. The Custodian certified that the Complainant’s allegations that the records provided were incomplete were without merit and that all responsive documentation was provided on their respective dates. Therefore, the Custodian requested that the case be dismissed.

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 a record’s accuracy or whether a record was filed in accordance with existing guidelines. Kwanzaa v. Dep’t of Corr., GRC Complaint No. 2004-167 (March 2005). *See also* Toscano v. N.J. Dep’t of Labor, GRC Complaint No. 2005-59 (September 2005) (GRC does not have authority over the condition of records provided by a custodian); Gillespie v. Newark Public Sch., GRC Complaint No. 2004-105 (November 2004) (GRC does not have the authority to adjudicate the validity of a record); Katinsky v. River Vale Twp., GRC Complaint No. 2003-68 (November 2003) (the integrity of a requested record is not within the GRC’s authority to adjudicate).

In this matter, the Complainant does not dispute that he received responses from the Custodian for all three OPRA requests at issue, as he indicated in his complaint. Moreover, the

Custodian certified, and the evidence reflects, that she provided responses to the OPRA requests on October 26, November 13, and November 26, 2015. However, the Complainant's argument rests on the claim that the provided records were incomplete. Thus, the issue is one of content, one which the Council has no authority to address.

Therefore, the Council has no authority over the content of the records provided. N.J.S.A. 47:1A-7(b); Kwanzaa, GRC 2004-167. Further, the Custodian did not unlawfully deny access to the OPRA requests since the evidence of record supports that she certified that she timely provided same to the Complainant. *See Burns v. Borough of Collingswood*, GRC Complaint No. 2005-68 (September 2005) (custodian did not unlawfully deny access to complainant's OPRA request because the custodian certified that 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 records provided. N.J.S.A. 47:1A-7(b); Kwanzaa v. Dep't of Corr., GRC Complaint No. 2004-167 (March 2005). Further, the Custodian did not unlawfully deny access to the OPRA requests since the evidence of record supports that she certified that she timely provided same to the Complainant. *See Burns v. Borough of Collingswood*, GRC Complaint No. 2005-68 (September 2005) (custodian did not unlawfully deny access to complainant's OPRA request because the custodian certified that provided all records that existed).

Prepared By: Samuel A. Rosado
Staff Attorney

November 8, 2017