



**OFFICE OF THE COUNTY PROSECUTOR
JENNIFER WEBB-MCRAE
CUMBERLAND COUNTY PROSECUTOR**

Harold B. Shapiro

First Assistant Prosecutor

Mach Jackson

Chief of Investigators

115 Vine Street
Bridgeton, New Jersey 08302
Telephone (856)453-0486
Fax (856)451-1507

April 24, 2023

Via email to: opra+request-41699-430f9b45@requests.opramachine.com
El Aemer El Mujaddid

Re: Records request

Dear Mr. Mujaddid:

Please accept this letter in response to your records request dated April 13, 2023 and received via email. You have requested records in the form of: “(1) 2010 CCPO Telephonic Arrest Warrant Policy and Procedure; (2) Copies of all letters, records, documents, faxes, and emails regarding CJ # 2013-04363-SS, CJ# 2013-05130- SS, CJ# 2014-06655- SS; (3) Copy of all correspondences from Harold B. Shapiro regarding CJ # 2013-04363-SS, CJ# 2013-05130- SS, CJ# 2014-06655- SS, (4) Copy of the 2013-2014 CCPO Supersession Policy; (5) Copy of the 2013-2014 CCPO Conflict of Interest Policy”. For the sake of clarity, I have divided the response to each portion of this request into separate sections below.

(1) 2010 CCPO Telephonic Arrest Warrant Policy and Procedure.

With regard to request (1), this office has no responsive records.

(2) Copies of all letters, records, documents, faxes, and emails regarding: CJ # 2013-04363-SS; CJ# 2013-05130- SS’ CJ# 2014-06655- SS].

With regard to request (2), your request for all records which “regard” your referenced matters is denied as substantially overbroad. A blanket request for unspecified documents/An OPRA request seeking “all documents” in a prosecutor’s file is an invalid blanket request for a class of various documents rather than a request for specifically named or identifiable government records. A custodian had no legal duty to research his/her records to locate records potentially responsive to such a request. Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005) (OPRA does not "authorize a party to make a blanket request for every document a public agency has on file."); Gannett N.J. Partners LP v. Cnty. of Middlesex, 379 N.J. Super. 205, 212 (App. Div. 2005) (citing MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546-49 (App. Div. 2005)) (OPRA requires party requesting access to a public record to specifically describe the document sought."); accord Spectraserv, Inc. v. Middlesex Cnty. Utilities Auth., 416 N.J. Super. 565, 578 (App. Div. 2010) (finding OPRA request for "an entire project file" improper because it failed to identify specific documents). MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); NJ Builders Assoc. v. NJ 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).

Once more, "A proper [OPRA] request 'must identify with reasonable clarity those documents that are desired.'" Burke v. Brandes, 429 N.J. Super. 169, 174 (App. Div. 2012) (quoting Bent v. Township of Stafford Police Dept., Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005)). Requests for general information that must be "analyzed, collated and compiled" by the custodian are not within the scope of OPRA. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 49 (App. Div. 2005). Moreover, requests that require a custodian to analyze and evaluate information in order to respond are improper. See Burke, 429

N.J. Super. at 174; see also Bent, 381 N.J. Super. at 33-39 (denying request for "entire file" of requester's criminal investigation because it neither identified nor described the records sought with any specificity or particularity); see also MAG, 375 N.J. Super. at 549 (request invalid for failing to provide any identifiers other than "a broad generic description of a brand or type of case prosecuted by the agency in the past"); and N.J. Builder's Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 178-79 (App. Div.), certif. denied, 190 N.J. 394 (2007) (request for "any and all documents and data" invalid for requiring custodian rather than requester to identify the documents sought).

With regard to the portion of this request that references emails - this request is most analogous to the matter of Elcavage v. West Milford Township (Passaic), GRC Complaint No. 2009-08 (April 2010), where a requestor requested all emails from a specified sender/recipient ranging from a specified time period. In that matter the court held that the request was overbroad and failed to identify specifically identifiable records. Seeking to curb further ambiguity with regard to what constitutes a valid request for emails under the Open Public Records Act, then, the Government Records Counsel in Elcavage v. West Milford Township (Passaic), GRC Complaint No. 2009-08 (April 2010), clearly stated: "In accord with MAG, supra, and its progeny, in order to specifically identify an e-mail, OPRA requests must contain (1) the content and/or subject of the e-mail, (2) the specific date or range of dates during which the e-mail was transmitted or the emails were transmitted, and (3) a valid e-mail request must identify the sender and/or the recipient thereof". Your request accordingly is thus additionally improperly posed as a request for emails and is denied on this basis as well.

Finally, when a governmental entity's objection to an OPRA request stems from a potential for substantial disruption of the agency's operations, "the custodian may deny access to the record

after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency." N.J.S.A. 47:1A-5(g). Where the request is unclear and overbroad, no such efforts at accommodation are necessary. Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 235-36 (App. Div. 2015).

As previously indicated, request (2) is for all records and documents possessed by this agency which "regard" your specified subject matter. As this request fails to name a specifically identifiable record and instead calls upon this records custodian to perform research of every record within its possession in order to determine which records "regard" your specified subject matter, this is an impermissibly overbroad request under the provisions of the Open Public Records Act.

(3) Copy of all correspondences from Harold B. Shapiro regarding: CJ # 2013-04363-SS; CJ# 2013-05130- SS; CJ# 2014-06655- SS.

With regard to request (3), your request for "all correspondences" from a named individual which "regard" your referenced matters is denied as substantially overbroad. The courts have affirmed that "A proper [OPRA] request 'must identify with reasonable clarity those documents that are desired.'" OPRA "is 'not intended [to be] a research tool [that] litigants may use to force government officials to identify and siphon useful information,'" In re N.J. Firemen's Ass'n Obligation, 230 N.J. 258, 276 (2017) (quoting MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005)). If a request does not name specifically identifiable records or is overly broad, a custodian may deny access pursuant to the following court decisions: MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007), and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Records custodians are required to search their files for responsive records, but

not to conduct any research on behalf of the requestor. See Donato v. Tp of Union, GRC Complaint No. 2005-182, Analysis (February 28, 2007).

Finally, when a governmental entity's objection to an OPRA request stems from a potential for substantial disruption of the agency's operations, "the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency." N.J.S.A. 47:1A-5(g). Where the request is unclear and overbroad, no such efforts at accommodation are necessary. Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 235-36 (App. Div. 2015).

Where your request would require this records custodian to perform research of every record in the possession of this office constituting a correspondence from the First Assistant Prosecutor in order to determine which records, if any, "regard" your specified subject matters, this request is facially overbroad and improper under OPRA as requiring substantial research.

(4) Copy of the 2013-2014 CCPO Supersession Policy

With regard to request (4), this office has no responsive records.

(5) Copy of the 2013-2014 CCPO Conflict of Interest Policy

With regard to request (5), please find responsive records attached as Responsive Records A.

The Cumberland County Prosecutor's Office reserves the right to raise any other ground for denial not raised in this response. The failure of the Cumberland County Prosecutor's Office to assert an exception or privilege does not act as a waiver of any ground for denial. If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Cumberland County Prosecutor's

Office to deny access. At your option, you may institute a proceeding in the Superior Court of New Jersey. All questions regarding complaints filed in Superior Court should be directed to the Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen C. Sayer", with a stylized flourish at the end.

Stephen C. Sayer [114352015]
Assistant Prosecutor
Alternate Records Custodian