



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

March 31, 2026 Government Records Council Meeting

Juan Carlos Ramirez Rodriguez
(o/b/o Rosa Ermelinda Ruiz de Rugama
a.k.a. Marveli Flavia Ubeda)
Complainant

Complaint No. 2023-150

v.

Neptune Township Police Department (Monmouth)
Custodian of Record

At the March 31, 2026, public meeting, the Government Records Council (“Council”) considered the March 24, 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:

1. The Custodian unlawfully denied access to the responsive arrest report and complaint. N.J.S.A. 47:1A-3(b); N.J.S.A. 47:1A-6; Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2009). Thus, the Custodian shall disclose these two (2) records, with redactions where applicable, to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 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).**
3. The Complainant’s OPRA request for a police investigation report for a specific incident is exempt under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017); Janeczko v. N.J. Dep’t of Law and Pub. Safety, Div. of Criminal Justice, GRC Complaint Nos. 2002-79 and 2002-80, *et seq* (June 2004). Thus, the Custodian lawfully denied access to the responsive report. 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 31st Day of March 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: April 2, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
March 31, 2026 Council Meeting**

**Juan Carlos Ramirez Rodriguez
(o/b/o Rosa Ermelinda Ruiz de Rugama
a.k.a Marveli Flavia Ubeda)¹
Complainant**

GRC Complaint No. 2023-150

v.

**Neptune Township Police Department (Monmouth)²
Custodial Agency**

Records Relevant to Complaint: Copies via e-mail of: “Police and arrest reports for the matter that occurred on March 10, 2007 with Summons/Warrant No. 20070003581334.”

Custodian of Record: Gabriella Siboni, RMC
Request Received by Custodian: May 5, 2023
Response Made by Custodian: May 8, 2023
GRC Complaint Received: June 29, 2023

Background³

Request and Response:

On May 5, 2023, the Complainant⁴ submitted an Open Public Records Act (“OPRA”) request to Neptune Township (“Township”) Police Records seeking the above-mentioned records. On May 8, 2023, Ms. Lisa Grace responded in writing on behalf of the Custodian denying the request under the criminal investigatory records exemption pursuant to N.J.S.A. 47:1A-1.1.

Denial of Access Complaint:

On June 29, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that he was denied access to the requested records.

¹ The Complainant represents Rosa Ermelinda Ruiz de Rugama.

² Represented by Michael R. Burns, Esq., of Rainone, Coughlin, Minchello, Attorneys at Law (Iselin, NJ).

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.

⁴ The Complainant in this matter is substituted with John Peter Leschak, Esq., as Mr. Rodriguez no longer works for the firm representing Ms. Rugama.

Juan Carlos Ramirez Rodriguez (o/b/o Rosa Ermelinda Ruiz de Rugama a.k.a. Marveli Flavia Ubeda) v. Neptune Township Police Department (Monmouth), 2023-150 – Findings and Recommendations of the Executive Director

Statement of Information:⁵

On January 8, 2024, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on May 5, 2023. The Custodian affirmed that the Township identified three (3) responsive records: an arrest report (1 page), a complaint (1 page), and a police investigation report (2 page). The Custodian certified that, on May 8, 2023, Ms. Grace responded in writing denying the OPRA request under the criminal investigatory exemption at N.J.S.A. 47:1A-1.1.

The Custodian maintained that the requested records were exempt from disclosure because they were considered criminal investigatory records under N.J.S.A. 47:1A-1.1.⁶ The Custodian maintained that there was no evidence that the responsive reports are “required by law” to be made, maintained or kept on file and that the reports pertain to an incident upon which the accused was charged with a crime, thus meeting both prongs of the criminal investigatory exemption per Janeczko v. N.J. Dep’t of Law and Pub. Safety, Div. of Criminal Justice, GRC Complaint Nos. 2002-79 and 2002-80 (June 2004) and N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 569 (2017).⁷

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 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).

⁵ On July 27, 2023, this complaint was referred to mediation. On November 27, 2023, this complaint was referred back to the GRC for adjudication.

⁶ The Custodian also addressed arguments related to the Complainant’s common law portion of the request. However, and as indicated by the Custodian, the GRC has no authority over the common law right of access. N.J.S.A. 47:1A-7(b); see also Rowan Jr. v. Warren Hills Reg’l Sch. Dist. (Warren), GRC Complaint No. 2011-347 (January 2013).

⁷ The Custodian included additional information regarding correspondence and disclosures that occurred during mediation. The GRC notes that pursuant to the Uniform Mediation Act, N.J.S.A. 2A:23C-1 et seq., communications that take place during the mediation process are not deemed to be public records subject to disclosure under OPRA. N.J.S.A. 2A:23C-2. All communications that occur during the mediation process are privileged from disclosure and may not be used in any judicial, administrative, or legislative proceeding, or in any arbitration, unless all parties and the mediator waive the privilege. N.J.S.A. 2A:23C-4.

Juan Carlos Ramirez Rodriguez (o/b/o Rosa Ermelinda Ruiz de Rugama a.k.a. Marveli Flavia Ubeda) v. Neptune Township Police Department (Monmouth), 2023-150 – Findings and Recommendations of the Executive Director

The New Jersey Supreme Court considered this two-prong test in N. Jersey Media Grp., Inc., 229 N.J. 541. 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.’” Id. at 564 (quoting N.J.S.A. 47:1A-1.1). The Court made it clear that if the first prong cannot be met because such a record is required by law to be made, then that record “cannot be exempt from disclosure under OPRA’s criminal investigatory records exemption.” Id. at 565. Although the Court agreed with the Appellate Division’s analysis in O’Shea that a clear statement of policy to police officers from the State Attorney General has “the force of law for police entities,” it refused to conclude that records retention schedules adopted by the State Records Committee meet OPRA’s “required by law” standard. Id. at 564-65.

