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State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
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JACQUELYN A. SUÁREZ  
Commissioner

## FINAL DECISION

### February 18, 2025 Government Records Council Meeting

Rotimi Owoh, Esq. (o/b/o African American  
Data & Research Institute)  
Complainant

Complaint No. 2022-84 and  
2022-137

v.  
Springfield Township Police Department (Union)  
Custodian of Record

At the February 18, 2025, public meeting, the Government Records Council (“Council”) considered the February 11, 2025, 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 incorrectly determined that the portion of the Complainant’s February 23, 2022 request seeking any “agreement” between Springfield Township and separated officers was invalid. Rather, the request sought specifically identifiable records and would not cause the Custodian to conduct research to process. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005); Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 515-16 (App. Div. 2010); Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). Thus, the Custodian unlawfully denied access to this portion of the Complainant’s OPRA request. N.J.S.A. 47:1A-6.
2. The Custodian has borne her burden of proof that she lawfully denied access to both portions of the Complainant’s OPRA requests seeking any “agreement[s]” between Springfield Township and separated police officers. Specifically, the Custodian certified, and the record reflects, that no such records exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
3. The Custodian unlawfully denied access to the portion of the Complainant’s February 23, 2022 and March 16, 2022 OPRA requests seeking disclosable personnel information of separated police officers from 2014 to the present. N.J.S.A. 47:1A-6. Specifically, the Custodian created a spreadsheet by extracting the information from physical documents, rather than providing the most comprehensive records containing the requested information. See Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012); Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008). Thus, the Custodian shall locate and provide such records to the Complainant with redactions as appropriate.

4. **The Custodian shall comply with conclusion No. 3 above within twenty (20) business days from receipt of the Council's Final Decision. In the circumstances where the records ordered for disclosure are not provided to the Complainant, the Council's Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**
5. The Complainant has achieved "the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian's conduct." Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 76 (2008). Specifically, the Custodian improperly provided spreadsheet containing the requested information, rather than the actual records containing same. Further, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. at 432, and Mason, 196 N.J. at 76. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney's fees to be paid to Complainant within twenty (20) business days. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13.**

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 18<sup>th</sup> Day of February 2025

John A. Alexy, 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: February 20, 2025**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
February 18, 2025 Council Meeting**

**Rotimi Owoh, Esq. (on Behalf of African American  
Data & Research Institute)<sup>1</sup>  
Complainant**

**GRC Complaint Nos. 2022-84  
& 2022-137<sup>2</sup>**

**v.**

**Springfield Township Police Department (Union)<sup>3</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of: Names, date of hire, date of separation and reason for separation, salary, payroll record, amount and type of pension of individuals who either resigned or retired or terminated or otherwise separated from 2014 to the present. N.J.S.A. 47:1A-10.

- a. This request includes any agreement entered with each one of the separated police officer(s).
- b. When stating the reason for separation, please note that some police officers separate due to plea deal, criminal convictions, criminal charges, sentences, and or other court agreement or court proceedings that require officers to be separated from your police department and or law enforcement jobs.
- c. Some police officers separate due to internal affairs investigations within the police departments.

**Custodian of Record:** Linda M. Donnelly

**Request Received by Custodian:** February 24, 2022 & March 16, 2022

**Response Made by Custodian:** February 28, 2022 & March 25, 2022

**GRC Complaint Received:** March 28, 2022 & April 18, 2022

**Background<sup>4</sup>**

**Request and Response:**

On February 23, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On February 28, 2022, the Custodian responded to the Complainant in writing providing a spreadsheet containing the

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<sup>1</sup> The Complainant represents the African American Data & Research Institute.

<sup>2</sup> The GRC has consolidated these complaints for adjudication because of the commonality of the parties and issues.

<sup>3</sup> Represented by Kraig M. Dowd, Esq. of Weber Dowd Law, LLC (Woodland Park, NJ).

<sup>4</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.

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requested personnel information. The Custodian also stated the portion of the request seeking any “agreement” between the separated officers and Springfield Township (“Township”) was overly broad and invalid under OPRA. The Custodian stated the request item did not specify a timeframe or the subject matter of the agreements, and OPRA did not permit open-ended searches requiring her to conduct research. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005). The Custodian thus requested clarification from the Complainant seeking additional specificity on the requested agreements.

