



State of New Jersey
GOVERNMENT RECORDS COUNCIL
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

LORI GRIFA
Commissioner

FINAL DECISION

July 27, 2010 Government Records Council Meeting

Michael T. Braden
Complainant

Complaint No. 2009-245

v.

Toms River Township Police Department (Ocean)
Custodian of Record

At the July 27, 2010 public meeting, the Government Records Council (“Council”) considered the July 20, 2010 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. Under the state of the law at the time of the Complainant’s request, the Complainant’s letter request dated March 9, 2009 is not a valid OPRA request because the Complainant failed to submit said request on the Borough’s official OPRA request form, and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30, 33 (App. Div. 2005), and Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205, 213 (App. Div. 2005).
2. The Custodian has violated N.J.S.A. 47:1A-5.f. by failing to direct the Complainant to Toms River Township Police Department’s official OPRA request form upon receipt of the Complainant’s March 9, 2009 letter specifically referencing OPRA, pursuant to Barron v. Essex County Superintendent of Registration, GRC Complaint No. 2006-95 (April 2007), and Spaulding v. Hudson County Register, GRC Complaint No. 2006-157 (September 2007). See also Brewer v. New Jersey Department of Law & Public Safety, Division of New Jersey State Police, GRC Complaint No. 2006-204 (October 2007).
3. To the extent that Complainant’s request is an ongoing request for records on a monthly basis, such request is invalid pursuant to Blau v. Union County Clerk, GRC Complaint No. 2003-75 (November 2003). The Complainant must submit a new OPRA request each time he wishes to seek new records, specifically identifying the government records sought.



4. The Council declines to address the cost issue in the instant complaint because the Complainant's OPRA request is invalid inasmuch as the Complainant failed to submit said request on the Borough's official OPRA request form and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30, 33 (App. Div. 2005), and Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205, 213 (App. Div. 2005).
5. Although the Custodian failed to direct the Complainant to the Toms River Township Police Department's official OPRA request form upon receipt of the Complainant's March 9, 2009 letter referencing OPRA, the evidence of record does not indicate that such failure was intentional or deliberate, with knowledge of its wrongfulness. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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 27th Day of July, 2010

Robin Berg Tabakin, Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Charles A. Richman, Secretary
Government Records Council

Decision Distribution Date: August 2, 2010

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 27, 2010 Council Meeting**

**Michael T. Braden¹
Complainant**

GRC Complaint No. 2009-245

v.

**Toms River Township Police Department (Ocean)²
Custodian of Records**

Records Relevant to Complaint: Township of Toms River motor vehicle accident reports.³

Request Made: March 9, 2009

Response Made: March 13, 2009.⁴

Custodian: Lieutenant Bruce Burgess

GRC Complaint Filed: August 13, 2009⁵

Background

March 9, 2009

Complainant's Open Public Records Act ("OPRA") request. The Complainant requests the records relevant to this complaint listed above in a letter referencing OPRA.

March 13, 2009

Custodian's response to the OPRA request. The Custodian responds verbally via telephone on the second (2nd) business day following receipt of the request. The Custodian states that copies of the requested records will cost \$1.00 per page for 465 pages.

August 13, 2009

Denial of Access Complaint filed with the Government Records Council ("GRC") with the following attachments:

- Complainant's OPRA request dated March 9, 2009

¹ No legal representation listed on record.

² Represented by Kenneth B. Fitzsimmons, Esq. (Toms River, NJ).

³ The Complainant states that these reports will be requested on a monthly basis.

⁴ The evidence of record indicates that the Custodian's response to the OPRA request was verbal.

⁵ The GRC received the Denial of Access Complaint on said date.

The Complainant states that the Custodian informed him that copying costs will be \$1.00 per page for 465 pages. Complainant argues that this is a denial of access due to the high cost of the records requested.

The Complainant does not agree to mediate this complaint.

October 23, 2009

Request for the Statement of Information (“SOI”) sent to the Custodian.

October 29, 2009

Custodian’s SOI attaching the Complainant’s OPRA request dated March 9, 2009.

