



State of New Jersey

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Governor

TAHESHA L. WAY
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JACQUELYN A. SUÁREZ
Acting Commissioner

FINAL DECISION

October 3, 2023 Government Records Council Meeting

Larry S. Loigman, Esq.
(o/b/o Shlomie Klein)
Complainant

Complaint No. 2021-154

v.

Township of Lakewood (Ocean)
Custodian of Record

At the October 3, 2023 public meeting, the Government Records Council (“Council”) considered the September 26, 2023 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:

1. The Custodian lawfully denied access to those records responsive to the Complainant’s April 8, 2021 OPRA request. N.J.S.A. 47:1A-6. Specifically, the incident in question involved juveniles in which a curbside warning was issued, and others were transported and released to their parents. N.J.S.A. 47:1A-9; N.J.S.A. 2A:4A-60; Rivera v. Cliffside Park Police Dep’t (Bergen), GRC Complaint No. 2010-275 (Interim Order dated April 25, 2012). See also N. Jersey Media Grp. v. Evelina, 2014 N.J. Super. Unpub. LEXIS 2747, 33-36 (November 17, 2014). Because the records are exempt under the juvenile delinquency exemption, the GRC will not address the remaining asserted exemption.
2. The Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008). Specifically, the requested records are exempt under OPRA. N.J.S.A. 47:1A-9; N.J.S.A. 2A:4A-60. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

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 3rd Day of October 2023

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: October 10, 2023

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
October 3, 2023 Council Meeting**

**Larry S. Loigman, Esq.¹
(On Behalf of Shlomie Klein)
Complainant**

GRC Complaint No. 2021-154

v.

**Township of Lakewood (Ocean)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of “Police Department records” regarding the incident near Chateau Drive in the Township of Lakewood (“Township”) between 9:00 p.m. and 4:00 a.m. on March 25, and 26, 2021 to include police incident reports, dispatch logs, computer-aided dispatch (“CAD”) entries, telephone and radio recordings, e-mail messages, body-worn camera (“BWC”) footage, arrest reports, fingerprint cards, booking reports, photographs, correspondence, notes, memoranda, and all similar records.

Custodian of Record: Lauren Kirkman
Request Received by Custodian: April 8, 2021
Response Made by Custodian: April 19, 2021
GRC Complaint Received: July 7, 2021

Background³

Request and Response:

On April 8, 2021, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On April 19, 2021, the Custodian responded in writing denying the subject OPRA request because of an on-going investigation. N.J.S.A. 47:1A-3(a).

On June 15, 2021, the Complainant e-mailed the Township seeking to have this request “reopen[ed]” because the investigation was presumed concluded. On June 25, 2021, the Custodian responded in writing to the reopened OPRA request denying same under N.J.S.A. 2A:4A-60.

¹ The Complainant represents Shlomie Klein.

² Represented by Steven Secare, Esq., of Secare & Hensel (Toms River, NJ).

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.

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Denial of Access Complaint:

On July 7, 2021, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian’s April 19, 2021 response was “fictitious” because no “ongoing investigation” occurred. The Complainant further contended that the Custodian’s June 25, 2021 response was improper: the Custodian was obligated to redact any exempt juvenile information and release the remainder of the records.

Statement of Information:

On July 14, 2021, the Custodian filed a Statement of Information (“SOI”) attaching a legal certification from Sergeant Peter LaRose. The Custodian certified that she received the Complainant’s OPRA request on April 8, 2021. The Custodian certified that her search included forwarding the OPRA request to the Lakewood Police Department (“LPD”), where Sgt. LaRosa reviewed the applicable incident report: it was not completed or approved. The Custodian further certified that Sgt. LaRosa was advised by detectives that the investigation into the incident remained ongoing. The Custodian certified that she responded in writing on April 19, 2021 denying the OPRA request under the “on-going” investigation exemption.