On March 16, 2022, the Complainant submitted a second (2<sup>nd</sup>) OPRA request to the Custodian seeking the above-mentioned records. On March 25, 2022, the Custodian responded in writing providing the same spreadsheet delivered in response to the February 24, 2022 OPRA request. The Custodian also stated that to the extent the request sought separation agreements between the Township and the listed officers, no responsive records exist.

#### Denial of Access Complaint:

On March 28, 2022, the Complainant filed a Denial of Access Complaint (“DOAC”) for GRC 2022-84 with the Government Records Council (“GRC”). The Complainant asserted the records did not provide the reasons for separation. The Complainant also asserted that creating a new spreadsheet or list stating “terminated” or “resigned” or “retired” is not sufficient. The Complainant also stated the response did not state whether any officers left due to a plea deal or court proceeding that precludes them from law enforcement positions. Furthermore, the Complainant asserted the time for compliance had expired.

The Complainant requested the GRC order the Township to comply with the Supreme Court decision Libertarians for Transparent Gov’t v. Cumberland Cnty., 250 N.J. 46 (2022), issued on March 7, 2022. The Complainant also requested the GRC award counsel fees.<sup>5</sup>

On April 18, 2022, the Complainant filed a DOAC for GRC 2022-137. The Complainant reiterated all arguments stated in his Denial of Access Complaint for GRC 2022-84.

#### Statement of Information:

##### GRC 2022-84

On May 26, 2022, the Custodian filed a Statement of Information (“SOF”). The Custodian certified the Township received the Complainant’s OPRA request on February 24, 2022. The Custodian certified she forwarded the request to the Springfield Police Department (“SPD”). The Custodian certified the SPD provided her with the spreadsheet. The Custodian certified she responded to the Complainant in writing on February 28, 2022, providing the spreadsheet containing the personnel information.

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<sup>5</sup> The Complainant further noted that access to the records should have been granted under the “common law ‘right to access public records.’” However, the GRC does not have the authority to address a requestor’s common law right to access records. N.J.S.A. 47:1A-7(b); Rowan, Jr. v. Warren Hills Reg’l Sch. Dist. (Warren), GRC Complaint No. 2011-347 (January 2013); Kelly v. N.J. Dep’t of Transp., GRC Complaint No. 2010-215 (November 2011). Thus, the GRC cannot address any common law right of access to the requested records.

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The Custodian first asserted the responsive spreadsheet contained the personnel information as requested, including the reasons for separation. The Custodian next argued that she was not obligated to provide the Complainant with a detailed explanation on why the separated officers left SPD. The Custodian contended the Appellate Division previously found that a custodian was not required to “describe the circumstances surround a resignation or the reasons they decided to resign.” Libertarians for Transparent Gov’t v. Ocean Cnty. Prosecutor’s Office, 2018 N.J. Super. Unpub. LEXIS 25 (App. Div. 2018).

The Custodian next asserted the Complainant’s reference to Libertarians, 250 N.J. 46 was improper, as the requester in that case specifically sought a settlement agreement. The Custodian argued the Complainant’s request for agreements was overly broad and invalid under OPRA as it did not include sufficient identifiers that would enable her to conduct a search without engaging in research. Pierce v. Salem Cnty. Prosecutor’s Office, GRC Complaint No. 2017-176 (May 2019). The Custodian contended she was not obligated to create a list containing the information pursuant to MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). The Custodian further argued that even if the request for agreements were confined to those between the Township and the separated officers, she would still be required to conduct research into several categories of agreements that the offices may have entered such as collective bargaining, licensing, and settlements.

Lastly, the Custodian asserted that under the principles outlined in Mason v. City of Hoboken, 196 N.J. 51, 78 (2008), OPRA was designed to encourage requestors and agencies to work together to ensure prompt access to government records. The Custodian argued that she attempted to abide by those principles by seeking clarification from the Complainant but was instead met with silence.

#### GRC 2022-137

On July 18, 2022, the Custodian filed an SOI. The Custodian certified the Township received the Complainant’s OPRA request on March 16, 2022. The Custodian certified she forwarded the request to the SPD. The Custodian certified the SPD provided her with the spreadsheet. The Custodian further certified the spreadsheet was the same as what she provided in response to the February 23, 2022 OPRA request. The Custodian certified she responded to the Complainant in writing on March 25, 2022, providing the spreadsheet.

