



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO BOX 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**August 24, 2021 Government Records Council Meeting**

Adam C. Miller  
Complainant

Complaint No. 2018-303

v.

Township of Howell (Monmouth)  
Custodian of Record

At the August 24, 2021 public meeting, the Government Records Council (“Council”) considered the August 17, 2021 Supplemental 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. The Custodian failed to fully comply with the Council’s May 18, 2021 Interim Order. Specifically, the Custodian failed to respond within the extended time frame and failed to address OPRA request item No. 10 as part of her compliance response. However, the Custodian did provide an itemized list of request items and identified whether they were being disclosed, denied, or did not exist. Further, and although untimely, the Custodian simultaneously provided certified confirmation of compliance to the Executive Director.
2. The Custodian unlawfully denied access to those records disclosed in response to OPRA request item Nos. 2, 3, 11, and 13. N.J.S.A. 47:1A-6. However, the Custodian did lawfully deny access to OPRA request item Nos. 4, 5, 6, 7, 8, 14, 15, 16, 24, 25, 29, and 45 because records were either exempt from disclosure under the “Prevention of Domestic Violence Act of 1991” or did not exist. VanBree v. Bridgewater Twp. Police Dep’t (Somerset), GRC Complaint No. 2014-122 (October 2014); Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
3. The Custodian unlawfully denied access to records responsive to several request items and did not fully comply with the Council’s May 18, 2021 Interim Order. However, thirty (30) of the OPRA request items were invalid and the Custodian lawfully denied access to twelve (12) additional request items. Further, the Custodian has disclosed those records to which she unlawfully denied access. Additionally, the evidence of record does not indicate that the Custodian’s violations of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, 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 24<sup>th</sup> Day of August 2021

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: August 25, 2021**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director  
August 24, 2021 Council Meeting**

**Adam C. Miller<sup>1</sup>  
Complainant**

**GRC Complaint No. 2018-303**

v.

**Township of Howell (Monmouth)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** See Exhibit A.

**Custodian of Record:** Penny Wollman  
**Request Received by Custodian:** December 27, 2018  
**Response Made by Custodian:** January 2, 2019  
**GRC Complaint Received:** December 3, 2018

**Background**

May 18, 2021 Council Meeting:

At its May 18, 2021 public meeting, the Council considered the May 11, 2021 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, found that:

1. In the absence of any evidence indicating the specific identity of the Township employee who received the Complainant's OPRA request, the GRC is unable to determine the identity of the employee who violated OPRA pursuant to N.J.S.A. 47:1A-5(h). See Barkley v. N.J. Dep't of Treasury, GRC Complaint No. 2009-128 (May 2010).
2. The Complainant's request item No. 9 is invalid because it failed to seek an identifiable government record. See Miller v. Twp. of Howell (Monmouth), GRC Complaint No. 2018-236, *et seq.* (May 2020). Further, the Complainant's request items Nos. 12 and 17 through 20 sought information and not identifiable "government records." LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Finally, the Complainant's request items Nos. 1, 21 through 23, 26 through 28, 30 through 44, 46 and 47 are invalid because they failed to identify a specific record and would require the Custodian to perform research. MAG Entm't, LLC v. Div. of ABC,

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

<sup>2</sup> Represented by Joseph A. Clark, Esq. (Howell, NJ).

375 N.J. Super. 534, 549 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 237 (App. Div. 2015); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.

3. The Custodian may have unlawfully denied access to records responsive to the Complainant's OPRA request item Nos. 2-8, 10, 11, 13-16, 24, 25, 29, and 45. N.J.S.A. 47:1A-6. The Custodian must thus perform a search for responsive records and disclose those that exist. The Custodian shall also identify corresponding OPRA request to which said records are responsive. If the Custodian determines that a particular record is exempt, in part or whole, or that no records exist for a particular OPRA request item, she must certify to this fact and include the corresponding OPRA request item and, where applicable, a specific lawful basis for the denial or redaction.
4. **The Custodian shall comply with conclusion No. 3 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>3</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>4</sup> to the Executive Director.<sup>5</sup>**
5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

#### Procedural History:

On May 19, 2021, the Council distributed its Interim Order to all parties. On the same day, Custodian's Counsel sought an extension of the compliance time frame. On May 20, 2021, the Government Records Council ("GRC") responded granting an extension of time through June 3, 2021 to respond to the Council's Order. On June 3, 2021, Custodian's Counsel e-mailed the GRC advising that the complicated process of reviewing prior OPRA requests and disclosed records necessitated another extension of time to respond to the Council's Order. On the same day, the GRC responded granting a second (2<sup>nd</sup>) extension of time until June 10, 2021 to respond to the Order.

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<sup>3</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>4</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>5</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

On June 21, 2021, the Custodian responded to the Council's Interim Order. The Custodian certified that she worked with Captain Thomas Rizzo to provide a complete response to the Council's Order as follows:<sup>6</sup>

Item No. 2: No records exist.

Item No. 3: Disclosed (see attached)

Item No. 4: Denied – domestic violence exemption.

Item No. 5: Denied – domestic violence exemption.

Item No. 6: Denied – domestic violence, criminal investigatory, and security risk exemptions.

Item No. 7: Denied – domestic violence, criminal investigatory, and security risk exemptions.

Item No. 8: Denied – domestic violence, criminal investigatory, and security risk exemptions.

Item No. 11: Disclosed (see attached).

Item No. 13: Disclosed (see attached).

Item No. 14: No records exist.

Item No. 15: No records exist (flash drive returned to Complainant).

Item No. 16: No records exist.

Item No. 24: No records exist.

Item No. 25: Denied – domestic violence exemption.

Item No. 29: No records exist.

Item No. 45: No records exist.

### Analysis

### Compliance

At its May 18, 2021 meeting, the Council ordered the Custodian to perform a search for records responsive to seventeen (17) request items, disclose those that exist, state the specific lawful basis for any records denied in part or whole, and identify if no records for a particular item exist. The Council further ordered the Custodian to submit certified confirmation of compliance, in accordance with N.J. Court Rule, R. 1:4-4, to the Executive Director. On May 19, 2021, the Council distributed its Interim Order to all parties, providing the Custodian five (5) business days to comply with the terms of said Order. Thus, the Custodian's response was due by close of business on May 26, 2021.

On the same day as receipt of the Interim Order, Custodian's Counsel sought and was granted an extension of time to respond through June 3, 2021. On June 3, 2021, Counsel sought and was granted a second (2<sup>nd</sup>) extension of time to respond through June 10, 2021. On June 21, 2021, seven (7) business days after the expiration of the extended time frame, the Custodian responded to the Council's Order. Therein, she submitted an itemized index identifying by item which records were being disclosed, which records were being denied, and those items for which no records existed. The GRC notes that absent from this list was a response to OPRA request item No. 10, which the GRC will address below.

