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

FINAL DECISION

January 28, 2025 Government Records Council Meeting

Joseph M. Latham, II
Complainant

Complaint No. 2022-43

v.

Gloucester Township (Camden)
Custodian of Record

At the January 28, 2025, public meeting, the Government Records Council (“Council”) considered the January 21, 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. Because the portion of the Complainant’s OPRA request No. 5 seeking “E-court filings” pertaining to the Complainant’s criminal matters is a blanket request for a class of various documents rather than for specifically named or identifiable government records, that portion of the request is invalid under OPRA. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Twp. of Stafford Police Dep’t, Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Assoc. v. New Jersey Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008); Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008).
2. The requested security camera footage is exempt from disclosure under OPRA’s emergency and security exemptions. N.J.S.A. 47:1A-1.1; Gilleran v. Twp. of Bloomfield, 227 N.J. 159, 174-77 (2016). Specifically, disclosure of the footage under OPRA would jeopardize the safety and security of Gloucester Township Police Department and would create a risk to the safety of the persons therein. Thus, the Custodian lawfully denied access to the requested footage. N.J.S.A. 47:1A-6.
3. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant’s OPRA request item seeking “shift reports/schedules” dated February 8, 2021. 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).

4. The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA requests seeking BWC footage of multiple Gloucester Township Police Department officers for specific dates. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the record reflects, that Gloucester Township provided all responsive BWC footage in its possession. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
5. The Custodian lawfully denied access to the portion of the Complainant's request item No. 5 seeking handwritten "police reports" and "notes" pertaining to the Complainant's identified criminal matters. N.J.S.A. 47:1A-6. Specifically, the evidence of record demonstrates that such records fell under OPRA's criminal investigatory records exemption. See N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 566 (2017); Cheatham v. Borough of Fanwood Police Dep't, GRC Complaint No. 2013-262 (March 2014); and Boretsky v. Middlesex Cnty. Prosecutor's Office, GRC Complaint No. 2016-220 (February 2018).
6. The Custodian may have unlawfully denied access to the Complainant's request item No. 5 seeking warrant affidavits and probable cause statements pertaining to five (5) identified complaints. N.J.S.A. 47:1A-6; Simmons v. Mercado, 247 N.J. 24, 42 (2021); Seabrooks v. Cnty. of Essex, GRC Complaint No. 2012-230 (Interim Order dated June 25, 2013). The Custodian shall locate and disclose those records to the Complainant. If the Custodian determines that no records exist or are exempt from access due to an OPRA exemption, she must certify to this fact.
7. **The Custodian shall comply with conclusion No. 6 above within twenty (20) business days from receipt of the Council's Final Decision. In the circumstance 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).**

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 28th Day of January 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: January 30, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 28, 2025 Council Meeting**

**Joseph M. Latham, II¹
Complainant**

GRC Complaint No. 2022-43

v.

**Gloucester Township (Camden)²
Custodial Agency**

Records Relevant to Complaint: Hard copies via pickup of:

November 4, 2021 OPRA Request³

- 1) Security camera footage of the “Safe Exchange Zone” parking lot located at the Gloucester Township Police Department (“GTPD”) dated May 30, 2020, between 11:30 – 15:00.
- 2) Security camera footage of the “Safe Exchange Zone” parking lot located at the Gloucester Township Police Department (“GTPD”) dated February 8, 2021, between 7:15 – 20:00.
- 3) Shift reports/shift schedules dated February 8, 2021.
- 4) BWC footage of officer Benjamin Lewitt, for the dates of March 16, 2020 and May 30, 2020; BWC footage of officer Nicholas Aumendo for the dates of May 2020-November 2021, and February 8, 2021; BWC footage of desk officer for the dates of February 12, 2021, February 19, 2021, and June 2, 2021.

December 2, 2021 OPRA Request⁴

- 5) E-court filings, all warrant affidavits, all handwritten notes, all handwritten reports, and all probable cause statements pertaining to 2021-000196-0415, 2021-000197-0415, 2021-000198-0415, 2021-000205-0415, and 2021-000204-0415 dated February 8, 2021.

Custodian of Record: Nancy Power

Request Received by Custodian: November 4, 2021; December 2, 2021

Response Made by Custodian: November 17, 2021; December 14, 2021

GRC Complaint Received: March 1, 2022

¹ No legal representation listed on record.

² Represented by David A. Rapuano, Esq., of Archer & Greiner, P.C. (Voorhees, NJ).

³ The Complainant sought additional records that are not at issue in this complaint.

⁴ The Complainant sought additional records that are not at issue in this complaint.