The Custodian certifies that he received the Complainant’s OPRA request on March 11, 2009. The Custodian further certifies that the request was not on an official OPRA request form nor did such request specify any dates for the records requested.

The Custodian states that he has no problem providing the records; however, this is a dispute over copying costs. The Custodian argues that this request is not a valid OPRA request because the Police Department often receives non-OPRA requests for accident reports; thus, the Custodian verbally responded to the Complainant’s request. The Custodian certifies that he informed the Complainant that there would be a copying charge of \$1.00 per photocopied page. The Custodian cites to N.J.S.A. 39:4-131, which reads, “if copies of reports are requested other than in person, an additional fee of up to \$5.00 for the first three pages and \$1.00 per page thereafter may be added to cover the administrative costs of the report.” The Custodian also states that Toms River Code Section 132-2 follows N.J.S.A. 39:4-131.

The Custodian further argues that ongoing requests for documents are not subject to OPRA pursuant to Blau v. Union County, GRC Complaint No. 2003-75 and Herron v. Montclair Bd. of Education, GRC Complaint No. 2004-02. The Custodian contends that the Complainant should be required to submit a new request for documents as the Complainant needs on a monthly basis.

March 25, 2010

E-mail from the Complainant to the GRC. The Complainant states that he has come to an agreement with the Custodian. The Complainant states that he has requested accident reports from March 1, 2010 to March 20, 2010 for a total of 100 pages. The Complainant further states that he agrees that he will be charged \$0.75 cents for the first 10 pages and then \$0.25 cents thereafter; the total amount of copying charges will be \$32.50. However, the Complainant states that the Custodian is now trying to charge the Complainant \$0.75 cents per page, for a total copying cost of \$75.00.

May 3, 2010

E-mail from the Complainant to the GRC. The Complainant states that the Custodian will only generate motor vehicle accident reports once a month. The Complainant further states that the Custodian has told him that motor vehicle accident reports responsive to the request from April 1, 2010 to April 14, 2010 will cost the Complainant \$105 for a total of 140 pages. However, the Complainant contends that

Toms River Township ordinance originally allowed copying fees of \$1.00 per page; now the ordinance provides for copying fees of \$0.75 per page for pages 1-10, \$0.50 per page for pages 11-20, and \$0.25 per page for all pages over 20. The Complainant contends that the Township is charging him per report, not per page.

Analysis

Whether the Custodian unlawfully denied access to the requested records?

OPRA provides that:

“...government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, *with certain exceptions...*” (Emphasis added.) N.J.S.A. 47:1A-1.

Additionally, OPRA defines a government record as:

“... any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been *made, maintained or kept on file ... or that has been received* in the course of his or its official business ...” (Emphasis added.) N.J.S.A. 47:1A-1.1.

OPRA states that:

“[t]he custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged.” (Emphasis added.) N.J.S.A. 47:1A-5.f

OPRA places the onus on the Custodian to prove that a denial of access is lawful. Specifically, OPRA states:

“...[t]he public agency shall have the burden of proving that the denial of access is authorized by law...” N.J.S.A. 47:1A-6.

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 Complainant asserts that he submitted a request for records by letter mentioning OPRA dated March 9, 2009. The Custodian asserts that the Complainant's request is not a valid OPRA request; because the police department frequently receives non-OPRA requests for motor vehicle accident records, the Custodian responded verbally to the Complainant's request.

Review of the OPRA statute and its legislative intent lead the Council to conclude that use of the request form is required for all requestors. The statute provides that the custodian "shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency." N.J.S.A. 47:1A-5.f. The statute specifically prescribes what must be on the form:

- (1) space for the name, address and phone number of the requestor and a brief description of the government record sought;
- (2) space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged;
- (3) specific directions and procedures for requesting a record;
- (4) a statement as to whether prepayment of fees for a deposit is required;
- (5) the time period in which the public agency is required by OPRA to make the record available;
- (6) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal;
- (7) space for the custodian to list reasons if a request is denied in whole or in part;
- (8) space for the requestor to sign and date the form;
- (9) space for the custodian to sign and date the form if the request is fulfilled or denied.

Id.