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<sup>6</sup> The Custodian did not include a response to item No. 10.

Therefore, the Custodian failed to fully comply with the Council's May 18, 2021 Interim Order. Specifically, the Custodian failed to respond within the extended time frame and failed to address OPRA request item No. 10 as part of her compliance response. However, the Custodian did provide an itemized list of request items and identified whether they were being disclosed, denied, or did not exist. Further, and although untimely, the Custodian simultaneously provided certified confirmation of compliance to the Executive Director.

### **Unlawful Denial of Access**

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.

OPRA provides that its provisions ". . . shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to . . . *regulation[s] promulgated under the authority of any statute or Executive Order of the Governor . . .*" N.J.S.A. 47:1A-9(a) (emphasis added). The "Prevention of Domestic Violence Act of 1991" ("PDVA") provides that "[a]ll records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law." N.J.S.A. 2C:25-33. In VanBree v. Bridgewater Twp. Police Dep't (Somerset), GRC Complaint No. 2014-122 (October 2014), the Council was tasked with determining whether the custodian lawfully denied access to certain records under the PDVA. In concluding that the custodian lawfully denied access to same, the Council confirmed that the records definitively related to a domestic violence incident and noted that the PDVA included a confidentiality clause. Id. at 5.

Further, the Council has previously found that, where a custodian certified that no responsive records exist, no unlawful denial of access occurred. See Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

Here, the Complainant sought several different records relating to various interactions he had with the Howell Township Police Department ("HTPD"). As part of the SOI, the Custodian argued that the Complainant submitted multiple OPRA requests seeking records similar or identical to those sought here. The Custodian also noted that the Complainant submitted seven (7) additional requests after the subject OPRA request, for which she disclosed all "non-exempt records." Based on this explanation, the Council held that the Custodian may have unlawfully denied access to certain OPRA request items: insufficient evidence existed to support the Custodian's actions. In response to the Interim Order, the Custodian has listed by item those records disclosed, those that did not exist, and those she deemed to be exempt under, among other reasons, the PDVA.

Initially, the Custodian's Interim Order response contains some discrepancies of note. Specifically, the Custodian certified that no record responsive to OPRA request item No. 2 existed. However, the GRC did locate a seven (7) page criminal complaint for the August 9, 2018 incident disclosed in response to item No. 3. Further, the Custodian did not address item No. 10; however,

the record disclosed in response to item No. 13 is reasonably responsive to the former. As for the record disclosed in response to item No. 13, the “Inventory Tracking Report” indicates to whom the Complainant’s keys were released. Although not surveillance footage,<sup>7</sup> the information contained therein satisfies the information sought in item No. 13.

As for the remaining denial, either through the domestic violence exemption or because no records exist, the GRC finds sufficient evidence to support this portion of the Custodian’s Interim Order response. Specifically, some of the records disclosed describe the nature of the August 9, 2018 incident and support that a domestic violence incident occurred: the Complainant is identified as the assailant in said incident. Thus, the Council’s holding in VanBree, GRC 2014-122 and the PDVA effectively exempt access to these records. See also Miller v. Twp. of Lawrence (Mercer), GRC Complaint No. 2018-239 (November 2020). Further, there is sufficient evidence in the record to support the Custodian’s remaining responses that no records exist to the remaining items, apart from OPRA request item No. 2, which was briefly addressed above. Pusterhofer, GRC 2005-49.

Therefore, the Custodian unlawfully denied access to those records disclosed in response to OPRA request item Nos. 2, 3, 11, and 13. N.J.S.A. 47:1A-6. However, the Custodian did lawfully deny access to OPRA request item Nos. 4, 5, 6, 7, 8, 14, 15, 16, 24, 25, 29, and 45 because records were either exempt from disclosure under the PDVA or did not exist. VanBree, GRC 2014-122; Pusterhofer, GRC 2005-49.

### **Knowing & Willful**

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 “. . . [i]f 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, 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 (*id.*; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1993)); the Custodian’s actions must have been intentional and deliberate,

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<sup>7</sup> It should be noted that any existent surveillance footage is likely exempt from disclosure pursuant to Gilleran v. Bloomfield, 227 N.J. 159 (2016). N.J.S.A. 47:1A-1.1; see also Street v. North Arlington Sch. Dist. (Bergen), GRC Complaint No. 2017-103, *et seq.* (June 2019).

with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

Here, the Custodian unlawfully denied access to records responsive to several request items and did not fully comply with the Council's May 18, 2021 Interim Order. However, thirty (30) of the OPRA request items were invalid and the Custodian lawfully denied access to twelve (12) additional request items. Further, the Custodian has disclosed those records to which she unlawfully denied access. Additionally, the evidence of record does not indicate that the Custodian's violations of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, 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. The Custodian failed to fully comply with the Council's May 18, 2021 Interim Order. Specifically, the Custodian failed to respond within the extended time frame and failed to address OPRA request item No. 10 as part of her compliance response. However, the Custodian did provide an itemized list of request items and identified whether they were being disclosed, denied, or did not exist. Further, and although untimely, the Custodian simultaneously provided certified confirmation of compliance to the Executive Director.
2. The Custodian unlawfully denied access to those records disclosed in response to OPRA request item Nos. 2, 3, 11, and 13. N.J.S.A. 47:1A-6. However, the Custodian did lawfully denied access to OPRA request item Nos. 4, 5, 6, 7, 8, 14, 15, 16, 24, 25, 29, and 45 because records were either exempt from disclosure under the "Prevention of Domestic Violence Act of 1991" or did not exist. VanBree v. Bridgewater Twp. Police Dep't (Somerset), GRC Complaint No. 2014-122 (October 2014); Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
3. The Custodian unlawfully denied access to records responsive to several request items and did not fully comply with the Council's May 18, 2021 Interim Order. However, thirty (30) of the OPRA request items were invalid and the Custodian lawfully denied access to twelve (12) additional request items. Further, the Custodian has disclosed those records to which she unlawfully denied access. Additionally, the evidence of record does not indicate that the Custodian's violations of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, 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: Frank F. Caruso  
Executive Director

August 17, 2021



18-1562

October 29, 2018

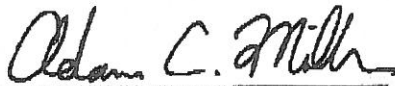
VIA FAX

Penny A. Wollman  
Township of Howell  
4567 Rt 9 North  
PO Box 580  
Howell, New Jersey 07731-0850