The Custodian affirmed that she subsequently received the Complainant’s e-mail seeking to reopen the OPRA request on June 16, 2021. The Custodian certified that she forwarded the request to the LPD, who determined that the incident report was complete and involved minors with one receiving a “curbside warning.” The Custodian averred that the responsive records comprised an incident report, CAD log, telephone and radio communications, and BWC and dash cam footage. The Custodian noted that the CAD log, telephone and radio communications, and BWC and dash cam footage were all “noted on [the] server.” The Custodian also noted that telephone and radio communications were erased from the server ninety (90) days after the incident, or on June 20, 2021. The Custodian certified that she responded in writing on June 25, 2021 again denying the request, but under the juvenile records exemption. N.J.S.A. 2A:4A-60.

The Custodian argued that the underlying matter regarded an incident involving approximately 150 juveniles. The Custodian noted that as a result of the incident, multiple juveniles were “transported and released to their parents and [one] juvenile was issued a curbside warning and transported home.” The Custodian contended that she lawfully denied access to the responsive records in both instances. N.J.S.A. 47:1A-3(a); Paff v. Ocean Cnty. Prosecutor’s Office, 2014 N.J. Super. Unpub. LEXIS 189 (July 31, 2014); N.J.S.A. 2A:4A-60. The Custodian also argued that the Ocean County Prosecutor’s Office also has a directive barring disclosure.⁴

Additional Submissions:

On July 15, 2021, the Complainant submitted a sur-reply to the SOI. The Complainant contended that the GRC should reject the Custodian’s denial and require immediate release of the records sought. The Complainant argued that the Custodian “failed to itemize the specific records which were withheld,” failed to identify those portions pertaining to juveniles, failed to indicate

⁴ The Custodian also argued that the Complainant did not identify his representation of Mr. Klein and did not make either a discovery or common law request.
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when the “alleged” investigation was conducted or concluded, and failed to explain why certain records were destroyed. The Complainant argued that, as a display of her failure to redact records, the Custodian did not explain why the CAD report could not be disclosed with redactions for juvenile information.

The Complainant contended that the Custodian failed to explain how disclosure of the responsive records could be “inimical to the public interest” and further failed to show that any juveniles were “charged as a delinquent or found to be part of a juvenile-family crisis,” which both exemptions require as a threshold for application. N.J.S.A. 47:1A-3(a); N.J.S.A. 2A:4A-60. The Complainant further argued that not every record related to a “juvenile incident” is exempt from disclosure under N.J.S.A. 2A:4A-60. The Custodian thus reiterated that the GRC should either order disclosure of the records or alternatively perform an *in camera* review.

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 also provides that its provisions:

[S]hall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to [OPRA]; *any other statute*; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order.

[N.J.S.A. 47:1A-9(a) (emphasis added).]

To this end, N.J.S.A. 2A:4A-60 provides that:

Social, medical, psychological, legal and other *records of the court* and probation division, and *records of law enforcement agencies*, pertaining to *juveniles charged as a delinquent* or found to be part of a juvenile-family crisis, *shall be strictly safeguarded from public inspection*.

[Id. (emphasis added).]

In Rivera v. Cliffside Park Police Dep’t (Bergen), GRC Complaint No. 2010-275 (Interim Order dated April 25, 2012), the complainant sought multiple records inclusive of two (2) use of force reports. In the SOI, the custodian identified the responsive reports as juvenile records and argued they were exempt under from disclosure under N.J.S.A. 2A:4A-60. The Council agreed,

finding that the custodian lawfully denied access to said reports. Id. at 11. The Council reached a similar conclusion where a requestor sought BWC footage related to a juvenile delinquency incident. See Dericks (O.B.O. TAPintoSparta.net) v. Sparta Twp. (Sussex), GRC Complaint No. 2016-227 (September 2017); Frega v. Twp. of Lacey (Ocean), GRC Complaint No. 2019-71 (Final Decision dated August 25, 2020) (citing In re Release of Juveniles' Identities to Wise, 204 N.J. Super. 71, 72 (Super. Ct. 1985): "The obvious intent of the Legislature is that disclosure of juvenile records is to be the exception, not the rule. N.J.S.A. 2A:4A-60(a), (f).").