Although the statute does not expressly state that OPRA requests must be on the form adopted by the agency pursuant to N.J.S.A. 47:1A-5.f., principles of statutory construction show that the Legislature intended use of this form by all requestors to be mandatory. In interpreting a statute, it is axiomatic that "each part or section [of the statute] should be construed in connection with every other part or section so as to produce a harmonious whole." Matturi v. Bd. of Trustees of JRS, 173 N.J. 368, 383 (2002), quoting In re Passaic Cty. Utilities Auth., 164 N.J. 270, 300 (2000). In addition, a construction which renders statutory language meaningless must be avoided. Bergen Comm. Bank v. Sisler, 157 N.J. 188, 204 (1999). *See also* G.S. v. Dept. of Human Serv., 157 N.J. 161, 172 (1999)(a statute should be interpreted so as to give effect to all of its provisions, without rendering any language inoperative, superfluous, void, or insignificant).

As noted, N.J.S.A. 47:1A-5.f. requires that custodians adopt a request form, and sets forth a detailed list of what the form must contain. The next subsection of the statute provides:

If the custodian is unable to comply with a request for access, the custodian *shall indicate the specific basis therefore on the request form*

and promptly *return it to the requestor*. The custodian *shall sign and date the form and provide the requestor with a copy thereof*. (Emphasis added.) N.J.S.A. 47:1A-5.g.

The form to which N.J.S.A. 47:1A-5.g. refers is the form required by N.J.S.A. 47:1A-5.f. In providing in § 5.g., that the custodian “shall” sign and date the form, indicate the basis for denial on the form, and return the form to the requestor, the Legislature evidenced its clear intent that it is mandatory for the form to be used by requestors. *See Harvey v. Essex Cty. Bd. Of Freeholders*, 30 N.J. 381, 391-92 (1959) (the word “shall” in a statute is generally mandatory). The express requirement that the custodian use the request form in denying an OPRA request, construed together with the preceding statutory requirement that the custodian adopt a request form, demonstrates that the Legislature intended that this form would be used for all OPRA requests. If all requestors are not required to submit requests on the form prescribed by the statute, then the statutory provisions requiring the custodian to sign and date the form, and return it to the requestor, would be meaningless. Indeed, a custodian would be unable to fulfill these express requirements of N.J.S.A. 47:1A-5.g. if the requestor does not use the form in submitting his request.

Accordingly, nothing in OPRA suggests that some requestors may forgo using the official request form. In enacting the form requirement, the Legislature has expressed its policy that use of the form promotes clarity and efficiency in responding to OPRA requests, consistent with OPRA’s central purpose of making government records “readily accessible” to requestors. N.J.S.A. 47:1A-1.

The Appellate Division has indicated that the statute’s form requirement serves the additional purpose of prompting the legislative policy that a requestor must specifically describe identifiable records sought. *See MAG Entertainment LLC v. Div. of ABC*, 375 N.J. Super. 534, 546 (App. Div. 2005) (an open-ended request that fails to identify records with particularity is invalid). In *Bent v. Twp. of Stafford Police Dept.*, 381 N.J. Super. 30, 33 (App. Div. 2005), the Court held that the requestor’s general request for information violated this policy and was therefore invalid. In reaching this conclusion, the Court noted that OPRA mandates that the request form provide space for a “brief description” of the record request. *Id.* Similarly, in *Gannett New Jersey Partners L.P. v. County of Middlesex*, 379 N.J. Super. 205, 213 (App. Div. 2005), the Court specifically pointed to the same statutory request form requirement in determining that OPRA does not authorize requestors to make blanket requests for agency records.

Therefore, based on the language of the statute, as well as judicial recognition of the importance of the statutory request form, it is determined that the statute requires all requestors to submit OPRA requests on an agency’s official OPRA records request form. OPRA’s provisions come into play only where a request for records is submitted on an agency’s official OPRA records request form.