## RE: OPRA REQUEST

Dear Ms. Wollman,

Herein this letter is contained a series requests for government records submit to the Clerk of the Township of Howell for purpose these requests be forwarded to the Howell Township Police Department records bureau as per the legal obligation of any employee of a public agency upon taking receipt of an Open Public Records Act request identifying the intended destination either explicitly or implicitly. The records requested are described in the pages that follow and are sought by this requestor pursuant to conducting an affirmative defense in a criminal action ongoing in Howell Township Municipal Court wherein this requestor is the named defendant. That proceeding did originate within the jurisdiction of the Township of Howell, Monmouth County following from events that allegedly occurred in November 2017, December, 2017 and August, 2018. This request is intended for the Howell Township Police Department records bureau as that public agency is in all likelihood the sole custodian of the records described herein. When appropriate, requests for court records have been transmitted to the court. The records requested are described in forty-seven points enumerated on the nine pages that accompany this letter. Furthermore, the government records are also requested under common law as the undersigned requestor is in all likelihood identified upon all records described. Of note, if restrictions apply to the transmittal of the records requested by mails, the requestor will remit cash payment and pick-up all records prepared in-person at the Howell Township Police Department records bureau or other specified location. The maximum authorization cost is set at one-thousand dollars. Under penalty of N.J.S.A. 2C:28-3, I certify that I have not been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.



Adam C. Miller  
P.O. BOX 795  
Rocky Hill, New Jersey 08553

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(1) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of what individual(s) claimed that this requestor did possess an electronic device associated with the phone number (908) 670-7916 that had been identified as the phone number of "MILLER ADAM C" and/or "MILLER ADAM" on a temporary restraining order issued by Judge Susan Schroeder Clark of Howell Township Municipal Court on August 9, 2018. Furthermore, the record described necessarily contains all documentation maintained by the Township of Howell describing alleged communications to and/or from that device which at no point was in the custody of this requestor. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(2) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: All seven pages of the criminal complaint issued by Howell Township Municipal Court on August 9, 2018 identifying this requestor. Furthermore, these pages necessarily contain all alleged phone numbers associated with "MILLER ADAM C" and/or "MILLER ADAM".

(3) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: All seven pages of every criminal complaint issued by Howell Township Municipal Court identifying this requestor since November 16, 2017. The records described herein necessarily contain all alleged phone numbers associated with "MILLER ADAM C" and/or "MILLER ADAM".

(4) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any police report(s) dated August 9, 2018 identifying this requestor.

(5) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any arrest report(s) dated August 9, 2018 identifying this requestor, if applicable.

(6) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any police report(s) dated after August 9, 2018 identifying this requestor, if applicable.

(7) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any arrest record(s) dated after August 9, 2018 identifying this requestor, if applicable.

(8) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: In addition to the records described in points four through seven above, all police reports and all arrest records identifying this requestor are required.

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- (9) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: All documents served to this requestor on August 9, 2018 thereupon bearing the record of service, if applicable.
- (10) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete inventory of property taken from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.
- (11) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete inventory of property returned to this requestor and/or any other individual(s) of the property that had been taken from this requestor on August 9, 2018, and specifically to whom what each item was provided identifying the time, date and signature of both property recipient(s) and Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) providing that property. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.
- (12) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The identity of all Howell Township Police Department officer(s) and/or detective(s) that did seize property from this requestor on August 9, 2018. If applicable, this record necessarily identifies each specific item of property that each specific officer(s) and/or detective(s) did inventory. More specifically and of necessity in this request is the inventory record that identifies the Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) that did provide the car keys, keychain and USB flash drive seized from this requestor on August 9, 2018 to a male individual who is an attorney in the State of New Jersey who, of the highest significance, is not now, and was not at any point on or after August 9, 2018 the attorney of this requestor. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.
- (13) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The closed circuit video recording(s) documenting the exchange of property that did occur on one or more date(s) after August 9, 2018 at which time Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) did provide the car keys, keychain and USB flash drive seized from this requestor on August 9, 2018 to a male individual who is an attorney in the State of New Jersey who is not the attorney of this requestor upon the present date of October 29, 2018, and was not at any time on or after August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(14) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The recorded audio of any and all phone calls conducted between Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) with any recipient(s) of property seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(15) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The inventory of the contents of the USB flash drive seized from this requestor on August 9, 2018 in all likelihood obtained by accessing its contents on one or more electronic device(s) operated by the Howell Township Police Department and/or the Howell Township Police Investigations Division. Furthermore, the record described herein does necessarily document any and all transmissions of the inventory and/or contents of that USB flash drive to the administration of the Township of Howell, specifically identifying each town council-member that did request and/or take receipt of the inventory and/or contents of the device. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(16) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The recorded audio of any and all phone calls conducted by any Howell Township Police Department officer(s) and/or any Howell Township Police Investigations Division detective(s) with any individual(s) in any jurisdiction within, or other than, the Township of Howell regarding the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(17) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Descriptions of any and all electronic device(s) used to access, store and/or transmit the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record necessarily consists of a description of the make and model of each device, associated email addresses, phone numbers, and/or other pertinent identifiers. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(18) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The identity of the Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) that did access the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(19) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The date, time, location and any other identifying information of individual(s) who were present with former Howell Township Police Department Sergeant Conte at the time he did access the inventory and contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(20) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The date, time, location and any other identifying information of individual(s) employed by Monmouth Medical Center who did access the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(21) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division thereupon recording any and all attempts to investigate, describe and/or charge this requestor with one or more crimes following from analysis of the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018, specifically pursuant to any and all alleged violations of statutes of the Criminal Code of New Jersey describing prohibitions against the production, possession, and/or distribution of child pornography. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(22) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications specifically regards this requestor conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division with the Monmouth County Prosecutor's Office prior to, on, and/or after the date of August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(23) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record describing the weapon(s) used to stab this requestor on August 9, 2018, specifically the dimensions of the knife, the make, model and/or pertinent identifiers, by whom, where and when that knife was used and/or any other information regarding weapons seized on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.



(24) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of the video footage claimed to have been logged into evidence on or after August 9, 2018 by one or more Howell Township Police Department officer(s) and/or Howell Township Police Investigations Division detective(s) thereupon containing the record of the alleged criminal act committed by this requestor alone. This record must include audio and video content and must be provided to this requestor at the earliest possible date following from receipt of this request.