Background⁵

November 4, 2021 Request and Response:

On November 3, 2021, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On November 16, 2021, the Custodian informed the Complainant in writing that the responsive records were ready to be picked up. On November 18, 2021, the Complainant arrived at the Gloucester Township (“Township”) offices to retrieve the records. That same day, the Custodian provided a letter to the Complainant denying access to item Nos. 1 and 2 under OPRA’s security exemption. The Custodian next stated that item No. 3 was denied as no responsive records exist. The Custodian next stated that copies of all available BWC footage responsive to item No. 4 were provided via seven (7) CDs, with redactions contained therein.

December 2, 2021 OPRA Request and Response:

On December 2, 2021, the Complainant submitted a second OPRA request to the Custodian seeking the above-mentioned records. The request also sought the same records listed in the November 4, 2021 OPRA request. That same day, the Custodian responded to the Complainant stating that an extension of time until December 30, 2021 was needed to process the request.

On December 14, 2021, the Custodian responded to the Complainant in writing. For item Nos. 1 and 2, the Custodian denied access again pursuant to OPRA’s exemption for security and surveillance information. For item No. 3, the Custodian again stated that no responsive shift schedules/reports existed. The Custodian added that the Complainant needed to specify the officers and units to obtain responsive shift schedules. For item No. 4, the Custodian stated that all responsive BWC footage had been provided, and that any other responsive BWC footage was purged after the 180-day retention period. For item No. 5, the Custodian stated these records should be requested from the Judiciary.

Denial of Access Complaint:

On March 1, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant did not elaborate on the circumstances of his denials of access for either request, except asserting he was not provided with the entirety of the available BWC footage dated May 30, 2020. The remainder of the complaint described the Complainant’s in-person encounter with GTPD officers.

Statement of Information:⁶

On August 23, 2022, the Custodian filed a Statement of Information (“SOI”). The

⁵ 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.

⁶ This matter was transferred to mediation on March 16, 2022. The matter was transferred back to the GRC on July 27, 2022.

Custodian certified she received the Complainant's first OPRA request on November 3, 2021, and the subsequent request on December 3, 2021. The Custodian certified her search included reaching out to GTPD and the Gloucester Township Municipal Court ("Municipal Court"). The Custodian certified she responded in writing to the Complainant's OPRA requests on November 17, 2021 and December 14, 2021, respectively.

Regarding item Nos. 1 and 2, the Custodian maintained those items were lawfully denied under OPRA's security and surveillance exemptions. The Custodian asserted the security cameras were a critical element of the building's security as well as the safety of officers and civilians in and around the building. The Custodian contended that releasing the footage would allow a requestor to obtain critical data such as camera angles, blind spots, and coverage zones that would jeopardize the safety of persons and property.

The Custodian nevertheless asserted there likely would not have been any footage to provide at the time of the request. The Custodian asserted the security cameras effectively run on a thirty (30) day continuous loop, where stored footage is "overwritten" by new footage every thirty (30) days. The Custodian argued the OPRA requests were submitted well beyond thirty (30) days.

Regarding request item No. 3, the Custodian asserted that the request was denied as having no responsive records because the Complainant did not provide clarification. The Custodian nevertheless asserted that in an attempt to assist the Complainant, she and the GTPD tried to guess what information he wanted and provided a "Platoon Supervisor Daily Assignment" for each date he listed in his December 4, 2021 OPRA request as part of the SOI. The Custodian stated the redactions were made to protect confidential information and security related information under N.J.S.A. 47:1A-1.1.

Regarding request item No. 4, the Custodian maintained the Township provided all available BWC footage as requested in the form of seven (7) compact discs.

Regarding request item No. 5, the Custodian asserted the records were contained in the Complainant's Judiciary case files and not accessible by the Township. The Custodian therefore argued that the Complainant needed to reach out to the Judiciary directly to obtain access and that OPRA did not apply to the Judicial Branch under N.J.S.A. 47:1A-7(g).

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 Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, at 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. 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. at 549 (emphasis added). Bent v. Twp. of Stafford Police Dep't, Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Assoc., 390 N.J. Super. at 180; Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

In Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2008), the complainant filed an OPRA request for two (2) entire prosecutor's office files. The Council relied upon MAG, 375 N.J. Super. at 546, Bent, 381 N.J. Super. at 37, and Asarnow v. Dep't of Labor, GRC Complaint No. 2006-24 (May 2006), to determine that the request was overbroad and a blanket request for a class of various documents rather than a request for a specific government record. As such, the Council found that the custodian met her burden of proof in denying access to the responsive records.

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, determining 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 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, GRC 2006-24] and [Morgano, GRC 2007-190].

