

From: [AGO - Public Records](#)
To: [D.S.](#)
Subject: public records appeals, dated 4/27 and 4/28
Date: Monday, May 4, 2020 11:53:17 AM
Attachments: [2020-05-04 Diamond appeal response to Shaddy.pdf](#)

Please see the attached.

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

SARAH E.B. LONDON
CHIEF ASST. ATTORNEY GENERAL



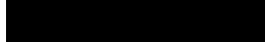
TEL: (802) 828-3171

<http://www.ago.vermont.gov>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

May 4, 2020

David Shaddy



By E-Mail Only

Re: Response to Public Records Request Appeal.

Dear Mr. Shaddy:

I write in response to your appeals of several public records requests to the Vermont Attorney General's Office ("AGO") originating on April 27, April 25, April 21, and April 16, 2020 respectively. Each appeal will be addressed in turn below:

1. You have appealed the response to the following request issued on April 16, 2020: "[A]ny public records that the Vermont Attorney General has of the existence of the 'Vermont Office of the State Prosecuting Attorneys,' and an official of the state, a 'State Prosecuting Attorney.'" By email of April 22, 2020, you further explained:

"The web link, stated with the Vermont Attorney General's earlier response to my public records request, which links to documents claiming I was in some sort of case or dispute with the Vermont Office of Professional Regulation, etc., contains the name of an attorney. That attorney's name is Gabriel Gilman, Esq. In a document I received from Gabriel Gilman, Esq., he claims to be a 'State Prosecuting Attorney,' a Vermont governmental official, within the Vermont Office of State Prosecuting Attorneys. Based on the Vermont Attorney General's request for clarification, I am assuming that the Vermont Attorney General believes that such an official and agency exist. Please provide as many or as few records as required to substantiate that existence."

The previous response from the AGO identified that Attorney Gilman is General Counsel at the Vermont Secretary of State's Office of Professional Regulation (OPR). Furthermore, in the document you reference in your e-mail of April 22, 2020, Attorney Gilman was the prosecuting attorney for the State of Vermont. However, there is no such office as the "Vermont Office of State Prosecuting Attorneys."

I have reviewed your appeal. The AGO has previously provided you with an appropriate response. We are not aware of a Vermont Office of State Prosecuting Attorneys, and therefore,

no documents are available. For the reasons set forth above, your appeal is denied. Under 1 V.S.A. § 319, you may seek judicial review of this determination from the Civil Division of the Vermont Superior Court.

2. You have appealed the response to the following request issued on April 21, 2020: “Please provide me with any public records defining or substantiating the Vermont Attorney General’s statement regarding the ‘licensing responsibility’ of the Vermont Attorney General.”

In response to this request, the AGO sought clarification because we were unable to identify records responsive to your request without knowing which statement regarding the “licensing responsibility” of the Vermont Attorney General you are referring to. You did not provide further clarification.

I have reviewed your appeal. You have not identified the statement that the request is premised upon. As such we are not aware of public records responsive to your request. For the reasons set forth above, your appeal is denied. Under 1 V.S.A. § 319, you may seek judicial review of this determination from the Civil Division of the Vermont Superior Court.

3. You have appealed the response to the following request issued on April 25, 2020: “Please provide any records of an agency, defined by the Vermont Administrative Procedure Act, named the ‘State of Vermont.’”

In response to this request, the AGO stated that the APA “...defines ‘Agency’ to include ‘a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.’” 3 V.S.A. § 801(b)(1). “The entity ‘State of Vermont’ is not a defined term in the Vermont Administrative Procedures Act. As such, the Attorney General’s Office has no records responsive to your request.”

I have reviewed your appeal. For the reasons set forth above in the AGO’s previous response, there are no records responsive to your request. Accordingly, your appeal is denied. Under 1 V.S.A. § 319, you may seek judicial review of this determination from the Civil Division of the Vermont Superior Court.

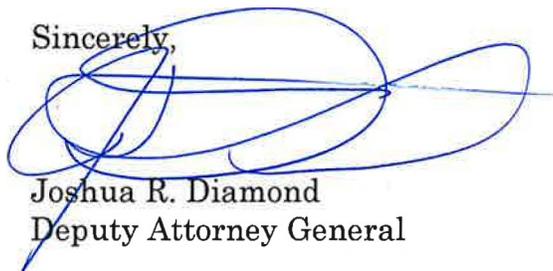
4. You have appealed the response to the following request issued on April 27, 2020: “[Regarding the Attorney General’s] ‘licensing responsibility’ and/or ‘prosecution and enforcement’ authority of nurses licenses in Vermont prior to 2003, please provide any rules promulgated and adopted by the Vermont Attorney General to expand upon his stated authority.”

In response to this request, the AGO responded that “the Attorney General’s Office is not the custodian of such records prior to 2003. Instead, any such records responsive to your request would be in the custody of the [Vermont Archives](#).”

I have reviewed your appeal. For the reasons set forth above, your appeal is denied. The AGO does not have custody of the records that you have requested. Under 1 V.S.A. § 319, you may

seek judicial review of this determination from the Civil Division of the Vermont Superior Court.

Sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Joshua R. Diamond
Deputy Attorney General

Electronically Transmitted .