The Custodian incorporated the same arguments as outlined in GRC 2022-84. The Custodian added that she attempted to discern the type of agreements sought by the Complainant and asserted that none were located between the Township and the officers listed in the spreadsheet.

#### Additional Party Submissions:

On January 27, 2025, the GRC submitted a request for additional information to the Custodian. Specifically, the GRC inquired whether the provided personnel information was collected from an electronic database, and whether the spreadsheet was created via Excel.

On January 30, 2025, the Custodian responded to the GRC's request for additional information. The Custodian certified it was her understanding that the spreadsheet was compiled from several sources and not from an electronic database. The Custodian certified the information was then entered into an Excel spreadsheet.

### Analysis

#### 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, 375 N.J. Super. at 546 (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. 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); see also Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005);<sup>6</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. at 534; Donato v. Twp. of Union, GRC

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<sup>6</sup> Affirmed on appeal from Bent v. Stafford Police Department, GRC Complaint No. 2004-78 (October 2004). Rotimi Owoh, Esq. (on Behalf of African American Data & Research Institute) v. Springfield Township Police Department (Union), 2022-84 & 2022-137 – Findings and Recommendations of the Executive Director

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).

### GRC 2022-84 - Agreements

The Council addressed the search/research question in Donato, GRC 2005-182. There, the Council held that pursuant to MAG, a custodian is obligated to search his or her files to find identifiable government records listed in a requestor’s OPRA request. The complainant in Donato requested all motor vehicle accident reports from September 5, 2005 to September 15, 2005. The custodian sought clarification of said request on the basis that it was not specific enough. The Council stated that:

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

[Id.]

Additionally, in Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 508 (App. Div. 2010), the plaintiff appealed from an order of summary judgment entered against him in his suit to compel production by the County of Gloucester of documents requested pursuant to OPRA, consisting of “[a]ny and all settlements, releases or similar documents entered into, approved or accepted from 1/1/2006 to present.” The Appellate Division determined that the request sought a *specific type of document, although it did not specify a particular case to which such document pertained* and was therefore not overly broad. Id. at 515-16 (emphasis added). Likewise, the court in Burke v. Brandes, 429 N.J. Super. 169, 176 (App. Div. 2012), found a request for the E-Z Pass benefits of Port Authority retirees to be valid because it was confined to a specific subject matter that was clearly and reasonably described with sufficient identifying information.

Here, in addition to the requested personnel information, the Complainant sought any “agreement” between the Township and any separated officer containing the “reason for separation” from 2014 to present. In response to the February 23, 2022 OPRA request, the Custodian asserted this part was invalid. In response to the March 16, 2022 OPRA request, the Custodian responded by stating no agreements between the Township and separated officers exist. In the SOIs, the Custodian asserted this portion of the request required her to conduct research, but nevertheless certified that no agreements exist between the Township and the separated officers.

Upon review, the GRC is satisfied that this request portion was valid. Like the request in Burnett, 415 N.J. Super. at 508, the Complainant's request identified a specific record, agreements, and included a date range: 2014 to present. The request also identified the parties of those agreements: the Township and any separated police officer from that period. Thus, the Complainant provided specifically identifiable information for the Custodian to conduct a search, which did not require research. Moreover, that the Custodian was able to conduct a search after receiving the March 16, 2022 OPRA request belies the claim that February 23, 2022 request portion was overly broad. See Burke, 429 N.J. Super. at 176.

Accordingly, the Custodian incorrectly determined that the portion of the Complainant's February 23, 2022 request seeking any "agreement" between the Township and separated officers was invalid. Rather, the request sought specifically identifiable records and would not cause the Custodian to conduct research to process. See MAG, 375 N.J. Super. at 549; Burnett, 415 N.J. Super. at 515-16; Donato, GRC 2005-182. Thus, the Custodian unlawfully denied access to this portion of the Complainant's OPRA request. See 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.