Item No. 5 – E-court Filings

In the instant matter, the Complainant sought “E-court filings” for six (6) identified criminal matters. Although the Complainant’s request did not state “all documents” or “all records,” seeking “E-court filings” for all identified criminal matters effectively mirrors the same blanket request for all documents submitted to E-courts pertaining to each identified matter. See Morgano, GRC 2007-156; Feiler-Jampel, GRC 2007-190.

Therefore, because the portion of the Complainant’s OPRA request No. 5 seeking “E-court filings” pertaining to the Complainant’s criminal matters is a blanket request for a class of various documents rather than for specifically named or identifiable government records, that portion of the request is invalid under OPRA. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; N.J. Builders Assoc., 390 N.J. Super. at 180; Morgano, GRC 2007-156; Feiler-Jampel, GRC 2007-190.

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.

Item Nos. 1 & 2

OPRA exempts disclosure of records containing “*emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein.*” N.J.S.A. 47:1A-1.1 (emphasis added). OPRA further exempts access to “*security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons [or] property.*” Id. (emphasis added).

In Gilleran v. Twp. of Bloomfield, 227 N.J. 159 (2016), the New Jersey Supreme Court held that security footage within a government building is exempt from disclosure under OPRA’s security and surveillance exemption at N.J.S.A. 47:1A-1.1. In reaching this conclusion, the Court set forth a detailed explanation of how security footage met the exemption:

Current events since the new millennium make evident the present[-]day difficulties of maintaining daily security for public buildings and people using them. The security exceptions prevent OPRA requests from interfering with such security efforts. Even if the Legislature could not have predicted precisely all the many types of criminal, terroristic events that have happened since OPRA was enacted, the Legislature created flexible exceptions to preserve public safety and security. Now, we know that knowledge of the vulnerabilities of a security system could allow an ill-motivated person to know when and where to plant an explosive

device, mount an attack, or learn the movements of persons, placing a public building or persons at risk. Information that reveals the capabilities and vulnerabilities of surveillance cameras that are part of a public facility's security system is precisely the type of information that the exceptions meant to keep confidential in furtherance of public safety.

...

A sensible application of the security exceptions supports denying release of information that undermines the operation of a government facility's security system. Compelling the wholesale release to the public of videotape product of any security camera, or combination of cameras, from a government facility's security system would reveal information about a system's operation and also its vulnerabilities. Once OPRA is interpreted to require unfettered access to the work product of any camera that is part of a governmental facility's security system, then footage from security cameras in all governmental facilities—police stations, court houses, correctional institutions—would be subject to release on demand. It takes no stretch of the imagination to realize that that would make it possible for any person to gather the information necessary to dismantle the protection provided by such security systems.

Requests for videotape product from surveillance cameras protecting public facilities are better analyzed under the common law right of access where the asserted need for access can be weighed against the needs of governmental confidentiality. (Citations omitted).

[Id. at 174-177.]

In the instant complaint, the Complainant sought access to video footage depicting a section of GTPD's parking lot on May 30, 2020 and February 21, 2021 at specific times. The Custodian denied access under N.J.S.A. 47:1A-1.1. In the SOI, the Custodian asserted the denial was lawful because the requested footage would have exposed recording angles and blind spots in the system. Moreover, the Custodian also stated that even if the footage did not fall within the exception, the footage likely would not have existed at the time of the request due to being overwritten after 30 days. In his Denial of Access Complaint, the Complainant did not elaborate on these requested items or produce an argument against the denial.

A practical application of Gilleran supports the Custodian's lawful denial of the requested security camera footage. In reaching this conclusion, the GRC agrees with the Court in its concerns about the disclosure of security camera footage. Safety measures in place in New Jersey's government facilities is of paramount importance: those measures necessarily include safeguarding security camera footage from disclosure to anyone under OPRA. Further, and as noted by the Gilleran Court, "[c]ompelling the wholesale release . . . of videotape product of any security camera . . . would reveal information about a system's operation and also its vulnerabilities." Id. at 176.

Accordingly, the requested security camera footage is exempt from disclosure under OPRA's emergency and security exemptions. See N.J.S.A. 47:1A-1.1; Gilleran, 227 N.J. at 174-177. Specifically, disclosure of the footage under OPRA would jeopardize the safety and security of GPD and would create a risk to the safety of the persons therein. Thus, the Custodian lawfully denied access to the requested footage. N.J.S.A. 47:1A-6.

Item No. 3

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, the Complainant sought "shift reports/schedules" for the date of February 8, 2021. The Custodian responded to the Complainant in both requests stating that no responsive records exist to that request item. Additionally, the Custodian certified and maintained in the SOI that GTPD did not maintain such records and needed clarification from the Complainant. Furthermore, the Complainant failed to present any evidence that the Township possessed same at the time of the request.