However, the GRC notes that pursuant to Renna v. County of Union, 407 N.J. Super. 230 (App. Div. 2009),⁶ in which the Appellate Division held that although requestors shall continue to use public agencies' OPRA request forms when making requests, no custodian shall withhold such records if the written request for such records, not presented on the official form, contains the requisite information prescribed in the section of OPRA requiring custodians to adopt a form, the use of an official OPRA request form is no longer necessary; for requests for government records occurring after May 21, 2009, a letter request for government records which references OPRA is sufficient to invoke all of the protections and legal responsibilities contained in OPRA.

Therefore, under the state of the law at the time of the Complainant's request, the Complainant's letter request dated March 9, 2009 is not a valid OPRA request because the Complainant failed to submit said request on the Toms River Township Police Department's official OPRA request form, and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG, *supra*, Bent, *supra*, and Gannett, *supra*.

However, the GRC has also held that a custodian should direct a requestor to the agency's official OPRA request form when receiving a letter request. *See Spaulding v. Hudson County Register*, GRC Complaint No. 2006-157 (September 2007) (holding that custodians are required to direct requestors to the agency's official OPRA request form when denying a letter request on the basis that said request is not submitted on an official request form.) and Barron v. Essex County Superintendent of Registration, GRC Complaint No. 2006-95 (April 2007) (holding that the Custodian's staff member violated OPRA pursuant to N.J.S.A. 47:1A-5.f. by not providing the Complainant with the agency's official OPRA request form.) *See also Brewer v. New Jersey Department of Law & Public Safety, Division of New Jersey State Police*, GRC Complaint No. 2006-204 (October 2007).

In this complaint, the Custodian received the Complainant's March 9, 2009 letter which made specific reference to OPRA, but failed to direct the Complainant to Toms River Township Police Department's official OPRA request form upon receipt of the Complainant's March 9, 2009 letter. Because the Complainant's March 9, 2009 letter request specifically referred to OPRA, the Custodian has violated N.J.S.A. 47:1A-5.f. by failing to direct the Complainant to Toms River Township Police Department's official OPRA request pursuant to Barron, *supra*, and Spaulding, *supra*. *See also Brewer*, *supra*.

Moreover, in Blau v. Union County Clerk, GRC Complaint No. 2003-75 (November 2003), the requestor sought access to copies of deeds and mortgages on an ongoing basis. The Council held that, "[t]he request for copies 'on a continuing basis' is

⁶ The Complainant's OPRA request predates Renna v. County of Union, 407 N.J. Super. 230 (App. Div. 2009) in which the Appellate Division held that although requestors shall continue to use public agencies' OPRA request forms when making requests, no custodian shall withhold such records if the written request for such records, not presented on the official form, contains the requisite information prescribed in the section of OPRA requiring custodians to adopt a form. Renna was decided on May 21, 2009. The GRC declines to retroactively apply the Appellate Division's decision in Renna to the instant matter pursuant to Gibbons v. Gibbons, 86 N.J. 515 (1981).

not valid under OPRA and that the requestor must submit a new OPRA request to the custodian for each new batch of documents sought.”

In the instant complaint, the Complainant’s request sought motor vehicle accident reports on a continuing monthly basis. Therefore, to the extent that Complainant’s request is an ongoing request for records on a monthly basis, such request is invalid pursuant to Blau, *supra*. The Complainant must submit a new OPRA request each time he wishes to seek new records, specifically identifying the government records sought.

Further, N.J.S.A. 39:4-131⁷ provides that “if copies of reports are requested other than in person, an additional fee of up to \$5.00 for the first three pages and \$1.00 per page thereafter may be added to cover the administrative costs of the *report*.” (Emphasis added). Because the language of the statute specifically refers to the “report”, it appears as though the legislative intent of the statute was to impose a fee of “up to \$5.00 for the first three pages and \$1.00 per page thereafter,” in addition to the OPRA copying rates, to cover the administrative costs of each individual report requested in any manner other than in person.

In James Donato v. Jersey City Police Department, GRC Complaint No. 2005-251 (April 2007), the Council held that “[t]he Custodian may only charge the enumerated copying rates listed in OPRA when responding to an OPRA records request made in person for copies of auto accident reports consistent with N.J.S.A. 47:1A-5.b. If the records request is not made in person, the Custodian may charge the additional fee of up to \$5.00 for the first three pages and \$1.00 per page thereafter to cover the administrative costs of mailing the reports pursuant to N.J.S.A. 39:4-131.”