### **GRC 2022-84 & 2022-137 – Agreements**

The Council has previously found that, where a custodian certified that no responsive records exist, no unlawful denial of access occurred. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005). Here, in addition to the requested personnel information, the Complainant sought any "agreement" between the Township and any separated officer containing the "reasons" for separation. While the Custodian treated the February 23, 2022 OPRA request as invalid, she subsequently responded to the March 16, 2022 OPRA request on March 25, 2022, stating that no responsive agreements exist. Additionally, the Custodian certified in the SOI that no responsive agreements exist. It should be noted that both OPRA requests share a similar applicable time frame (2014 to present); thus, the response and SOI certification are indicative that no agreements exist for either. Moreover, the Complainant failed to present any evidence that the Township possessed same at the time of the request, or to refute the Custodian's certification.

Accordingly, the Custodian has borne her burden of proof that she lawfully denied access to both portions of the Complainant's OPRA requests seeking any "agreement[s]" between the Township and separated police officers. Specifically, the Custodian certified, and the record reflects, that no such records exist. N.J.S.A. 47:1A-6; see Pusterhofer, GRC 2005-49.

### **GRC 2022-84 & 2022-137 - Personnel Information**

Regarding personnel records, OPRA begins with a presumption against disclosure and



“proceeds with a few narrow exceptions that . . . need to be considered.” Kovalcik v. Somerset Cnty. Prosecutor's Office, 206 N.J. 581, 594 (2011). These exceptions include “an individual’s name, title, position, salary, payroll record, length of service, date of separation and the reason therefore, and the amount and type of any pension received shall be government record.” N.J.S.A. 47:1A-10 (“Section 10”).

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010), the Council determined that “name, title, position, salary, payroll record and length of service” is information which is specifically considered to be a “government record” under Section 10, and that “payroll records” must be disclosed pursuant to Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004). The Council thus held that the complainant’s March 25, 2009, request for “[t]he name, position, salary, payroll record and length of service for every [agency] employee who was employed in whole or part from January 1, 2008, to March 24, 2009” was a valid request pursuant to OPRA. *Id.* at 5. Additionally, prior GRC case law supports the disclosure of database information regarding personnel actions. See Matthews v. City of Atlantic City (Atlantic), GRC Complaint No. 2008-123 (February 2009).

However, the Council has previously required that responding to an OPRA request for personnel information requires a custodian provide the most comprehensive records containing the responsive information. See Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012). In Valdes, the complainant sought the same personnel information at issue in the instant case. The custodian denied access since the requestor sought only information and did not identify a specific record that may contain the requested information. The Council held that OPRA did not require the custodian to extract and synthesize requested information from government records, but instead to provide the most comprehensive record containing said information, with necessary redactions. See also Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008).

In the instant matter, the Complainant requested in part Section 10 information from the Custodian. In response to both requests, the Custodian provided a spreadsheet containing the requested information. However, while such information could be provided in that format if originating from an electronic database, in response to the GRC’s additional information request, the Custodian certified that the data was manually researched from the Township’s files. Thus, in accordance with Valdes and Morgano, the Custodian was obligated to instead provide the most comprehensive records containing Section 10 information, with redactions applied as necessary.

Accordingly, the Custodian unlawfully denied access to the portion of the Complainant’s February 23, 2022 and March 16, 2022 OPRA requests seeking disclosable personnel information of separated police officers from 2014 to the present. N.J.S.A. 47:1A-6. Specifically, the Custodian created a spreadsheet by extracting the information from physical documents, rather than providing the most comprehensive records containing the requested information. See Valdes, GRC 2011-64; Morgano, GRC 2007-156. Thus, the Custodian shall locate and provide such records to the Complainant with redactions as appropriate.

## **Prevailing Party Attorney's Fees**

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council . . . A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006), the Appellate Division held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Id. at 432. Additionally, the court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008), the Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct” (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court held that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” Id. at 603 (quoting Black’s Law Dictionary 1145 (7<sup>th</sup> ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties . . .” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney's fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney's fees than the former RTKL

did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney’s fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney’s fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature’s revisions therefore: (1) mandate, rather than permit, an award of attorney’s fees to a prevailing party; and (2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA.

[196 N.J. at 73-76.]

