



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Acting Commissioner

FINAL DECISION

May 26, 2015 Government Records Council Meeting

Robert Kovacs
Complainant

Complaint No. 2014-273

v.

Woodbridge Police Department (Middlesex)
Custodian of Record

At the May 26, 2015 public meeting, the Government Records Council (“Council”) considered the May 19, 2015 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 Custodian did not unlawfully deny access to the Complainant’s request seeking arrest reports or other police reports pertaining to a common street address. N.J.S.A. 47:1A-6. The Complainant’s request failed to include a date, range of dates, or other identifiable information and is therefore overbroad and invalid. See MAG Entm’t, LLC v. Div. Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005), Burke v. Brandes, 429 N.J. Super. 169, 176 (App. Div. 2012), Dawara v. Office of the Essex Cnty. Adm’r, GRC Complaint No. 2013-267 (March 2014), and Love v. Spotswood Police Dep’t (Middlesex), GRC Complaint No. 2014-223 (Interim Order dated March 31, 2015).

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 26th Day of May, 2015

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: May 28, 2015



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
May 26, 2015 Council Meeting**

**Robert Kovacs¹
Complainant**

GRC Complaint No. 2014-273

v.

**Woodbridge Police Department (Middlesex)²
Custodial Agency**

Records Relevant to Complaint:

“Please provide one copy of each arrest report or other releasable police report containing the address, or pertaining to the address ‘25 Billings Street, Woodbridge, New Jersey.’”

Custodian of Records: Captain R. Scott Kuzma
Request Received by Custodian: July 11, 2014
Response Made by Custodian: July 15, 2014
GRC Complaint Received: July 29, 2014

Background³

Request and Response:

On July 5, 2014, the Complainant submitted an Open Public Records Act (“OPRA”) request seeking the above-mentioned records. On July 15, 2014, the Custodian responded in writing, stating that the Complainant’s request was overly broad, as it failed to reasonably identify a record and was a blanket request for all documents on file with the Woodbridge Police Department (“WPD”).

Denial of Access Complaint:

On July 29, 2014, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that his request was valid, given the information provided. Moreover, the Complainant contended that requesters should not be expected to know exactly what and when incidents took place at the identified location.

¹ No legal representation listed on record.

² Represented by James Nolan, Esq. (Woodbridge, 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.

Statement of Information:

On October 31, 2014, the Custodian filed a Statement of Information (“SOI”). The Custodian contended that the Complainant is using OPRA as a research tool, requiring the Custodian to search and evaluate several categories of documents in its possession pertaining to the identified address. Additionally, the Custodian pointed out that the Complainant failed to provide any date to narrow the scope of a search for records. Furthermore, the Custodian certified that the WPD does not have a “master index” or “central computerized cataloging system” that would allow the Custodian to conduct a search for responsive records without unreasonable hardship.

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.

The New Jersey Appellate Division has held that OPRA “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.” MAG Entm’t, LLC v. Div. Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005) (*citing* N.J.S.A. 47:1A-1) (quotations omitted).

The Court reasoned that:

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 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.

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);⁴ N.J. Builders Ass’n v. N.J.

⁴ Affirming Bent v. Stafford Police Dep’t, GRC Complaint No. 2004-78 (October 2004).

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

In contrast, the court in Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010), evaluated a request for “[a]ny and all settlements, releases or similar documents entered into, approved or accepted from 1/1/2006 to present.” Id. at 508 (emphasis added). The Appellate Division determined that the request was not overly broad because it sought a specific type of document, despite failing to specify a particular case to which such document pertained. Id. at 515-16. Likewise, the court in Burke v. Brandes, 429 N.J. Super. 169 (App. Div. 2012), found a request for the E-Z Pass benefits of Port Authority retirees to be valid because it was confined to a specific subject matter that was clearly and reasonably described with sufficient identifying information. Id. at 176.

In Dawara v. Office of the Essex Cnty. Adm’r, GRC Complaint No. 2013-267 (March 2014), the Council held that a request for “police reports” was not overly broad, as the request was “confined to a specific subject matter.” Furthermore, the Council has long held that “arrest reports” are specifically identifiable records and subject to disclosure. *See* Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008).

However, a request for a specific type of document or subject matter must still be accompanied by a sufficient amount of identifying information. *See* Burke, 429 N.J. Super. at 176. In Love v. Spotswood Police Dep’t (Middlesex), GRC Complaint No. 2014-223 (Interim Order dated March 31, 2015), the complainant sought “police reports and/or complainants signed against [Kristen Ellis].” The Council held that while the complainant’s request for “police reports” and “complainants” reasonably described the subject matter, the complainant failed to provide a specific date or range of dates within his request. Id. at 3. The Council therefore found that the Complainant’s request was overly broad. Id.

In the current matter, the Complainant’s request for “arrest reports” and “police reports” specifically identify the subject matter and type of records sought. *See* Dawara, GRC No. 2013-267; Morgano, GRC No. 2007-156. However, similar to the facts in Love, the Complainant failed to provide a specific date or range of dates to accompany his request. GRC No. 2014-223. The only identifying information the Complainant provided was a street address as the common location of his request. Providing a common location alone is insufficient identifying information in a request for arrest reports and/or police reports. *See* Id.; Burke, 429 N.J. Super. at 176.

The Custodian did not unlawfully deny access to the Complainant’s request seeking arrest reports or other police reports pertaining to a common street address. N.J.S.A. 47:1A-6. The Complainant’s request failed to include a date, range of dates, or other identifiable information and is therefore overbroad and invalid. *See* MAG, 375 N.J. Super. at 549, Burke, 429 N.J. Super. at 176, Dawara, GRC No. 2013-267, and Love, GRC No. 2014-223.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Custodian did not unlawfully deny access to the Complainant’s request seeking arrest reports or other police

reports pertaining to a common street address. N.J.S.A. 47:1A-6. The Complainant's request failed to include a date, range of dates, or other identifiable information and is therefore overbroad and invalid. *See* MAG Entm't, LLC v. Div. Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005), Burke v. Brandes, 429 N.J. Super. 169, 176 (App. Div. 2012), Dawara v. Office of the Essex Cnty. Adm'r, GRC Complaint No. 2013-267 (March 2014), and Love v. Spotswood Police Dep't (Middlesex), GRC Complaint No. 2014-223 (Interim Order dated March 31, 2015).

Prepared By: Samuel A. Rosado
Staff Attorney

Reviewed By: Joseph D. Glover
Executive Director

May 19, 2015