



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**

**September 29, 2015 Government Records Council Meeting**

Michael W. Boyle  
Complainant

Complaint No. 2014-323

v.

City of Hoboken (Hudson)  
Custodian of Record

At the September 29, 2015 public meeting, the Government Records Council (“Council”) considered the September 22, 2015 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council, by a majority vote, adopted the entirety of said findings and recommendations. The Council, therefore, finds that the request to “ID each officer #” from various blotter reports spanning a decade was an invalid request for information rather than identifiable government records. In addition, the request would require the Custodian to conduct research. Therefore, the Custodian lawfully denied access. Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, (App. Div. 2005); MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Donato v. Twp. of Union, GRC Complaint No. 2005-182 (February 2007); Lamantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Smith v Dep’t of Corr., GRC Complaint No. 2013-337 (July 2014).

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 29<sup>th</sup> Day of September, 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: October 5, 2015**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
September 29, 2015 Council Meeting**

**Michael W. Boyle<sup>1</sup>  
Complainant**

**GRC Complaint No. 2014-323**

v.

**City of Hoboken (Hudson)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** “Please ID each officer # from blotter reports, circled under call type” from police calls made between January 21, 2001, and January 31, 2011.

**Custodian of Record:** Michael Mastropasqua  
**Request Received by Custodian:** May 30, 2014  
**Response Made by Custodian:** June 2, 2014  
**GRC Complaint Received:** September 22, 2014

**Background<sup>3</sup>**

**Request and Response:**

On May 30, 2014, the Complainant submitted an Open Public Records Act (“OPRA”) request seeking the above listed records. The Complainant requested the identification of police officers assigned to certain police calls in the City of Hoboken (“City”) between January 21, 2001, and January 31, 2011. On June 2, 2014, the next business day following receipt, the Custodian responded in writing to deny the request, contending that it was overly broad, vague, and unclear. The Custodian also denied the request for being an improper demand for information, for requiring research, and for seeking safety sensitive and confidential, investigatory information.

**Denial of Access Complaint:**

On September 22, 2014, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). According to the Complainant, he requested that the Custodian “[P]lease] ID each officer # from Blotter Reports. . . .” The Complainant attached blotter reports that included hand-drawn circles around certain entries, all of which involved

---

<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Alysia M. Proko, Esq. (Hoboken, NJ).

<sup>3</sup> 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.

reports of a “fight.” The Complainant stated that his request was not overly vague because he identified the police officer by his badge number. He claimed that whenever a police officer completes his report, the officer must place his badge number and name at the bottom of the report. The Complainant argued that he was saving the City time and the cost of producing numerous reports. He concluded by stating, “[w]e request zero investigatory records, merely the name of the officer that responded to a call.”

#### Statement of Information:

On August 22, 2014, the Custodian filed a Statement of Information (“SOI”). According to the Custodian, he denied the request because the Complainant requested neither a record nor particular type of record. He stated that the Complainant attached to his OPRA request thirty-three (33) pages of blotter log reports, all of which charted police calls and included the date and time of the incident, the blotter number, a police badge number, the location, and the type of call. Among other reasons, he denied the request because it sought information rather than records. In order to find responsive records, if any, he argued, the custodial agency would have to research specific police incidents to determine which officers responded to the calls. He argued that compiling such information was not part of the Custodian’s duties. *Citing Bent v. Twp. of Stafford Police Dep’t*, 381 N.J. Super. 30 (App. Div. 2005). He also argued the request was vague and unclear because it sought to “ID the police officer #.” The Custodian claimed that he was unsure at the time<sup>4</sup> whether “officer #” meant the officers’ telephone phone numbers, the number of officers present, the officers’ badge numbers, or some other number. *Citing Burke v. Brandes*, 429 N.J. Super. 169 (App. Div. 2012). Finally, the Custodian argued that even if the Complainant’s intent were clear, disclosing documents that “ID each officer #” might involve revealing homeland security, emergency management, and undercover investigative work, thus making it exempt from disclosure as safety sensitive or confidential investigatory information. *Citing N.J.S.A. 47:1A-1*.