The Complainant argues that the original cost for \$1.00 per page for 465 pages of responsive records is a denial of access under OPRA because the total cost of \$465.00 for the requested April 2009 accident reports is prohibitive. The Complainant stated that upon further communication with the Custodian, both parties came to a mutual agreement pursuant to the Township ordinance which allowed the Township to charge the Complainant as if he made the request in person by charging him \$0.75 per page for the first ten (10) pages of the requested motor vehicle accident reports, \$0.50 per page for pages 11-20, and \$0.25 for per page for over 20 pages. Moreover, for accident reports dated from April 1, 2010 through April 14, 2010, a total of 140 pages, the Complainant states that this cost should be \$42.50, but states that the Custodian is charging on a per report basis, for a total cost of \$105.00.

The Council declines to address the cost issue in the instant complaint because the Complainant’s OPRA request is invalid, inasmuch as the Complainant failed to submit said request on the Borough’s official OPRA request form and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG, *supra*, Bent, *supra*, and Gannett, *supra*.

⁷ Toms River Township Administrative Code §132-2 implements the statute.

Whether the Custodian’s failure to direct the Complainant to the Toms River Township Police Department’s official OPRA request form rises to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances?

OPRA states that “[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty ...” N.J.S.A. 47:1A-11.a.

OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically, OPRA states:

“... If the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA]...” N.J.S.A. 47:1A-7.e.

Certain legal standards must be considered when making the determination of whether the Custodian’s actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian’s actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170 at 185 (2001); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian’s actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian’s actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (Berg); the Custodian’s actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J.Super. 86 (App. Div. 1996) at 107).

Although the Custodian failed to direct the Complainant to the Toms River Township Police Department’s official OPRA request form upon receipt of the Complainant’s March 9, 2009 letter referencing OPRA, the evidence of record does not indicate that such failure was intentional or deliberate, with knowledge of its wrongfulness. Therefore, it is concluded that the Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. Under the state of the law at the time of the Complainant’s request, the Complainant’s letter request dated March 9, 2009 is not a valid OPRA request

because the Complainant failed to submit said request on the Borough's official OPRA request form, and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30, 33 (App. Div. 2005), and Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205, 213 (App. Div. 2005).

2. The Custodian has violated N.J.S.A. 47:1A-5.f. by failing to direct the Complainant to Toms River Township Police Department's official OPRA request form upon receipt of the Complainant's March 9, 2009 letter specifically referencing OPRA, pursuant to Barron v. Essex County Superintendent of Registration, GRC Complaint No. 2006-95 (April 2007), and Spaulding v. Hudson County Register, GRC Complaint No. 2006-157 (September 2007). See also Brewer v. New Jersey Department of Law & Public Safety, Division of New Jersey State Police, GRC Complaint No. 2006-204 (October 2007).
3. To the extent that Complainant's request is an ongoing request for records on a monthly basis, such request is invalid pursuant to Blau v. Union County Clerk, GRC Complaint No. 2003-75 (November 2003). The Complainant must submit a new OPRA request each time he wishes to seek new records, specifically identifying the government records sought.
4. The Council declines to address the cost issue in the instant complaint because the Complainant's OPRA request is invalid inasmuch as the Complainant failed to submit said request on the Borough's official OPRA request form and as such, there is no unlawful denial of access under OPRA pursuant to N.J.S.A. 47:1A-5.g., MAG Entertainment LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Twp. of Stafford Police Dept., 381 N.J. Super. 30, 33 (App. Div. 2005), and Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205, 213 (App. Div. 2005).
5. Although the Custodian failed to direct the Complainant to the Toms River Township Police Department's official OPRA request form upon receipt of the Complainant's March 9, 2009 letter referencing OPRA, the evidence of record does not indicate that such failure was intentional or deliberate, with knowledge of its wrongfulness. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Prepared By: Harlynn A. Lack, Esq.
Case Manager

Approved By: Catherine Starghill, Esq.
Executive Director

July 20, 2010