Also pertinent to the instant complaint, in N. Jersey Media Grp. v. Evelina, 2014 N.J. Super. Unpub. LEXIS 2747 (November 17, 2014), plaintiff's action stemmed from an OPRA request seeking various records related to an incident at Teaneck High School. That incident, described as a "high school senior 'prank'," resulted in the apprehension of multiple high school students, whom were subsequently either charged as a juvenile delinquent or given a stationhouse adjustment. Defendant responded either disclosing responsive records, some with redactions, or denying access to others on multiple bases to include N.J.S.A. 2A:4A-60. The juvenile delinquency exemption was at the center of plaintiff's dispute that defendant unlawfully redacted disclosed Incident Report Narratives. The court held that defendants lawfully redacted responsive reports, reasoning that:

It seems anomalous if not unjust that only juveniles charged as delinquents are protected from OPRA, while those who were fortunate enough to receive lesser punishment, in the form of stationhouse adjustments, would be forced to bear the stigma sought to be avoided by the drafters of N.J.S.A. 2A:4A-60 and the guidelines. A strict reading of the applicable statute . . . in conjunction with OPRA would lead to the illogical result of only protecting juveniles charged as delinquents, not those who are afforded a "stationhouse adjustment." The stationhouse adjustment was designed to benefit first-time juvenile offenders and to keep them out of police records. See [Attorney General Guideline: Station House Adjustments (Dec. 2005) ("AG's Guidelines")], at 7 (stating "[s]ince one of the primary benefits to a juvenile [from] a stationhouse adjustment is the avoidance of the creation of a juvenile delinquency record, no personal identifying information should be submitted in the quarterly reports."). As such, this is an instance where the underlying purpose of the statute must predominate over the literal words. The court cannot discern or conjure a logical reason why those charged with a lesser offense would be afforded lesser confidentiality protections.

Illustrative of this anomaly is that a literal reading of OPRA would exclude a juvenile's stationhouse adjustment form from the criminal investigatory exception and be [publicly] available under OPRA as N.J.S.A. 2A:4A-60 only references those "juveniles charged as a delinquent." Attorney General guidelines have been held to carry the force of law with respects to the duties they place on law enforcement agencies. O'Shea v. Twp. of W. Milford, 410 N.J. Super. 371, 382-84 (App. Div. 2009) . . . The Attorney General guideline for stationhouse adjustments (the "guideline") mandates "[a]ll municipal and other law enforcement agencies having patrol jurisdiction within the State of New Jersey shall make stationhouse adjustments available as a method of handling minor juvenile delinquency offenses

within their jurisdiction.” [AG’s Guidelines] at 3. In addition, the guideline states “[t]he law enforcement officer shall complete a stationhouse adjustment form which must be signed by the juvenile and a parent or guardian/caregiver or designee.” [AG’s Guidelines] at 5-6. As such, the guideline imposes mandatory duties on law enforcement to make a stationhouse adjustment[] available and as such, the guideline carries the force of law. See O’Shea, 410 N.J. Super. at 382-84 (holding attorney general guidelines may carry the force of law).

A strict reading of OPRA in conjunction with N.J.S.A. 2A:4A-60 and other available statutes would result in public access to all stationhouse adjustment documents retained by the police, which clearly appears to be incongruous. Rather, both categories of juveniles should have their law enforcement records protected from public access and be afforded the opportunity for rehabilitation. As the guideline requires that stationhouse adjustment forms be made, they are not covered by the criminal investigatory exemption and would be accessible to the public. See N.J.S.A. 47:1A-1.1 (exempting criminal investigatory records from OPRA only if they are a “record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.”). Such a result would be unjust and illogical By reading N.J.S.A. 2A:4A-60 and N.J.A.C. 13:94-1.5, as they pertain to exempting documents from OPRA, to include stationhouse adjustments under the umbrella of “juvenile charged as a delinquent” the anomaly is avoided and as such, is the determination of the court.

