



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 819
TRENTON, NJ 08625-0819

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

May 20, 2025 Government Records Council Meeting

Tina Lunney
Complainant

Complaint No. 2023-154

v.

Essex County Prosecutor's Office
Custodian of Record

At the May 20, 2025, public meeting, the Government Records Council ("Council") considered the May 13, 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 portion of the Complainant's request item No. 2, seeking "[r]ecords . . . or any related documents" is invalid because it represented a blanket request for generic records requiring an open-ended search. 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); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008). Thus, the Custodian lawfully denied access to this portion of OPRA request item No. 2. N.J.S.A. 47:1A-6.
2. The Custodian lawfully denied access to the Complainant's OPRA request item No. 1 because the requested handwriting analysis reports met both prongs of the criminal investigatory test and are exempt under OPRA. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017); Janeczko v. N.J. Dep't of Law & Pub. Safety, Div. of Criminal Justice, GRC Complaint No. 2002-79, *et seq.* (June 2004). Based on this finding, the GRC declines to determine the applicability of the Custodian's remaining asserted exemptions.
3. The Custodian has borne his burden of proof that he lawfully denied access to the portion of the Complainant's OPRA request item No. 2 seeking "logs." Specifically, the Custodian certified in the Statement of Information, and the record reflects, that no records responsive to the OPRA request exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

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 20th Day of May 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: May 27, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
May 20, 2025 Council Meeting**

**Tina Lunney¹
Complainant**

GRC Complaint No. 2023-154

v.

**Essex County Prosecutor's Office²
Custodial Agency**

Records Relevant to Complaint: Copies of the following in reference to Indictment No. 10-01-0190:

1. "The results of handwriting analysis conducted" at the Essex County Prosecutor's Office ("ECPO") in 2010, 2011, and 2012.
2. "Records, logs, or any related documents in support of [the Complainant's] transportation" from Essex County Jail ("Jail") to the ECPO in 2010, 2011, 2012, and 2013, noting that she was transported by the Essex County Sheriff's Office ("ECSO") "on two occasions."

Custodian of Record: Stephen Pogany
Request Received by Custodian: May 5, 2023
Response Made by Custodian: May 11, 2023
GRC Complaint Received: July 6, 2023

Background³

Request and Response:

On an unknown date,⁴ the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On May 11, 2023, the Custodian responded in writing denying the OPRA request on several bases. The Custodian first stated that the OPRA request was invalid under Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005) and N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007), because it failed to identify specific government records. The Custodian next stated that ECPO criminal investigation files are exempt under the criminal investigatory exemption at N.J.S.A. 47:1A-1.1 and cited N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229

¹ No legal representation listed on record.

² No legal representation listed on record.

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 Neither the Complainant nor Custodian included in their submissions a copy of the original OPRA request.

N.J. 541 (2017); Kovalcik v. Somerset Cnty. Prosecutor's Office, 206 N.J. 581, 591 (2011); and Janeczko v. N.J. Dep't of Law & Pub. Safety, Div. of Criminal Justice, GRC Complaint No. 2002-79, *et seq.* (June 2004), among other decisions. The Custodian further stated that certain records are exempt under the "inter-agency or intra-agency advisory, consultative, or deliberative ["ACD"] material" exemption. N.J.S.A. 47:1A-1.1.

The Custodian also stated that the request was denied because the requested records constitute unfiled discovery materials exempt from disclosure under N.J.S.A. 47:1A-9(b) pursuant to Drinker, Biddle & Reath, LLP. V. N.J. Dep't of Law & Pub. Safety, Div. of Law, 421 N.J. Super. 489, 497-98 (App. Div. 2011). The Custodian further noted that MAG, 375 N.J. Super. at 546-549, supported a denial of the basis that OPRA was not meant to be a tool, supplement, or replacement for discovery. The Custodian finally noted that discovery obligations end once a defendant is convicted and do not extend to post-conviction proceedings, as stated in State v. Szemple, 247 N.J. 82, 96-97 (2021) (citing State v. Marshall, 148 N.J. 89, 268 (1997)).

Denial of Access Complaint:

On July 6, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant stated that she was convicted and incarcerated in 2013 based on a criminal trial prosecuted by ECPO. The Complainant stated that as part of the trial, she was twice transported from Jail to ECPO to provide court-ordered handwriting samples for an analysis at some point between 2010 and 2013. The Complainant contended that the results of the analysis were never provided to her, which she believes was because they would have cast doubt on her guilt. The Complainant stated that she was currently engaged in post-conviction relief ("PCR"), for which the handwriting analysis is important. The Complainant contended that due to PCR discovery rules,⁵ her options for obtaining the records sought were extremely limited, hence her submitting the subject OPRA request.

The Complainant disputed each point of the Custodian's denial of access. The Complainant first contended that her OPRA request was not invalid. The Complainant argued that ECPO compiled a single file under Indictment No. 10-01-0190 that can be easily reviewed for responsive records. The Complainant also noted that her OPRA request sought specific records and was not like Bent in that she did not seek an entire file. The Complainant next contended that the criminal investigatory exemption did not apply here because her case is closed; thus, N.J.S.A. 47:1A-3(a), which "trumps the general statute at N.J.S.A. 47:1A-1.1," does not apply. The Complainant cited to Courier Post v. Hunterdon Cnty. Prosecutor's Office, 358 N.J. Super. 373 (App. Div. 2003) in support of the disclosure of records here. The Complainant also contended that because ECPO had to compile a file to prosecute her case, that file is arguably required to be made or maintained, thus negating the criminal investigatory exemption.

