

PAFF 6184 2-14-14

FAX COVER SHEET

TO

COMPANY

FAX NUMBER 16092655151

FROM John Paff

DATE 2014-02-04 20:48:50 GMT

RE County of Burlington OPRA request

COVER MESSAGE

County of Burlington
via Fax only

Please accept this e-mail/fax as my request for government records pursuant to the Open Public Records Act and the common law right of access. Please respond to this request and send all responsive documents to me at paff@pobox.com. Thank you.

***Background*:**

I am informed that a 74-year-old homeless man named Robert Taylor died while in custody at the Burlington County Jail.

***Records Requested*:**

1. Any police incident or other report that was issued after Taylor was found dead in his cell.
2. A document that shows why (i.e. the legal rationale) Taylor was incarcerated.

John Paff P.O. Box 5424 Somerset, NJ 08875 Voice: 732-873-1251 Fax: 908-325-0129 e-mail: paff@pobox.com <paff@pobox.com>

Board of Chosen Freeholders County of Burlington

P.O. BOX 6000

MOUNT HOLLY, NEW JERSEY

08060-6000

Office of:

COUNTY FREEHOLDERS

Leah Arter / *Director*

Aimee R. Belgard

Joseph B. Donnelly

Joseph Howarth

Joanne Schwartz



PAUL DRAYTON
*County Administrator /
Board Clerk*
Phone: (609) 265-5020
Fax: (609) 702-7000

February 14, 2014

John Paff
P.O. Box 5424
Somerset, NJ 08875

Re: **OPRA Request 6184 relating to Robert Taylor, Deceased**

Dear Mr. Paff:

This letter responds to your recent OPRA request, which was received by our office on February 4, 2014.

We will address the items in your OPRA request separately.

1. **Any police incident or other report that was issued after Taylor was found dead in his cell:**

The County is not in possession of any police report concerning Mr. Taylor's death. The remainder of this request, as written, is overly broad and unclear and it does not identify a government record with sufficient clarity. Accordingly, this request is denied pursuant to the following court and/or agency decisions. MAG Entertainment, LLC v. Division of Alcohol 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 Shuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Furthermore, without waiving the exemption cited above, any such records would be exempt from disclosure as records pertaining to an investigation in progress by a public agency, because the disclosure of such records would be detrimental to the public interest. See N.J.S.A. 47:1A-3.a. Additionally, any such records would be exempt from disclosure as advisory, consultative or deliberative in nature. (See, N.J.S.A. 47:1A-1) and Executive Order No. 26, Section 1(a)

John Paff
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(McGreevey 2002). Finally, the disclosure of such records would violate the decedent's reasonable expectation of privacy under both OPRA (N.J.S.A. 47:1A-1 et seq.) and New Jersey common law. See, Burnette v. County of Bergen, 198 N.J. 408 (2009).

Please be further advised that Burlington County also reserves the right to raise any other ground or basis for denial that is not raised in this response. The failure of Burlington County to assert an exception or privilege does not act as a waiver of any ground or basis for denial.

2. **A document that shows why (i.e. the rationale) Taylor was incarcerated:**

Attached in response to this request is a copy of the Court Order that was entered on December 20, 2013, under Complaint/Docket Number W-2013-308, that resulted in Mr. Taylor's incarceration.

We now consider our response to your OPRA request complete.

I am also obligated to inform you that if you believe I have erred in withholding documents, you have the right to bring an action in the Superior Court of New Jersey, or to appeal to the Government Records Council. The Council can be reached at (609) 633-6337 or by mail at PO Box 819, Trenton, New Jersey 08625.

I wish to thank you for your inquiry and I trust that the responses that have been provided are sufficient. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,



Joseph Threston
Custodian of Records
Burlington County

MUNICIPAL COURT
TOWNSHIP OF RIVERSIDE
County of Burlington
P.O. Box 188, 1 West Scott Street • Riverside, NJ 08075-0188
Telephone: (856) 461-0466

COURT CODE 0331
DATE OF BIRTH 12/4/38
SOCIAL SECURITY # [redacted]

STATE OF NEW JERSEY

vs.

Male

Robert Taylor Defendant
unknown Street
unknown City, State & Zip
Phone Number

EXHIBIT "A" COMMITMENT

- Temporary Commitment, Default of \$ 500 *FULL* Bail
 - Commitment Pending Grand Jury \$ _____ Bail
 - Commitment on Sentence of Imprisonment (\$ _____ Bail in event of appeal)
- *****
- DEFENDANT TO BE GIVEN CREDIT FOR TIME SPENT IN CUSTODY AS FOLLOWS:
_____ DAYS FROM _____ TO _____

To the Warden or any Law Enforcement Officer of New Jersey:
Above Defendant has been brought before this Court charged with/convicted of:

OFFENSE	STATUTE #	COMPLAINT/DOCKET #
a. <u>Contempt (Fail to Appear)</u>	<u>2A:10-1C</u>	<u>W-2013-308</u>
b. _____	_____	_____
c. _____	_____	_____
d. _____	_____	_____

You are commanded to transport defendant to the Warden of the _____ who is required to keep defendant in custody until:

January 7th, 2014 at 7:30p m. when defendant is to be returned to this Court: or until further Order of the Court.

- The matter has been considered by the Grand Jury or otherwise disposed by due process of law.
- The defendant having been convicted of the above offense(s) by this court and having been sentenced to imprisonment at the _____ for a period of _____ days and have been fined \$ _____ and special conditions: _____

You are Ordered to transport said defendant to the Warden of the _____ who is required to receive and keep defendant in his custody until termination of the sentence.

Pvt Des Court 7:30pm BCT
8:00am CWRC

Form 5A completed at Municipal Court: Yes No, on 20th day of December, 2013

Sherry Allen Smith
Administrator/Deputy Administrator of the Court

Dennis P. Maloney JWC
Judge