[Id. at 33-36.]

Here, the Complainant sought access to several types of records related to an incident that occurred on March 25, 2021 at a specific location. After initially denying the subject OPRA request under the “investigation in progress” exemption, the Complainant resubmitted his request and was again denied under N.J.S.A. 2A:4A-60. This complaint ensued, wherein the Complainant argued that the Custodian’s initial denial was “fictitious”, and the second denial was improper because records could have been disclosed with redactions.⁵ In the SOI, the Custodian identified the responsive records as the incident report, CAD log, telephone and radio communications, and BWC and dash cam footage. The Custodian noted that telephone and radio communications were erased in between responses to the subject OPRA request. The Custodian argued that her denial of access was lawful because an investigation in progress was initially occurring, but that once it was completed the records were nonetheless exempt as juvenile delinquency records. N.J.S.A. 2A:4A-60. The Custodian noted that the incident resulted in several juveniles being transferred and released to their parents and a curbside warning. The Complainant responded to the SOI refuting the Custodian’s arguments and noting that the records should have been disclosed with redactions for any information exempt under N.J.S.A. 2A:4A-60.

⁵ The GRC notes that the Complainant did not submit either request on behalf of Mr. Klein, who may be classified as the “victim” in the incident. N.J.S.A. 47:1A-1.1. The Complainant did identify that he was representing Mr. Klein upon filing this complaint. However, the GRC cannot apply the impact of the forgoing fact to the Custodian’s denial because the Township clearly had no knowledge of same when responding to the Complainant’s OPRA request. Larry S. Loigman, Esq. (On Behalf of Shlomie Klein) v. Township of Lakewood (Ocean), 2021-154 – Findings and Recommendations of the Executive Director

Initially, the factual record here provides that both parties agree that the incident in question involved a large gathering of juveniles at the specific location requiring a law enforcement response. Further, the Complainant does not dispute that actions were taken against several of those participants to include transportation and release to parents, as well as a curbside warning. Instead, the Complainant argued that the records should have been redacted to remove nondisclosable information.

While unpublished and thus not precedential, Evelina, 2014 N.J. Super. Unpub. LEXIS 2747 presents compelling instruction persuading the GRC that the Custodian's denial of access was lawful under N.J.S.A. 2A:4A-60. Although the Evelina court was tasked with addressing redacted incident reports, it firmly held that juvenile records involving a "stationhouse adjustment" should be treated the same as records regarding a juvenile delinquent, which based on a plain reading of N.J.S.A. 2A:4A-60 requires nondisclosure in their totality.

The Custodian does not state that any of the juveniles received a "stationhouse adjustment"; however, the AG's Guidelines clearly contemplate additional forms of law enforcement actions against juveniles within the framework of addressing delinquency. Specifically, the AG's Law Enforcement Directive No. 2020-12 (December 3, 2020) ("Directive")⁶ superseding the AG's Guidelines on stationhouse adjustments (which was revised and replaced by Law Enforcement Directive No. 2008-2) included curbside warnings within the types of remedial actions available to law enforcement when addressing juvenile delinquency. The Directive defines a curbside warning as a "brief, informal interaction between a law enforcement officer and a juvenile who the officer observed engage in an act of minor delinquency." Id. at 4 (citing N.J.S.A. 2A:4A-23). Particularly telling is the Directive's inclusion of the definition of "delinquency" within the foregoing, as well as the inclusion of curbside warnings on the quarterly form the Directive requires to be filed with county prosecutors. Of note, a review of Lakewood's quarterly form covering the date of the incident identified in the OPRA request supports the Custodian's iteration of police interaction with juveniles involved in the incident.⁷

Accordingly, the Custodian lawfully denied access to those records responsive to the Complainant's April 8, 2021 OPRA request. N.J.S.A. 47:1A-6. Specifically, the incident in question involved juveniles in which a curbside warning was issued, and others were transported and released to their parents. N.J.S.A. 47:1A-9; N.J.S.A. 2A:4A-60; Rivera, GRC 2010-275. See also Evelina, 2014 N.J. Super. Unpub. LEXIS 2747, 33-36. Because the records are exempt under the juvenile delinquency exemption, the GRC will not address the remaining asserted exemption.

