



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

January 27, 2026 Government Records Council Meeting

Andre Graves-Byrd
Complainant

v.

NJ Department of Corrections
Custodian of Record

Complaint No. 2022-608

At the January 27, 2026, public meeting, the Government Records Council (“Council”) considered the January 20, 2026, 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 the Custodian has borne his burden of proof that he lawfully denied access to the requested Special Investigative Division special report because said report contained investigative and intelligence-gathering methods as well as criminal investigatory records which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of South Woods State Prison. N.J.S.A. 47:1A-1.1; N.J.A.C. 10A:22-2.3(a)(1); N.J.A.C. 10A:22-2.3(a)(2); N.J.A.C. 10A:22-2.3(b). See also Cordero v. N.J. Dep’t of Corr., GRC Complaint No. 2012-209 (June 2013); July v. N.J. Dep’t of Corr., GRC Complaint No. 2015-06 (July 2016).

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 27th Day of January 2026

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 2, 2026



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 27, 2026 Council Meeting**

**Andre Graves-Byrd¹
Complainant**

GRC Complaint No. 2022-608

v.

**N.J. Department of Corrections²
Custodial Agency**

Records Relevant to Complaint: Copies via U.S. mail of an investigation report, including all statements and notes, and “the outcome of the investigation and what all was found” from an incident at South Woods State Prison involving the Complainant on November 22, 2018.”

Custodian of Record: John Falvey
Request Received by Custodian: September 22, 2022
Response Made by Custodian: September 22, 2022
GRC Complaint Received: October 31, 2022

Background³

Request and Response:

On August 31, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On September 22, 2022, the Custodian responded in writing denying the request pursuant to N.J.S.A. 47:1A-1.1 as “emergency or security information or procedures for any buildings or facility which, if disclosed, would create a risk to the safety of persons or property,” and N.J.A.C. 10A:22-2.3(a)(5) as a “report or record related to an identified individual which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of the correctional facility or other designated place of confinement.”

Denial of Access Complaint:

On October 31, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted he was unlawfully denied

¹ No legal representation listed on record.

² Represented by Deputy Attorney General Dana Paolillo, Esq.

³ 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.

access to the investigation report regarding his discovery of a suspicious substance that he asserts resulted in his placement on hold from his job detail pending this investigation.

Statement of Information:

On December 12, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on September 22, 2022. The Custodian certified that he responded in writing on the same day denying the request under N.J.S.A. 47:1A-1.1 because disclosure of the investigation record sought would create a risk to the safety of the persons or property and is exempt under OPRA. The Custodian stated that he also denied the OPRA request under N.J.A.C. 10A:22-2.3(a)(5) because the record pertained to a Special Investigation Division (“SID”) investigation and was therefore exempt from disclosure.

The Custodian argued that under OPRA, 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, citing N.J.S.A. 47:1A-1.1 and MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005). The Custodian asserted that OPRA includes multiple exemptions at N.J.S.A. 47:1A-1.1, including for criminal investigatory records; emergency or security information or procedures for any building or facility which, if disclosed, would jeopardize security of the building or facility or persons therein; and security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software.

The Custodian also contended that, per N.J.S.A. 47:1A-9(a), OPRA does not abrogate records made exempt by duly promulgated regulation. The Custodian argued that, under N.J.A.C. 10A:22-2.3(a)(2), SID “investigations records and reports” are exempt from OPRA “provided that redaction of information would be insufficient to protect the safety of any person or the safe and secure operation of a correctional facility.” The Custodian further argued that N.J.A.C. 10A:22-2.3(a)(5) exempts any “report or record relating to an identified individual, which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of the correctional facility or other designated place of confinement.”

The Custodian maintained that he lawfully denied access to the Complainant’s OPRA request because the responsive record was an SID investigative report exempt from disclosure under the foregoing statutory and regulatory provisions. The Custodian certified that the report contained security and investigative techniques, as well as specific details of an SID investigations and surveillance of South Woods State Prison. The Custodian argued that disclosure of the SID investigation report would compromise the safe and secure operations of the facility.

Analysis

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 further provides that:

A government record shall not include the following information which is deemed to be confidential . . . 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.]

OPRA also provides that:

[OPRA] shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to . . . any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order.

[N.J.S.A. 47:1A-9(a).]