(25) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all statements provided to the Howell Township Police Department and/or the Howell Township Police Investigations Division regarding the events of August 9, 2018 that specifically relate to the single charge allegedly filed against requestor on that date. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(26) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division with staff of Jersey Shore University Medical Center. The record described herein specifically requires documentation of any and all alleged medical and/or psychiatric diagnoses communicated to JSUMC staff by Howell Township Police Department officers Murphy, Norton, Austin and/or other; any similarly described communications made by Howell Township Police Investigations Division detective(s) Antunez, Romano and/or other; or any similarly described communications made by any employee of the Township of Howell whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(27) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record kept by the Howell Township Police Department of the injury sustained by this requestor on August 9, 2018, including descriptions of all medical treatment, surgery, diagnoses, and/or other medical records. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(28) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all electronic communications conducted prior to, on, and/or after August 9, 2018 regarding this requestor that include recorded audio of all phone calls and voice messages, all emails, all sms communications, all text messages, and/or other applicable communications conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division with the following entities: Monmouth County Sheriff's Office, Colts Neck Police Department, Freehold Township Police Department, Lawrence Township Police Department, Mercer County

Prosecutor's Office, any branch of Superior Court of the State of New Jersey, any politician of the Township of Howell, the County of Monmouth, the State of New Jersey and/or the United States. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(29) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all phone conversations conducted after August 9, 2018 by this requestor and Detective Romano of the Howell Township Police Investigations Division. The records described herein necessarily contain recorded audio and must be provided to this requestor at the earliest possible date following from receipt of this request.

(30) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with Rosemary O'Donnell, C.M.C.A. of Howell Township Municipal Court. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(31) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any attorney in the State of New Jersey or other state in the Union. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(32) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any individual whatsoever regarding a and/or the twitter account alleged to contain thereupon one or more unspecified threats against the judge of Howell Township Municipal Court. This record would include every alleged threat attributed to this requestor including origin(s) of each claimed threat, all cached, subpoenaed and/or other data possessed as a record of same. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(33) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by Sergeant Bondarew of the Howell Township Police Department with any individual whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(34) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding the alleged location of this requestor conducted on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any individual whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(35) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding the location of this requestor conducted prior to August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any individual whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(36) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted on July 11, 2017 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with all employees of Monmouth Medical Center. The records described herein necessarily contain recorded audio and must be provided to this requestor at the earliest possible date following from receipt of this request.

(37) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor allegedly conducted on July 11, 2017 by any and all employees of Monmouth Medical Center and this requestor therein documenting the one or more phone calls allegedly placed by screeners on that date. The records described herein necessarily contain recorded audio and must be provided to this requestor at the earliest possible date following from receipt of this request.

(38) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding alleged warrants issued for the arrest of this requestor conducted on and/or after to August 9, 2018 by the Howell Township



Police Department and/or the Howell Township Police Investigations Division with any and all individual(s) that are not employees of any police department or other law enforcement agency in the State of New Jersey including and especially any and all employees of Monmouth Medical Center. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(39) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding alleged warrants issued for the arrest of this requestor conducted prior to August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any and all individual(s) that are not employees of any police department or other law enforcement agency in the State of New Jersey including and especially any and all employees of Monmouth Medical Center. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(40) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications regarding this requestor conducted on all dates by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any and all employees of Monmouth Medical Center. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(41) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all dates, times, and locations this requestor was allegedly hospitalized for any reason whatsoever that are maintained as the record kept by the Howell Township Police Department and/or the Howell Township Police Investigations Division. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(42) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all alleged psychiatric diagnoses maintained as the record kept of this requestor by the Howell Township Police Department and/or the Howell Township Police Investigations Division. Specifically, the record described herein documents every single claim of drug use made against this requestor, including the date, time, location and identity of the individual(s) alleged to have made those observations. Furthermore, the record described herein necessarily documents every instance this requestor is alleged to have been diagnosed with schizophrenia of any type, and/or uses the terms "schizophrenia" and/or "schizophrenic" to describe this requestor, and/or describes the origin of claims made by Cpl. Jason Barrata in November 2017 that this requestor was diagnosed with "schizophrenia". Of the highest significance, the record described herein necessarily identifies every single medication alleged to have been prescribed to this requestor.

prescribing physician of each, and the place of work of each physician. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(43) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all alleged medical diagnoses maintained as the record of this requestor kept by the Howell Township Police Department and/or the Howell Township Police Investigations Division. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(44) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all document(s), record(s) and/or thing(s) therein containing all information described in a Howell Township Police Department report as follows: "A review of his criminal history found him to have two SBI numbers attached to him, including one for another Adam Miller, that included several narcotics related arrests." This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(45) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any and all police reports, arrest records and/or other records identifying this requestor and documenting therein alleged narcotics related arrests.

(46) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications regarding this requestor conducted on all dates by Sergeant Bondarew of the Howell Township Police Department with any and all law enforcement personnel from the Township of Lawrence, any other municipality in Mercer County, or any municipality in Middlesex County. Furthermore, the record described herein documents, if applicable, all communications conducted by Sergeant Bondarew with Judge Lydon of Mercer County Superior Court and/or the staff of same. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(47) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all evidence logged in December 2017 associated with every criminal action ongoing in Howell Township Municipal Court as of October 29, 2018 wherein this requestor is named defendant. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**INTERIM ORDER**

**May 18, 2021 Government Records Council Meeting**

Adam C. Miller  
Complainant

Complaint No. 2018-303

v.

Township of Howell (Monmouth)  
Custodian of Record

At the May 18, 2021 public meeting, the Government Records Council (“Council”) considered the May 11, 2021 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. In the absence of any evidence indicating the specific identity of the Township employee who received the Complainant’s OPRA request, the GRC is unable to determine the identity of the employee who violated OPRA pursuant to N.J.S.A. 47:1A-5(h). See Barkley v. N.J. Dep’t of Treasury, GRC Complaint No. 2009-128 (May 2010).
2. The Complainant’s request item No. 9 is invalid because it failed to seek an identifiable government record. See Miller v. Twp. of Howell (Monmouth), GRC Complaint No. 2018-236, *et seq.* (May 2020). Further, the Complainant’s request item Nos. 12 and 17 through 20 sought information and not identifiable “government records.” LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Finally, the Complainant’s request item Nos. 1, 21 through 23, 26 through 28, 30 through 44, 46 and 47 are invalid because they failed to identify a specific record and would require the Custodian to perform research. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 237 (App. Div. 2015); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.
3. The Custodian may have unlawfully denied access to records responsive to the Complainant’s OPRA request item Nos. 2-8, 10, 11, 13-16, 24, 25, 29, and 45. N.J.S.A. 47:1A-6. The Custodian must thus perform a search for responsive records and disclose those that exist. The Custodian shall also identify corresponding OPRA request to which said records are responsive. If the Custodian determines that a particular record is exempt, in part or whole, or that no records exist for a particular OPRA request item,

she must certify to this fact and include the corresponding OPRA request item and, where applicable, a specific lawful basis for the denial or redaction.