Prevailing Party Attorney's Fees

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an

⁶ <http://mcponj.org/wp-content/uploads/2021/06/Juvenile-Justice-Reform.pdf> (accessed September 6, 2023).

⁷ <https://njoag.app.box.com/s/c1qcfyr6lsilvcvt9k2okv2703g1p8e/file/893186436556> (last accessed September 6, 2023).

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action in Superior Court, file a complaint with the Government Records Council . . .
. A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Appellate Division held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Id. at 432. Additionally, the court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008), the Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct.” (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court stated that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” (quoting Black’s Law Dictionary 1145 (7th ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties . . .” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney's fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason, that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney's fees than the former RTKL did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney's fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature's revisions therefore: (1) mandate, rather than permit, an award of attorney's fees to a **prevailing party**; and

(2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA.

[Mason at 73-76.]

The Court in Mason, further held that:

[R]equestors are entitled to attorney’s fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) “a factual causal nexus between plaintiff’s litigation and the relief ultimately achieved”; and (2) “that the relief ultimately secured by plaintiffs had a basis in law.” Singer v. State, 95 N.J. 487, 495, cert denied, New Jersey v. Singer, 469 U.S. 832 (1984).

[Id. at 76.]

Here, the Complainant filed the instant complaint disputing the Custodian’s denial to several records from a March 25, 2021 incident involving a gathering of juveniles in the area of Chateau Drive. The Complainant requested that the Council require disclosure of the records with redactions for any juvenile information removed. Upon review of the submissions and establishment of the facts, the GRC has found that the records in question were exempt under N.J.S.A. 47:1A-9 and N.J.S.A. 2A:4A-60. Thus, the Complainant has not obtained the requested relief and is therefore not entitled to an award of attorney’s fees here.⁸

Therefore, the Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters, 387 N.J. Super. 432. Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. 51. Specifically, the requested records are exempt under OPRA. N.J.S.A. 47:1A-9; N.J.S.A. 2A:4A-60. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian lawfully denied access to those records responsive to the Complainant’s April 8, 2021 OPRA request. N.J.S.A. 47:1A-6. Specifically, the incident in question involved juveniles in which a curbside warning was issued, and others were transported and released to their parents. N.J.S.A. 47:1A-9; N.J.S.A. 2A:4A-60; Rivera v. Cliffside Park Police Dep’t (Bergen), GRC Complaint No. 2010-275 (Interim Order dated April 25, 2012). See also N. Jersey Media Grp. v. Evelina, 2014 N.J. Super. Unpub. LEXIS

⁸ The GRC notes that the Complainant’s submission of his OPRA request absent notifying the Township that he was representing Mr. Klein does present a question on whether the Complainant would qualify for fees. Specifically, the issue is whether the Complainant was effectively representing his own OPRA request not filed on behalf of a client. Boggia v. Borough of Oakland, GRC Complaint No. 2005-36 (April 2006). Notwithstanding, the GRC will not address this issue because it has been determined that the Complainant is not a prevailing party.

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2747, 33-36 (November 17, 2014). Because the records are exempt under the juvenile delinquency exemption, the GRC will not address the remaining asserted exemption.

2. The Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian's conduct. Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, no factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008). Specifically, the requested records are exempt under OPRA. N.J.S.A. 47:1A-9; N.J.S.A. 2A:4A-60. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

Prepared By: Frank F. Caruso
Executive Director

September 26, 2023