#### Additional Submissions:

On October 3, 2014, the Complainant responded to the SOI. He attributed any defects in his complaint to the OPRA form provided by the Custodian. He further stated:

[T]he OPRA request is remarkably simple. *Please provide the names of the officers badge numbers for ‘fights’ at the particular location.* (Emphasis in original)...The Hoboken Police Department forms supply officer badge numbers but not names. I am requesting the names so that I can identify the police officers.

### Analysis

#### Unlawful Denial of Access

---

<sup>4</sup> The Complainant clarified in his Denial of Access Complaint that he sought only the names of the police officers; however, the originally submitted OPRA request was far less clear.

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 Superior Court Appellate Division has held that “[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it 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.’ N.J.S.A.47:1A-1.*” MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005). (Emphasis added). 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). See Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005);<sup>5</sup> N.J. Builders Assoc. v. N.J. 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 Donato v. Twp. of Union, GRC Complaint No. 2005-182 (February 2007), the Council held, pursuant to MAG, that a custodian is obligated to search his or her files to find identifiable government records listed in a requestor’s OPRA request. In Donato, the complainant requested all motor vehicle accident reports from September 5, 2005, to September 15, 2005. The custodian sought clarification of said request on the basis that it was not specific enough. The Council stated that:

Pursuant to MAG, the Custodian is obligated to *search* her files to *find* the identifiable government records listed in the Complainant’s OPRA request (all motor vehicle accident reports for the period of September 5, 2005, through September 15, 2005). However, the Custodian is not required to *research* her files to figure out which records, if any, might be responsive to a broad or unclear OPRA request. The word *search* is defined as “to go or look through carefully in order to find something missing or lost.” The word *research*, on the other hand, means “a close and careful study to find new facts or information.”

Id. (emphasis added, citations omitted).

In O’Shea v. West Milford Twp., GRC Complaint No. 2008-224 (November 2009), the complainant requested, among other items, any proposals between a party and the township that listed the party’s regular hourly fee versus a discounted rate. The Council held that the complainant’s request was invalid pursuant to MAG and Donato, as the custodian would have needed to read through each proposal on file and determine what documents match the request.

---

<sup>5</sup> Affirming Bent v. Stafford Police Dep’t, GRC Case No. 2004-78 (October 2004).

In Smith v Dep't of Corr., GRC Complaint No. 2013-337 (July 2014), the request sought the number of hours weekly that an inmate had accessed the prison law library. In finding the request to be an invalid request for information, the Council stated: "Regardless of whether this information can be gleaned from a specific government record, the amount of time available to access legal assistance constitutes information." Id. at 5.

Similar to the request in Smith, the request in the instant matter to "ID each officer #" in a pile of police blotter reports is a request for information rather than identifiable government records. In addition, the request would also require the Custodian to do research. Even though there might be some specific government record that contains the information, in order to fulfil the request as submitted, the Custodian would need to conduct research by, at a minimum, going through the stack of police blotters and cross referencing other records to identify the police officers' names.

Accordingly, the request to "ID each officer #" from various blotter reports spanning a decade was an invalid request for information rather than identifiable government records. In addition, the request would require the Custodian to conduct research.<sup>6</sup> Therefore, the Custodian lawfully denied access. Bent, 381 N.J. Super. 30; MAG 375 N.J. Super. at 546; Donato, GRC No. 2005-182; Smith, GRC No. 2013-337; *See also* Lamantia v. Jamesburg Public Library, GRC Complaint No. 2008-140 (February 2009).

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the request to "ID each officer #" from various blotter reports spanning a decade was an invalid request for information rather than identifiable government records. In addition, the request would require the Custodian to conduct research. Therefore, the Custodian lawfully denied access. Bent v. Stafford Police Dep't, 381 N.J. Super. 30, (App. Div. 2005); MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Donato v. Twp. of Union, GRC Complaint No. 2005-182 (February 2007); Lamantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Smith v Dep't of Corr., GRC Complaint No. 2013-337 (July 2014).

Prepared By: Ernest Bongiovanni  
Staff Attorney

Reviewed By: Joseph Glover  
Executive Director

September 22, 2015

---

<sup>6</sup> Because the GRC reached a threshold issue in finding the request invalid, the GRC need not determine whether the request was overbroad, vague, or unclear, nor whether any document sought raised legitimate safety sensitive or confidential investigatory information