The New Jersey Department of Corrections’ (“DOC”) regulation governing adult county correctional facilities and facilities or units housing county inmates provides that:

(a) In addition to records designated as confidential pursuant to the provisions of N.J.S.A. 47:1A-1, *et seq*, any other law, rule promulgated under the authority of any statute or Executive Order of the Governor, resolution of both Houses of the Legislature, Executive Order of the Governor, Rules of Court or any Federal law, Federal regulation or Federal order, the following records shall not be considered government records subject to public access pursuant to N.J.S.A. 47:1A-1, *et seq* :

. . . (2) Internal Affairs/investigative unit investigations records and reports, provided that redaction of information would be insufficient to protect the safety of any person or the safe and secure operation of a correctional facility;

. . . (5) A report or record relating to an identified individual, which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of the correctional facility or other designated place of confinement[.]

[N.J.A.C. 10A:31-6.10(a)(2), (5).]

In Cordero v. N.J. Dep’t of Corr., GRC Complaint No. 2012-209 (June 2013), the complainant sought access to a SID report detailing the use of narcotics canines with prison visitors and subsequent investigations thereafter. The report also contained the identities of civilians and inmates. The Council agreed with the custodian that disclosing the SID report would jeopardize

the safety and security of personnel, inmates, and visitors. The Council also held that disclosing reports detailing search and investigation methods could lead to potential exploitation by inmates and the undermining of established safety and security measures.

Additionally, in July v. N.J. Dep't of Corr., GRC Complaint No. 2015-06 (July 2016) the custodian certified that the information contained in the requested records detailed SID investigation into a gang-related stabbing in prison, subsequent actions taken, and security recommendations. The custodian certified that the reports contained names of other involved inmates and discussed intelligence gathered, sources, interviews conducted, investigative techniques, and Security Threat Group networks within the New Jersey State Prison system. The custodian argued that said reports could not be released because doing so would jeopardize the safe and secure operation of the prison system by revealing its intelligence gathering capabilities and would put other inmates in jeopardy by exposing them to physical abuse, extortion, or some other form of retaliation.

In the instant complaint, the Complainant's OPRA request sought the investigation report, including all statements and notes from all parties involved in a November 22, 2018 incident. The Custodian denied access to an SID report under N.J.S.A. 47:1A-1.1; N.J.A.C. 10A:22-2.3(a)(5); and N.J.A.C. 10A:22-2.3(b) because it contained information "which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of the correctional facility." Like the SID report sought in Cordero, GRC 2012-209, the GRC is satisfied that the Custodian provided a sufficiently detailed explanation to uphold the denial under OPRA. Specifically, the SID report contains discussions of security measures, investigative techniques, and surveillance at South Woods State Prison. The GRC is also satisfied that disclosure of the responsive record could pose a significant risk to the safe and secure operation of South Woods State Prison for the reasons expressed by the Custodian. See N.J.S.A. 47:1A-1.1. Furthermore, the provisions of OPRA cannot abrogate exemptions contained within DOC's regulations. N.J.S.A. 47:1A-9.

Therefore, the Custodian has borne his burden of proof that he lawfully denied access to the requested SID special report because said report contained investigative and intelligence-gathering methods as well as criminal investigatory records which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of South Woods State Prison. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(1); N.J.A.C. 10A:22-2.3(a)(2); N.J.A.C. 10A:22-2.3(b). See also Cordero, GRC 2012-209; July, GRC 2015-06.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Custodian has borne his burden of proof that he lawfully denied access to the requested Special Investigative Division special report because said report contained investigative and intelligence-gathering methods as well as criminal investigatory records which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of South Woods State Prison. N.J.S.A. 47:1A-1.1; N.J.A.C. 10A:22-2.3(a)(1); N.J.A.C. 10A:22-2.3(a)(2); N.J.A.C. 10A:22-2.3(b). See also Cordero v. N.J. Dep't of Corr., GRC Complaint No. 2012-209 (June 2013); July v. N.J. Dep't of Corr., GRC Complaint No. 2015-06 (July 2016).

Prepared By: Maria M. Rossi
Staff Attorney

January 20, 2026⁴

⁴ This complaint was prepared for adjudication at the Council's April 22, 2025 meeting, but could not be adjudicated due to lack of quorum.