The Court also noted that even if a record is not required by law to be made, it must still be found to pertain to a criminal investigation. The Court reiterated the Appellate Division’s observation that “some police records relate to an officer’s community-caretaking function; others to the investigation of a crime.” Id. at 569 (citing N. Jersey Media Grp., Inc., 441 N.J. Super. at 105).⁸ Therefore, the Court reasoned that determining whether such records pertain to a criminal investigation requires a “case-by-case analysis.” However, the Court pointed out that police records that stem from “an investigation into *actual or potential* violations of criminal law,” such as “detailed investigative reports and witness statements,” will satisfy the second prong of OPRA’s criminal investigatory records exemption. Id. (emphasis added).

The Council has also long held that a record is exempt from access once it is determined to be a criminal investigatory record. See Janeczko, GRC 2002-79, *et seq.*, (holding that “criminal investigatory records include records involving all manner of crimes, resolved or unresolved, and includes information that is part and parcel of an investigation, confirmed and unconfirmed.”). Moreover, with respect to concluded investigations, the Council in Janeczko pointed out that, “[the criminal investigatory records exemption] does not permit access to investigatory records once the investigation is complete.” Id.

In the instant matter, the Complainant’s OPRA request sought police and arrest reports related to a specific incident. The Custodian, through Ms. Grace, responded denying access under the criminal investigatory exemption. The Complainant argued in the Denial of Access Complaint that despite the Custodian’s denial, he was entitled to the requested arrest and police reports. In the SOI, the Custodian maintained her position that the responsive records, an arrest report, complaint, and police investigation report, were exempt under N.J.S.A. 47:1A-1.1 and Janeczko.

Arrest report and Complaint

OPRA provides that:

⁸ Not all police duties are focused upon investigation of criminal activity. Only those records created in a police officer’s capacity as a criminal investigator are subject to OPRA’s criminal investigatory records exemption. Juan Carlos Ramirez Rodriguez (o/b/o Rosa Ermelinda Ruiz de Rugama a.k.a. Marveli Flavia Ubeda) v. Neptune Township Police Department (Monmouth), 2023-150 – Findings and Recommendations of the Executive Director

[i]f an arrest has been made [the following information shall be made available to the public] the defendant's name, age, residence, occupation, marital status and similar background information and the identity of the complaining party . . . the text of any charges . . . the identity of the investigating and arresting personnel and agency . . . the time and place of arrest . . . and information as to circumstances surrounding bail, whether it was posted and the amount thereof.

[N.J.S.A. 47:1A-3(b).]

The Council long held that police arrest reports are criminal investigatory records not subject to disclosure under OPRA. See Vercammen v. City of Plainfield, GRC Complaint No. 2002-109 (March 2004); Lanosga v. Borough of Princeton, GRC Complaint No. 2004-37 (June 2004). However, in Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2009), the Council reversed course in determining that a custodian should grant access to arrest reports tailored by redaction to allow for disclosure of the specific information required to be disclosed pursuant to N.J.S.A. 47:1A-3(b). As it relates to complaints, in Love v. Spotswood Police Dep't (Middlesex), GRC Complaint No. 2014-223 (Interim Order dated March 31, 2015), the Council held that complaints (and arrest reports) "may not be covered by the [criminal] investigatory records exemption and subject to disclosure." Id. at 4. The Council thus found that the custodian unlawfully denied access to the responsive complaints and required disclosure thereof. Id. (citing Morgano, GRC 2007-156). Based on the foregoing, the GRC finds that here, the Custodian unlawfully denied access to the requested arrest report and Complaint. Morgano, GRC 2007-156; Love, GRC 2014-223.

Therefore, the Custodian unlawfully denied access to the responsive arrest report and complaint. N.J.S.A. 47:1A-3(b); N.J.S.A. 47:1A-6; Morgano, GRC 2007-156. Thus, the Custodian shall disclose these two (2) records, with redactions where applicable, to the Complainant.

Police Investigation Report

In applying the two prongs of the criminal investigatory exemption discussed in N. Jersey Media Grp., Inc. to the responsive police investigation report, the GRC is satisfied that the Custodian lawfully denied access to the police investigation report. Of note, the responsive report relates to a criminal investigation clearly connected to the summons/warrant identified in the OPRA request. Thus, precedential case law supports non-disclosure of these records under the criminal investigatory exemption when they meet the two-prong test. N. Jersey Media Grp., Inc., 229 N.J. 541. See also Janeczko, GRC 2002-79, *et seq.*

Accordingly, the Complainant's OPRA request for a police investigation report for a specific incident is exempt under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc., 229 N.J. 541; Janeczko, GRC 2002-79, *et seq.* Thus, the Custodian lawfully denied access to the responsive report. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian unlawfully denied access to the responsive arrest report and complaint. N.J.S.A. 47:1A-3(b); N.J.S.A. 47:1A-6; Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2009). Thus, the Custodian shall disclose these two (2) records, with redactions where applicable, to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 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).**
3. The Complainant's OPRA request for a police investigation report for a specific incident is exempt under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017); Janeczko v. N.J. Dep't of Law and Pub. Safety, Div. of Criminal Justice, GRC Complaint Nos. 2002-79 and 2002-80, *et seq* (June 2004). Thus, the Custodian lawfully denied access to the responsive report. N.J.S.A. 47:1A-6.

Prepared By: Maria M. Rossi
Staff Attorney

March 24, 2026