4. **The Custodian shall comply with conclusion No. 3 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>1</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>2</sup> to the Executive Director.<sup>3</sup>**
5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the  
Government Records Council  
On The 18<sup>th</sup> Day of May 2021

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: May 19, 2021**

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<sup>1</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>2</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>3</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
May 18, 2021 Council Meeting**

**Adam C. Miller<sup>1</sup>  
Complainant**

**GRC Complaint No. 2018-303**

v.

**Township of Howell (Monmouth)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** See Exhibit A.

**Custodian of Record:** Penny Wollman  
**Request Received by Custodian:** December 27, 2018  
**Response Made by Custodian:** January 2, 2019  
**GRC Complaint Received:** December 3, 2018

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

**Request:**

On October 29, 2018, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records via facsimile.

**Denial of Access Complaint:**

On December 3, 2018, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that he received confirmation that his eleven (11) page, forty-seven (47)-item OPRA request successfully transmitted via facsimile. The Complainant also alleged that he received verbal confirmation from “Angela” at the Township of Howell (“Township”) that the OPRA request was received. The Complainant argued that notwithstanding these confirmations, the Custodian failed to respond to the subject OPRA request.

**Statement of Information:**

On January 10, 2019, the Custodian filed a Statement of Information (“SOI”). The

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

<sup>2</sup> Represented by Joseph A. Clark, Esq. (Howell, 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.

Custodian certified that she did not receive the Complainant's OPRA request until her staff located it on December 27, 2018.

The Custodian stated that since October 2018, the Complainant has submitted over a dozen OPRA requests seeking Howell Township Police Department ("HTPD") records. The Custodian argued that the subject OPRA request substantially comprised of similar/identical requests made by the Complainant in the past. The Custodian asserted that the Township's responses to those other OPRA requests proves that she was not trying to avoid this OPRA request. The Custodian asserted that simple human error resulted in the Township's failure to locate the subject OPRA request. The Custodian noted that the Complainant typically sent his OPRA requests by e-mail and not facsimile.

The Custodian noted that she subsequently received seven (7) OPRA requests from the Complainant to which she responded on January 2, 2019. The Custodian noted that HTPD provided access to all records that were "otherwise not exempt" and attached copies of those records to the SOI. The Custodian thus argued that the Complainant possessed all non-exempt records that exist in HTPD.

### Analysis

#### Failure to Forward or Direct Request

OPRA further provides that "[a]ny officer or *employee* of a public agency *who receives a request* for access to a government record *shall forward the request to the custodian* of the record or *direct the requestor to the custodian* of the record. N.J.S.A. 47:1A-5(h) (emphasis added).

In Kossup v. City of Newark Police Dep't, GRC Complaint No. 2006-174 (February 2007), the complainant filed a Denial of Access Complaint after not receiving a response from the custodian. On October 4, 2006, OPRA Manager Joyce Lanier asserted that the custodian never received the request because it was sent directly to Lieutenant Caroline Clark of the City of Newark Police Department. Based on the facts presented, the Council held that ". . . [because] the Newark Police Department employee, [Lt. Clark] did not forward the Complainant's request form or direct the Complainant to the [Custodian], . . . [Lt. Clark] has violated N.J.S.A. 47:1A-5(h)." Id. at 5. See also Morgano v. N.J. Office of the Pub. Defender, Essex Cnty., GRC Complaint No. 2008-79 (July 2008) (citing Mourning v. Dep't of Corr., GRC Complaint No. 2006-75 (August 2006); Vessio v. N.J. Dep't of Cmty. Affairs, Div. of Fire Safety, GRC Complaint No. 2007-63 (May 2007)); Redd v. Franklin Twp. Pub. Sch. (Somerset), GRC Complaint No. 2014-185 (February 2015).

However, in Barkley v. N.J. Dep't of Treasury, GRC Complaint No. 2009-128 (May 2010), the custodian could not identify the individual that received the subject OPRA request; notwithstanding that an unknown employee from a separate division responded to it. Thus, the Council found that, although it could not identify a specific individual within the agency, a violation of N.J.S.A. 47:1A-5(h) occurred. See also Charles v. Plainfield Mun. Util. Auth. (Union), GRC Complaint No. 2009-160 (July 2010).

In the instant matter, the Complainant submitted his OPRA request via facsimile on October 29, 2018 and did not receive a response. As part of the Denial of Access Complaint, the Complainant stated that he spoke to a Township employee named “Angela” that same day, who confirmed that the request was received. The Complainant attached to the SOI a screenshot of a digital record of that phone call. However, the Custodian certified in her SOI that she had no knowledge of the Complainant’s OPRA request until staff located it on December 27, 2018.

Upon review of all evidence submitted by the parties, the GRC is persuaded that a violation of N.J.S.A. 47:1A-5(h) occurred here. First, the OPRA request attached to the SOI sent to “ClerksFax” contains the date and time it was received by the Township (October 29, 2018, 9:21 a.m.). Additionally, the Complainant has provided evidence that he confirmed receipt with the Township through “Angela.”<sup>4</sup> Finally, upon receiving the instant complaint and GRC’s request for the SOI, the Custodian’s staff was able to locate the OPRA request within the Township’s files. All of these facts support the violation; however, and similar to Barkley, 2009-128, the identity of the specific employee or employees with access to “ClerksFax” or who received the request is unknown.

Therefore, in the absence of any evidence indicating the specific identity of the Township employee who received the Complainant’s OPRA request, the GRC is unable to determine the identity of the employee who violated OPRA pursuant to N.J.S.A. 47:1A-5(h). See Barkley, GRC 2009-128.

### **Validity of Request**

The New Jersey Appellate Division has held that:

While 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 reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division’s records custodian to manually search through all of the agency’s files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation.

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<sup>4</sup> The GRC notes that a search of the Township’s website failed to yield an identification of a Township employee named “Angela.” <https://www.twp.howell.nj.us/directory.aspx> (accessed February 2, 2021).

Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (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. (emphasis added). Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005);<sup>5</sup> N.J. Builders Ass’n 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).

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all,” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. See e.g. Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See e.g. Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. See also Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 *et seq.* (Final Decision dated April 25, 2012) (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request) Id. at 12-13.