The Court in Mason further held that:

[R]equestors are entitled to attorney’s fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) “a factual causal nexus between plaintiff’s litigation and the relief ultimately achieved”; and (2) “that the relief ultimately secured by plaintiffs had a basis in law.” Singer v. State, 95 N.J. 487, 495, cert. denied, New Jersey v. Singer, 469 U.S. 832 (1984).

[Id. at 76.]

Here, the Complainant sought in part the “[n]ames, date of hire, date of separation and reason for separation, salary, payroll record, amount and type of pension of individuals who either resigned or retired or terminated or otherwise separated from 2014 to the present.” The Custodian responded by providing a table containing the requested personnel information. The Complainant then filed the instant complaints on March 28, 2022, and April 18, 2022, asserting the Custodian failed to provide the “real reason” for the officers’ separations. The Complainant also asserted that the Custodian did not provide the requested information via actual records but instead provided a created spreadsheet.

In determining whether the Complainant is a prevailing party entitled to attorney’s fees, the GRC is satisfied that the evidence of record supports a conclusion in the affirmative. The Custodian certified that the information contained in the spreadsheet was not collected from an electronic database. The Custodian is therefore obligated to locate and provide the actual records containing the requested personnel information. Thus, a causal nexus exists between this complaint and the change in the Custodian’s conduct. See Mason, 196 N.J. at 76. Accordingly, the Complainant is a prevailing party entitled to attorney’s fees.<sup>7</sup>

Therefore, the Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters, 387 N.J. Super. at

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<sup>7</sup> The Council makes this determination with the understanding that the Complainant acted on behalf of a bona fide client at the time of the request. Although the Complainant’s status as representing an actual client has been previously challenged, the available evidence on the record is insufficient to address that issue herein. See Owoh, Esq. (O.B.O. AADARI) v. Neptune City Police Dep’t (Monmouth), GRC Complaint No. 2018-153 (April 2020) and Owoh, Esq. (O.B.O. AADARI) v. Freehold Twp. Police Dep’t (Monmouth), GRC Complaint No. 2018-155 (Interim Order dated September 29, 2020).

Rotimi Owoh, Esq. (on Behalf of African American Data & Research Institute) v. Springfield Township Police Department (Union), 2022-84 & 2022-137 – Findings and Recommendations of the Executive Director

432. Additionally, a factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. at 76. Specifically, the Custodian improperly provided spreadsheet containing the requested information, rather than the actual records containing same. Further, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. at 432, and Mason, 196 N.J. at 76. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney's fees to be paid to Complainant within twenty (20) business days. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13.**

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian incorrectly determined that the portion of the Complainant's February 23, 2022 request seeking any "agreement" between Springfield Township and separated officers was invalid. Rather, the request sought specifically identifiable records and would not cause the Custodian to conduct research to process. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005); Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 515-16 (App. Div. 2010); Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). Thus, the Custodian unlawfully denied access to this portion of the Complainant's OPRA request. N.J.S.A. 47:1A-6.
2. The Custodian has borne her burden of proof that she lawfully denied access to both portions of the Complainant's OPRA requests seeking any "agreement[s]" between Springfield Township and separated police officers. Specifically, the Custodian certified, and the record reflects, that no such records exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
3. The Custodian unlawfully denied access to the portion of the Complainant's February 23, 2022 and March 16, 2022 OPRA requests seeking disclosable personnel information of separated police officers from 2014 to the present. N.J.S.A. 47:1A-6. Specifically, the Custodian created a spreadsheet by extracting the information from physical documents, rather than providing the most comprehensive records containing the requested information. See Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012); Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2008). Thus, the Custodian shall locate and provide such records to the Complainant with redactions as appropriate.
4. **The Custodian shall comply with conclusion No. 3 above within twenty (20) business days from receipt of the Council's Final Decision. In the circumstances where the records ordered for disclosure are not provided to the Complainant,**

**the Council's Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**

5. The Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 76 (2008). Specifically, the Custodian improperly provided spreadsheet containing the requested information, rather than the actual records containing same. Further, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. at 432, and Mason, 196 N.J. at 76. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney’s fees to be paid to Complainant within twenty (20) business days. If the parties cannot agree on the amount of attorney's fees, Complainant’s Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13.**

Prepared By: Samuel A. Rosado  
Senior Staff Attorney

February 11, 2025