



State of New Jersey

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Commissioner

FINAL DECISION

June 24, 2025 Government Records Council Meeting

Janet Pizar
Complainant
v.

Complaint No. 2023-111

NJ Department of Environmental Protection
Custodian of Record

At the June 24, 2025, public meeting, the Government Records Council (“Council”) considered the June 17, 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 the Complainant’s request is invalid because it failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (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, 236-237 (App. Div. 2015); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to this request. N.J.S.A. 47:1A-6.

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 24th Day of June 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: June 26, 2025



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
June 24, 2025 Council Meeting**

**Janet Pizar¹
Complainant**

GRC Complaint No. 2023-111

v.

**NJ Department of Environmental Protection²
Custodial Agency**

Records Relevant to Complaint: On-site access to the “scientific document where findings show an increased bear population causes more dangerous bears, (eg imminent peril) as indicated in its proposal for Emergency Rule bear hunt, 2019 to[]date.”

Custodian of Record: Matthew J. Coefer

Request Received by Custodian: March 22, 2023

Response Made by Custodian: March 25, 2023

GRC Complaint Received: May 22, 2023

Background³

Request and Response:

On March 22, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On March 25, 2023, the Custodian responded in writing denying access to the requested record pursuant to N.J.S.A. 47:1A-1, stating that the subject request failed to define a specific record and would require research and subjectivity on the part of the Custodian. The Custodian noted that the New Jersey Department of Environmental Protection (“NJDEP”) previously denied a similar request submitted by the Complainant. The Custodian stated that, pursuant to MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005), the NJDEP was not obligated to conduct research or correlate data in order to respond to a request for records. The Custodian further stated that he was not required to read or review government records to ascertain or opine on their findings.

Denial of Access Complaint:

On May 22, 2023, the Complainant filed a Denial of Access Complaint with the

¹ No legal representation listed on record.

² Represented by Deputy Attorney General Cristin D. Mustillo.

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.

Government Records Council (“GRC”). The Complainant asserted the Division of Fish and Wildlife (“DFW”) routinely “proclaims” its use of scientific material in its management of wildlife. The Complainant asserted that the DFW unlawfully refused to: 1) disclose the “scientific report” that it used or implied to use in its Fall 2022 Emergency Rule Proposal of the imminent peril bear hunt; or 2) state that no records exist. The Complainant asserted that as a layperson she does not have access to the author, date and data of the “scientific report” utilized by the DFW.

Statement of Information:⁴

On November 3, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on March 22, 2023. The Custodian certified that he responded in writing on March 25, 2023, denying the subject request as invalid because it failed to identify a responsive record and would require him to conduct research, correlate data and subjectively identify the record sought, which he argued is not required under N.J.S.A. 47:1A-1, and pursuant to the holdings in MAG, 354 N.J. Super. at 549; Bent v. Stafford Police Dep’t., 381 N.J. Super. 30, 37 (App. Div. 2005); and Lagerkvist v. Off. of Gov. of State, 443 N.J. Super. 230, 237 (App. Div. 2015).

The Custodian contended that the subject request seeking “scientific document[s]” failed to identify specific records with reasonable clarity and “reads as a request for information.” The Custodian contended that any attempt to answer the request would require research and subjective determinations on whether same “show an increased bear population causes more dangerous bears.” The Custodian contended that per MAG, 354 N.J. Super. at 549 and Lagerkvist, 443 N.J. Super. at 237, OPRA clearly does not require him to act as a researcher.

The Custodian stated that the Complainant submitted two (2) similar requests prior to submitting the request at issue. The Custodian stated that in response to the first of those two (2) requests, NJDEP provided the Complainant on February 22, 2023 a comprehensive list of the one hundred thirty-one (131) “studies, reports and records considered by the Fish & Game Council in its adoption of the Emergency Rule authorizing the bear hunt” to help her properly identify the specific records. The Custodian noted that he asked the Complainant to identify specific records from that list. The Custodian stated that the Complainant acknowledged receipt of that response; however, she subsequently submitted a second request and the subject request, both seeking similar generic records. The Custodian argued that he denied both requests as invalid for failing to identify a specific government record.

The Custodian contended imposition of a knowing and willful penalty would be improper since he timely responded to the subject OPRA request and aided the Complainant in identifying the specific government record sought.

⁴ On June 12, 2023, this complaint was referred to mediation. On September 27, 2023, this complaint was referred back to the GRC for adjudication.

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, 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). Bent, 381 N.J. Super. 30;⁵ 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 (Hunterdon), GRC Complaint No. 2007-151 (February 2009).

Invalid OPRA requests typically fall 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).

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

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) at 12-13 (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).

In Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (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.]

Here, the Complainant’s request sought on-site access to the “*scientific document* where findings show an increased bear population causes more dangerous bears, (e.g., imminent peril) as indicated in its proposal for Emergency Rule bear hunt.” (Emphasis added). The Custodian denied access to the requested record pursuant to N.J.S.A. 47:1A-1, stating that the subject request failed to define a specific record and would require research. This complaint followed, wherein the Complainant argued that she was seeking a “*scientific report*” DFW relied upon to reach its conclusion. (Emphasis added). The Complainant contended that she could not be more specific because she did not have access to information on the author, date, or data contained in the reports sought. In the SOI, the Custodian maintained that he lawfully denied access to the request as it was invalid. The Custodian also noted that the Complainant was previously provided with a list of one hundred thirty-one (131) “studies, reports and records” that she could have used to identify specific records.

A plain reading of the request before the Council supports a finding that it is invalid because it fails to identify any specific government record under OPRA. The evidence of record supports that at the time the Complainant submitted her request, she possessed a list of “studies, reports and records” she could have used to identify specific records. Rather than identify a specific record, the Complainant instead submitted her request seeking a “scientific document” that shows that “an

increased bear population causes more dangerous bears” leaving it to the Custodian to carefully review a larger universe of records and make a subjective determination as to which records qualify as responsive to the Complainant’s generic request; actions that the Lagerkvist court said the custodian is not required to undertake. The evidence of record thus contradicts the Complainant’s assertion that she did not have sufficient information to be more specific in the subject request. Also of note, the Complainant changed the request’s verbiage from “scientific document” in the original request to “scientific report” in the complaint, suggesting her understanding that the former was in fact invalid as written.

Accordingly, the Complainant’s request is invalid because it failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; N.J. Builders Ass’n, 390 N.J. Super. at 180; Lagerkvist, 443 N.J. Super. at 237; Schuler, GRC 2007-151. Thus, the Custodian lawfully denied access to this request. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Complainant’s request is invalid because it failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (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, 236-237 (App. Div. 2015); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to this request. N.J.S.A. 47:1A-6.

Prepared By: Jennifer C. Howell
Staff Attorney

June 17, 2025