Moreover, in Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008), the Council similarly held that a request seeking “[a]ny and all documents and evidence” relating to an investigation being conducted by the Somerset County Prosecutor’s Office was invalid, reasoning that:

[B]ecause the records requested comprise an entire SCPO file, the request is overbroad and of the nature of a blanket request for a class of various documents rather than a request for specific government records. Because OPRA does not require custodians to research files to discern which records may be responsive to

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



a request, the Custodian had no legal duty to research the SCPO files to locate records potentially responsive to the Complainant's request pursuant to the Superior Court's decisions in [MAG], [Bent] and the Council's decisions in Asarnow v. Department of Labor and Workforce Development, GRC Complaint No. 2006-24 (May 2006) and Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (February 2008).

[Id. See also Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015) (holding that the portion of the request seeking "all documents" was overly broad and thus invalid).]

Additionally, in Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 237 (App. Div. 2015), the court held that plaintiff's request was invalid because it required research. In reaching this conclusion, the court reasoned that:

The custodian in this case would have had to make a preliminary determination as to which travel records correlated to the governor and to his senior officials, past and present, over a span of years. The custodian would then have had to attempt to single out those which were third-party funded events. Next, he would have had to collect all documents corresponding to those events and search to ensure he had accumulated everything, including both paper and electronic correspondence. OPRA does not convert a custodian into a researcher.

[Id. at 237.]

Further, in LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009), the complainant requested the number of Jamesburg residents that hold library cards. The GRC deemed that the complainant's request was a request for information, holding that ". . . because request Item No. 2 of the Complainant's June 25, 2008 OPRA request seeks information rather than an identifiable government record, the request is invalid pursuant to [MAG] . . ." Id. at 6. See also Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007-233 (August 2009).

In the matter before the Council, the Complainant submitted a forty-seven (47)-item OPRA request, many of which sought information and generic records with a lengthy description thereafter. Initially, the GRC has previously determined that request item No. 9 was invalid, as the item was part of a separate complaint previously filed by the Complainant. See Miller v. Twp. of Howell (Monmouth), GRC Complaint No. 2018-236, *et seq.* (May 2020). The request items seeking general information about officers that access certain electronic devices, type of equipment used to access electronic devices, and dates, times, or locations that of said access were item Nos. 12, and 17 through 20. Additionally, the request items that generally sought "records" were item Nos. 1, 21 through 23, 26 through 28, 30 through 44, 46 and 47. Each of these requests would require research of the full universe of the Township's records to locate responsive records and/or syphon information; the Custodian was not required to perform research and not required to responsive to requests seeking information not otherwise identified as a "government record" under OPRA.

Accordingly, the Complainant's request item No. 9 is invalid because it failed to seek an identifiable government record. See Miller, GRC 2018-236, *et. seq.* Further, the Complainant's request item Nos. 12 and 17 through 20 sought information and not identifiable "government records." LaMantia, GRC 2008-140. Finally, the Complainant's request item Nos. 1, 21 through 23, 26 through 28, 30 through 44, 46 and 47 are invalid because they failed to identify a specific record and would require the Custodian to perform research. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; N.J. Builders, 390 N.J. Super. at 180; Lagerkvist, 443 N.J. Super. at 237; Schuler, GRC 2007-151. Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.

### **Unlawful Denial of Access**

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.

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010), the Council found that the custodian did not unlawfully deny access to the requested records based on the custodian's certification that all such records were provided to the complainant. The Council held that the custodian's certification, in addition to the lack of refuting evidence from the complainant, was sufficient to meet the custodian's burden of proof. See also Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Holland v. Rowan Univ., GRC Complaint No. 2014-63, *et seq.* (March 2015). However, in Macek v. Bergen Cnty. Sheriff's Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019), the Council held that evidence contained in the record suggested that additional responsive records may exist. Based on this, the Council ordered the Custodian to perform another search and submit a certification regarding the results of that search.

Having determined that many of the Complainant's request items were invalid, the GRC now turns to those remaining seventeen (17) request items. In the SOI, the Custodian asserted that although she did not receive the subject OPRA request, the Complainant submitted seven (7) additional OPRA requests seeking similar or identical records identified in the subject OPRA request. The Custodian further averred that the Custodian disclosed "all non-exempt" records and that the Complainant possessed them as of January 2, 2019. However, the Custodian does not identify: 1) which records were disclosed; 2) which of the outstanding sixteen (16) request items were fulfilled through said disclosure; and 3) which "exempt" records existed and a specific lawful basis for their denial.

Upon review of the facts here, the GRC finds that insufficient evidence exists to determine that all records sought in OPRA request item Nos. 2-8, 10, 11, 13-16, 24, 25, 29, and 45 were disclosed to the Complainant in response to other OPRA requests. As noted above, the evidence of record does not address those records that were disclosed and how they satisfy the outstanding OPRA request items. Further, the Custodian noted the existence of other records for which the Township may have denied access. Based on this, the GRC must follow its finding in Macek, GRC

2017-156 and require the Custodian to address each of the outstanding OPRA request items accordingly.

Therefore, the Custodian may have unlawfully denied access to records responsive to the Complainant's OPRA request item Nos. 2-8, 11, 13-16, 24, 25, 29, and 45. N.J.S.A. 47:1A-6. The Custodian must thus perform a search for responsive records and disclose those that exist. The Custodian shall also identify corresponding OPRA request to which said records are responsive. If the Custodian determines that a particular record is exempt, in part or whole, or that no records exist for a particular OPRA request item, she must certify to this fact and include the corresponding OPRA request item and, where applicable, a specific lawful basis for the denial or redaction.

### **Knowing & Willful**

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. In the absence of any evidence indicating the specific identity of the Township employee who received the Complainant's OPRA request, the GRC is unable to determine the identity of the employee who violated OPRA pursuant to N.J.S.A. 47:1A-5(h). See Barkley v. N.J. Dep't of Treasury, GRC Complaint No. 2009-128 (May 2010).
2. The Complainant's request item No. 9 is invalid because it failed to seek an identifiable government record. See Miller v. Twp. of Howell (Monmouth), GRC Complaint No. 2018-236, *et seq.* (May 2020). Further, the Complainant's request item Nos. 12 and 17 through 20 sought information and not identifiable "government records." LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Finally, the Complainant's request item Nos. 1, 21 through 23, 26 through 28, 30 through 44, 46 and 47 are invalid because they failed to identify a specific record and would require the Custodian to perform research. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 237 (App. Div. 2015); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these request items. N.J.S.A. 47:1A-6.
3. The Custodian may have unlawfully denied access to records responsive to the Complainant's OPRA request item Nos. 2-8, 10, 11, 13-16, 24, 25, 29, and 45. N.J.S.A. 47:1A-6. The Custodian must thus perform a search for responsive records and disclose those that exist. The Custodian shall also identify corresponding OPRA request to

which said records are responsive. If the Custodian determines that a particular record is exempt, in part or whole, or that no records exist for a particular OPRA request item, she must certify to this fact and include the corresponding OPRA request item and, where applicable, a specific lawful basis for the denial or redaction.