Accordingly, the Custodian has borne her burden of proof that she lawfully denied access to the Complainant's OPRA request item seeking "shift reports/schedules" dated February 8, 2021. 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.

Item No. 4

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).

In the instant matter, the Complainant sought BWC footage from several GTPD officers for several dates pertaining to specific incidents. In response, the Custodian provided seven (7) compact discs containing BWC footage. In the SOI, the Custodian certified the Township provided all available BWC footage in the Township's possession. The Complainant asserted that he was not provided with all BWC of the incidents but failed to present any evidence in support.

Accordingly, the Custodian did not unlawfully deny access to the portion of the Complainant's OPRA requests seeking BWC footage of multiple GTPD officers for specific dates. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the record reflects, that the Township provided all responsive BWC footage in its possession. See Danis, GRC 2009-156, *et seq.*

Item No. 5 – Handwritten Notes, Handwritten Reports

OPRA defines a criminal investigatory record as “a record which is not required by law to be made, maintained, or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.” N.J.S.A. 47:1A-1.1. Therefore, for a record to be considered exempt from disclosure under OPRA as a criminal investigatory record pursuant to N.J.S.A. 47:1A-1.1, that record must meet both prongs of a two-prong test. See O’Shea v. Twp. of West Milford, 410 N.J. Super. 371, 380-81 (App. Div. 2006).

The New Jersey Supreme Court considered this two-prong test in N. Jersey Media Grp., 229 N.J. 541 (2017), aff’ing in part, rev’ing in part, 441 N.J. Super. 70 (App. Div. 2015). In the appeal, the Court affirmed that OPRA’s criminal investigatory records exemption applies to police records which originate from a criminal investigation. However, the court stated that, “to qualify for the exception — and be exempt from disclosure — a record (1) must not be ‘required by law to be made,’ and (2) must ‘pertain[] to a criminal investigation.’ N.J.S.A. 47:1A-1.1.” Id. at 564.

The GRC has previously held that police reports were exempt from disclosure where they met the two (2) prong test required to be a criminal investigatory record under OPRA. Cheatham v. Borough of Fanwood Police Dep’t, GRC Complaint No. 2013-262 (March 2014) (holding that incident reports and related records that summarize information contained in such reports are exempt from disclosure under OPRA as criminal investigatory records). See also Nance v. Scotch Plains Twp. Police Dep’t (Atlantic), GRC Complaint No. 2003-125 (January 2005). The GRC has also held that “notes” written by law enforcement can be withheld as criminal investigatory records. Boretsky v. Middlesex Cnty. Prosecutor’s Office, GRC Complaint No. 2016-220 (February 2018).

In the instant matter, the Complainant sought handwritten “reports” and “notes” pertaining several identified criminal matters. As to the first prong, there is no evidence in the record demonstrating that “police reports” and “notes” are required by law to be maintained. See Cheatham, GRC 2013-262; Boretsky, GRC 2016-220. Secondly, it is not in dispute that the relevant matters generating the records pertained to a criminal investigation. Therefore, both prongs have been met under N. Jersey Media Grp., 229 N.J. at 566.

Thus, the Custodian lawfully denied access to the portion of the Complainant’s request item No. 5 seeking handwritten “police reports” and “notes” pertaining to the Complainant’s identified criminal matters. N.J.S.A. 47:1A-6. Specifically, the evidence of record demonstrates that such records fell under OPRA’s criminal investigatory records exemption. See N. Jersey Media Grp., 229 N.J. at 566; Cheatham, GRC 2013-262; and Boretsky, GRC 2016-220.

Item No. 5 – Warrant Affidavits, Probable Cause Statements

The Council has previously held that warrants are subject to disclosure under OPRA. Seabrooks v. Cnty. of Essex, GRC Complaint No. 2012-230 (Interim Order dated June 25, 2013). In Seabrooks, the Council found that “‘arrest warrants’ are required by law to be made pursuant to R. 3:2-3(a), which provides that ‘[a]n arrest warrant shall be made on a Complaint-Warrant

(CDR2) form.” Id. Additionally, R. 3:2-3(b) states that any probable cause finding and/or affidavit would be part of the complaint-warrant form.