4. **The Custodian shall comply with conclusion No. 3 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>6</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>7</sup> to the Executive Director.<sup>8</sup>**
5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Frank F. Caruso  
Executive Director

May 11, 2021

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<sup>6</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>7</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>8</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

18-1562

October 29, 2018

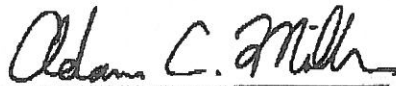
VIA FAX

Penny A. Wollman  
Township of Howell  
4567 Rt 9 North  
PO Box 580  
Howell, New Jersey 07731-0850

## RE: OPRA REQUEST

Dear Ms. Wollman,

Herein this letter is contained a series requests for government records submit to the Clerk of the Township of Howell for purpose these requests be forwarded to the Howell Township Police Department records bureau as per the legal obligation of any employee of a public agency upon taking receipt of an Open Public Records Act request identifying the intended destination either explicitly or implicitly. The records requested are described in the pages that follow and are sought by this requestor pursuant to conducting an affirmative defense in a criminal action ongoing in Howell Township Municipal Court wherein this requestor is the named defendant. That proceeding did originate within the jurisdiction of the Township of Howell, Monmouth County following from events that allegedly occurred in November 2017, December, 2017 and August, 2018. This request is intended for the Howell Township Police Department records bureau as that public agency is in all likelihood the sole custodian of the records described herein. When appropriate, requests for court records have been transmitted to the court. The records requested are described in forty-seven points enumerated on the nine pages that accompany this letter. Furthermore, the government records are also requested under common law as the undersigned requestor is in all likelihood identified upon all records described. Of note, if restrictions apply to the transmittal of the records requested by mails, the requestor will remit cash payment and pick-up all records prepared in-person at the Howell Township Police Department records bureau or other specified location. The maximum authorization cost is set at one-thousand dollars. Under penalty of N.J.S.A. 2C:28-3, I certify that I have not been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.



Adam C. Miller  
P.O. BOX 795  
Rocky Hill, New Jersey 08553

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(1) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of what individual(s) claimed that this requestor did possess an electronic device associated with the phone number (908) 670-7916 that had been identified as the phone number of "MILLER ADAM C" and/or "MILLER ADAM" on a temporary restraining order issued by Judge Susan Schroeder Clark of Howell Township Municipal Court on August 9, 2018. Furthermore, the record described necessarily contains all documentation maintained by the Township of Howell describing alleged communications to and/or from that device which at no point was in the custody of this requestor. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(2) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: All seven pages of the criminal complaint issued by Howell Township Municipal Court on August 9, 2018 identifying this requestor. Furthermore, these pages necessarily contain all alleged phone numbers associated with "MILLER ADAM C" and/or "MILLER ADAM".

(3) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: All seven pages of every criminal complaint issued by Howell Township Municipal Court identifying this requestor since November 16, 2017. The records described herein necessarily contain all alleged phone numbers associated with "MILLER ADAM C" and/or "MILLER ADAM".

(4) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any police report(s) dated August 9, 2018 identifying this requestor.

(5) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any arrest report(s) dated August 9, 2018 identifying this requestor, if applicable.

(6) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any police report(s) dated after August 9, 2018 identifying this requestor, if applicable.

(7) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any arrest record(s) dated after August 9, 2018 identifying this requestor, if applicable.

(8) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: In addition to the records described in points four through seven above, all police reports and all arrest records identifying this requestor are required.

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- (9) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: All documents served to this requestor on August 9, 2018 thereupon bearing the record of service, if applicable.
- (10) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete inventory of property taken from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.
- (11) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete inventory of property returned to this requestor and/or any other individual(s) of the property that had been taken from this requestor on August 9, 2018, and specifically to whom what each item was provided identifying the time, date and signature of both property recipient(s) and Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) providing that property. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.
- (12) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The identity of all Howell Township Police Department officer(s) and/or detective(s) that did seize property from this requestor on August 9, 2018. If applicable, this record necessarily identifies each specific item of property that each specific officer(s) and/or detective(s) did inventory. More specifically and of necessity in this request is the inventory record that identifies the Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) that did provide the car keys, keychain and USB flash drive seized from this requestor on August 9, 2018 to a male individual who is an attorney in the State of New Jersey who, of the highest significance, is not now, and was not at any point on or after August 9, 2018 the attorney of this requestor. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.
- (13) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The closed circuit video recording(s) documenting the exchange of property that did occur on one or more date(s) after August 9, 2018 at which time Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) did provide the car keys, keychain and USB flash drive seized from this requestor on August 9, 2018 to a male individual who is an attorney in the State of New Jersey who is not the attorney of this requestor upon the present date of October 29, 2018, and was not at any time on or after August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.



(14) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The recorded audio of any and all phone calls conducted between Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) with any recipient(s) of property seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(15) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The inventory of the contents of the USB flash drive seized from this requestor on August 9, 2018 in all likelihood obtained by accessing its contents on one or more electronic device(s) operated by the Howell Township Police Department and/or the Howell Township Police Investigations Division. Furthermore, the record described herein does necessarily document any and all transmissions of the inventory and/or contents of that USB flash drive to the administration of the Township of Howell, specifically identifying each town council-member that did request and/or take receipt of the inventory and/or contents of the device. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(16) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The recorded audio of any and all phone calls conducted by any Howell Township Police Department officer(s) and/or any Howell Township Police Investigations Division detective(s) with any individual(s) in any jurisdiction within, or other than, the Township of Howell regarding the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(17) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Descriptions of any and all electronic device(s) used to access, store and/or transmit the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record necessarily consists of a description of the make and model of each device, associated email addresses, phone numbers, and/or other pertinent identifiers. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(18) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The identity of the Howell Township Police Department officer(s) and/or the Howell Township Police Investigations Division detective(s) that did access the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.



(19) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The date, time, location and any other identifying information of individual(s) who were present with former Howell Township Police Department Sergeant Conte at the time he did access the inventory and contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(20) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The date, time, location and any other identifying information of individual(s) employed by Monmouth Medical Center who did access the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(21) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division thereupon recording any and all attempts to investigate, describe and/or charge this requestor with one or more crimes following from analysis of the inventory and/or contents of the USB flash drive seized from this requestor on August 9, 2018, specifically pursuant to any and all alleged violations of statutes of the Criminal Code of New Jersey describing prohibitions against the production, possession, and/or distribution of child pornography. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(22) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications specifically regards this requestor conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division with the Monmouth County Prosecutor's Office prior to, on, and/or after the date of August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(23) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record describing the weapon(s) used to stab this requestor on August 9, 2018, specifically the dimensions of the knife, the make, model and/or pertinent identifiers, by whom, where and when that knife was used and/or any other information regarding weapons seized on August 9, 2018. This record may include audio, video and/or other digital content and can be prepared on any format legally permissible to be provided to this requestor.

(24) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of the video footage claimed to have been logged into evidence on or after August 9, 2018 by one or more Howell Township Police Department officer(s) and/or Howell Township Police Investigations Division detective(s) thereupon containing the record of the alleged criminal act committed by this requestor alone. This record must include audio and video content and must be provided to this requestor at the earliest possible date following from receipt of this request.

(25) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all statements provided to the Howell Township Police Department and/or the Howell Township Police Investigations Division regarding the events of August 9, 2018 that specifically relate to the single charge allegedly filed against requestor on that date. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(26) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division with staff of Jersey Shore University Medical Center. The record described herein specifically requires documentation of any and all alleged medical and/or psychiatric diagnoses communicated to JSUMC staff by Howell Township Police Department officers Murphy, Norton, Austin and/or other; any similarly described communications made by Howell Township Police Investigations Division detective(s) Antunez, Romano and/or other; or any similarly described communications made by any employee of the Township of Howell whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(27) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record kept by the Howell Township Police Department of the injury sustained by this requestor on August 9, 2018, including descriptions of all medical treatment, surgery, diagnoses, and/or other medical records. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(28) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all electronic communications conducted prior to, on, and/or after August 9, 2018 regarding this requestor that include recorded audio of all phone calls and voice messages, all emails, all sms communications, all text messages, and/or other applicable communications conducted by the Howell Township Police Department and/or the Howell Township Police Investigations Division with the following entities: Monmouth County Sheriff's Office, Colts Neck Police Department, Freehold Township Police Department, Lawrence Township Police Department, Mercer County

Prosecutor's Office, any branch of Superior Court of the State of New Jersey, any politician of the Township of Howell, the County of Monmouth, the State of New Jersey and/or the United States. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(29) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all phone conversations conducted after August 9, 2018 by this requestor and Detective Romano of the Howell Township Police Investigations Division. The records described herein necessarily contain recorded audio and must be provided to this requestor at the earliest possible date following from receipt of this request.

(30) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with Rosemary O'Donnell, C.M.C.A. of Howell Township Municipal Court. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(31) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any attorney in the State of New Jersey or other state in the Union. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(32) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any individual whatsoever regarding a and/or the twitter account alleged to contain thereupon one or more unspecified threats against the judge of Howell Township Municipal Court. This record would include every alleged threat attributed to this requestor including origin(s) of each claimed threat, all cached, subpoenaed and/or other data possessed as a record of same. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(33) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted prior to, on and/or after August 9, 2018 by Sergeant Bondarew of the Howell Township Police Department with any individual whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(34) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding the alleged location of this requestor conducted on and/or after August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any individual whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(35) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding the location of this requestor conducted prior to August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any individual whatsoever. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(36) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor conducted on July 11, 2017 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with all employees of Monmouth Medical Center. The records described herein necessarily contain recorded audio and must be provided to this requestor at the earliest possible date following from receipt of this request.

(37) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding this requestor allegedly conducted on July 11, 2017 by any and all employees of Monmouth Medical Center and this requestor therein documenting the one or more phone calls allegedly placed by screeners on that date. The records described herein necessarily contain recorded audio and must be provided to this requestor at the earliest possible date following from receipt of this request.

(38) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding alleged warrants issued for the arrest of this requestor conducted on and/or after to August 9, 2018 by the Howell Township



Police Department and/or the Howell Township Police Investigations Division with any and all individual(s) that are not employees of any police department or other law enforcement agency in the State of New Jersey including and especially any and all employees of Monmouth Medical Center. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(39) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications specifically regarding alleged warrants issued for the arrest of this requestor conducted prior to August 9, 2018 by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any and all individual(s) that are not employees of any police department or other law enforcement agency in the State of New Jersey including and especially any and all employees of Monmouth Medical Center. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(40) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all oral, written and/or electronic communications regarding this requestor conducted on all dates by the Howell Township Police Department and/or the Howell Township Police Investigations Division with any and all employees of Monmouth Medical Center. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(41) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all dates, times, and locations this requestor was allegedly hospitalized for any reason whatsoever that are maintained as the record kept by the Howell Township Police Department and/or the Howell Township Police Investigations Division. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(42) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all alleged psychiatric diagnoses maintained as the record kept of this requestor by the Howell Township Police Department and/or the Howell Township Police Investigations Division. Specifically, the record described herein documents every single claim of drug use made against this requestor, including the date, time, location and identity of the individual(s) alleged to have made those observations. Furthermore, the record described herein necessarily documents every instance this requestor is alleged to have been diagnosed with schizophrenia of any type, and/or uses the terms "schizophrenia" and/or "schizophrenic" to describe this requestor, and/or describes the origin of claims made by Cpl. Jason Barrata in November 2017 that this requestor was diagnosed with "schizophrenia". Of the highest significance, the record described herein necessarily identifies every single medication alleged to have been prescribed to this requestor.

prescribing physician of each, and the place of work of each physician. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(43) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all alleged medical diagnoses maintained as the record of this requestor kept by the Howell Township Police Department and/or the Howell Township Police Investigations Division. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(44) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all document(s), record(s) and/or thing(s) therein containing all information described in a Howell Township Police Department report as follows: "A review of his criminal history found him to have two SBI numbers attached to him, including one for another Adam Miller, that included several narcotics related arrests." This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(45) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: Any and all police reports, arrest records and/or other records identifying this requestor and documenting therein alleged narcotics related arrests.

(46) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of any and all oral, written and/or electronic communications regarding this requestor conducted on all dates by Sergeant Bondarew of the Howell Township Police Department with any and all law enforcement personnel from the Township of Lawrence, any other municipality in Mercer County, or any municipality in Middlesex County. Furthermore, the record described herein documents, if applicable, all communications conducted by Sergeant Bondarew with Judge Lydon of Mercer County Superior Court and/or the staff of same. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.

(47) All genuine records maintained by the Howell Township Police Department and/or Howell Township Police Investigations Division described as follows: The complete record of all evidence logged in December 2017 associated with every criminal action ongoing in Howell Township Municipal Court as of October 29, 2018 wherein this requestor is named defendant. This record may include audio, video and/or other digital content, if applicable, and records as described must be provided to this requestor at the earliest possible date following from receipt of this request.