Furthermore, the Supreme Court has held that police departments may be obliged to obtain government records electronically maintained by the Judiciary. See Simmons v. Mercado, 247 N.J. 24, 42 (2021). Therein, the Court held that, notwithstanding which government branch created “CDR-1” and “CDR-2” forms, it is the information contained within those forms that is sought by the requester. Id. at 40-41. Thus, the Court found that “[b]ecause [Millville Police Department (“MPD”)] officers create the completed CDR-1s by populating the forms with the information necessary to generate a summons and submit it to the court, there is no question that the CDR-1s are government records subject to disclosure pursuant to OPRA.” Id.

Additionally, the Court rejected MPD’s argument that they did not maintain the records, holding that OPRA’s definition of a “government record” is not restricted to records maintained by the agency, but rather includes records it creates, even if not maintained. Id. at 41. Therefore, the Court found, “that the Judiciary might maintain on its servers the information that MPD made does not absolve MPD of its obligation to produce that information pursuant to a proper OPRA request made to MPD.” Id. at 42.

Here, the Complainant requested in part “all warrant affidavits . . . and all probable cause statements pertaining to 2021-000196-0415, 2021-000197-0415, 2021-000198-0415, 2021-000205-0415, and 2021-000204-0415 dated February 8, 2021.” The Custodian responded to the Complainant stating that such records should be requested through the Judiciary. In the SOI, the Custodian certified that once submitted, GTPD can no longer access documents within the E-courts system.

Upon review, the facts in this matter parallel those in Simmons. The Township claims that once submitted to E-courts, documents pertaining to criminal matters are no longer accessible by GTPD. However, pursuant to R. 3:2-3(b), affidavits or statements of probable cause would be included with a “Complaint-Warrant,” which is classified as a CDR-2 form. See Seabrooks, GRC 2012-230. Thus, the information generated by GTPD within a CDR-2 form is subject to access under Simmons, regardless of whether the record was submitted through eCDR or E-courts.

Therefore, the Custodian may have unlawfully denied access to the Complainant’s request item No. 5 seeking warrant affidavits and probable cause statements pertaining to five (5) identified complaints. N.J.S.A. 47:1A-6; Simmons, 247 N.J. 24; Seabrooks, GRC 2012-230. The Custodian shall locate and disclose those records to the Complainant. If the Custodian determines that no records exist or are exempt from access due to an OPRA exemption, she must certify to this fact.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. Because the portion of the Complainant’s OPRA request No. 5 seeking “E-court filings” pertaining to the Complainant’s criminal matters is a blanket request for a class

of various documents rather than for specifically named or identifiable government records, that portion of the request is invalid under OPRA. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Twp. of Stafford Police Dep't, Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Assoc. v. New Jersey Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2008); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008).

2. The requested security camera footage is exempt from disclosure under OPRA's emergency and security exemptions. N.J.S.A. 47:1A-1.1; Gilleran v. Twp. of Bloomfield, 227 N.J. 159, 174-77 (2016). Specifically, disclosure of the footage under OPRA would jeopardize the safety and security of Gloucester Township Police Department and would create a risk to the safety of the persons therein. Thus, the Custodian lawfully denied access to the requested footage. N.J.S.A. 47:1A-6.
3. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant's OPRA request item seeking "shift reports/schedules" dated February 8, 2021. 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).
4. The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA requests seeking BWC footage of multiple Gloucester Township Police Department officers for specific dates. N.J.S.A. 47:1A-6. Specifically, the Custodian certified, and the record reflects, that Gloucester Township provided all responsive BWC footage in its possession. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
5. The Custodian lawfully denied access to the portion of the Complainant's request item No. 5 seeking handwritten "police reports" and "notes" pertaining to the Complainant's identified criminal matters. N.J.S.A. 47:1A-6. Specifically, the evidence of record demonstrates that such records fell under OPRA's criminal investigatory records exemption. See N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 566 (2017); Cheatham v. Borough of Fanwood Police Dep't, GRC Complaint No. 2013-262 (March 2014); and Boretsky v. Middlesex Cnty. Prosecutor's Office, GRC Complaint No. 2016-220 (February 2018).
6. The Custodian may have unlawfully denied access to the Complainant's request item No. 5 seeking warrant affidavits and probable cause statements pertaining to five (5) identified complaints. N.J.S.A. 47:1A-6; Simmons v. Mercado, 247 N.J. 24, 42 (2021); Seabrooks v. Cnty. of Essex, GRC Complaint No. 2012-230 (Interim Order dated June 25, 2013). The Custodian shall locate and disclose those records to the Complainant. If the Custodian determines that no records exist or are exempt from access due to an OPRA exemption, she must certify to this fact.

7. **The Custodian shall comply with conclusion No. 6 above within twenty (20) business days from receipt of the Council's Final Decision. In the circumstance 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).**

Prepared By: Samuel A. Rosado
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January 21, 2025