⁵ The Complainant included discussion of discovery rules applicable to criminal and PCR processes set forth in Brady v. Maryland, 373 U.S. 83 (1963) and Williams v. Beard, 637 F.3d 195, 209 (2011). However, the GRC notes that OPRA and the discovery process are separate processes and the GRC has no authority over the latter. Mid-Atlantic Recycling Technologies v. City of Vineland, 222 F.R.D. 81 (D.N.J. 2004); Cauthen v. N.J. Dep't of Corr., 2024 N.J. Super. Unpub. LEXIS 506, 5 (App. Div. 2024) (holding that plaintiff's ability to obtain records through other processes does not equate to an unlawful denial of access under OPRA).

The Complainant further contended that the ACD exemption did not apply here. The Complainant argued that, unlike in Bent, she was convicted of a criminal offense and the requested handwriting analyses were discoverable during the criminal prosecution. The Complainant argued that the analyses do not meet the two-prong ACD test set forth in In Re: Liquidation of Integrity Ins. Co., 165 N.J. 75, 84-85 (2000) because they were not pre-decisional and did not contain opinions. The Complainant noted that even assuming the ACD exemption did apply, she successfully meets each of the five (5) factors set forth in Integrity necessary to override the “deliberative process” privilege. The Complainant also argued that the ACD exemption did not apply to travel logs because no deliberations or opinions are apparent therein.

The Complainant next contended that upon review of Drinker, the “unfiled discovery” denial cannot apply here. The Complainant contended that in Drinker, the court held that a non-party to litigation could not access unfiled per N.J.S.A. 47:1A-9(b). The Complainant asserted that here, she is a party to the underlying litigation and required access in conformance with precedential discovery rules to pursue PCR. The Complainant argued that she should not be denied discovery materials based on a specious privilege exemption.

The Complainant also argued that the Custodian incorrectly relied on MAG’s holding that OPRA was not intended to circumvent discovery because the facts there were inapposite to the facts here. The Complainant contended that plaintiffs in MAG were private litigants that “sought to go on a fishing expedition.” The Complainant contended that here, she is seeking records related to her own criminal prosecution and her OPRA request was very specific to the handwriting analyses and travel logs.

Statement of Information:

On July 25, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on May 5, 2023. The Custodian certified that he responded in writing on May 11, 2023, denying the subject OPRA request on multiple bases.

The Custodian contended that he lawfully denied access to the Complainant’s OPRA request for all the reasons stated in his May 11, 2023 letter. The Complainant noted that regarding OPRA request item No. 2, although it sought information and was thus invalid pursuant to Bent, no travel logs were located in the Complainant’s homicide file.

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). Bent, 381 N.J. Super. at 37;⁶ N.J. Builders, 390 N.J. Super. at 180; Schuler v. Borough of Bloomsbury, 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).

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

⁶ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

Decision dated April 25, 2012) (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) Id. at 12-13.

Moreover, 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, reasoning 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 v. Department of Labor and Workforce Development, GRC Complaint No. 2006-24 (May 2006) and Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (February 2008).

[Id. See also Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated July 28, 2015) (holding that the portion of the request seeking “all documents” was overly broad and thus invalid).]

In the matter before the Council, a portion of the Complainant’s OPRA request item No. 2 sought “[r]ecords . . . or any related documents” regarding her transport from the Jail to ECPO over a four (4) year period. The Custodian responded denying the request in part because it was invalid. This complaint followed, wherein the Complainant contended that the Custodian unlawfully denied her request because it was not invalid; he could have searched her indictment file for the requested records. In the SOI, the Custodian argued that OPRA request item No. 2 sought information and was thus invalid under Bent.

Upon review, the GRC is satisfied that this portion of OPRA request item No. 2 is invalid for the reasons set forth in MAG and Feiler-Jampel. Specifically, the Custodian would be required to review all of the ECPO’s universe of records to determine if any related to the Complainant’s transport from Jail to ECPO over a four (4) period. This portion of the request clearly fails to identify any specific records and would require an open-ended search. Pursuant to all prevailing case law, the Custodian is not required to perform such an open-ended search.

Accordingly, the portion of the Complainant’s request item No. 2, seeking “[r]ecords . . . or any related documents” is invalid because it represented a blanket request for generic records requiring an open-ended search. MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; Feiler-Jampel, GRC 2007-190. Thus, the Custodian lawfully denied access to this portion of OPRA request item No. 2. 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.

OPRA request item No. 1

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 (App. Div. 2009).

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.’ N.J.S.A. 47:1A-1.1.” Id. at 564.

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. N.J.S.A. 47:1A-1.1.” Id. at 365. Although the Court agreed with the Appellate Division’s analysis in O’Shea, 410 N.J. Super. at 382, 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 568.

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).⁷ 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).

⁷This is instructive for police agencies because it underscores the fact that their role in society is multi-faceted; hence, not all of their duties are focused upon investigation of criminal activity. And only those records created in their capacity as criminal investigators are subject to OPRA’s criminal investigatory records exemption.

Moreover, the Council has long held that once a record is determined to be a criminal investigatory record, it is exempt from access. In Janeczko, GRC 2002-79, *et seq.*, the Council held 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.”⁸ Moreover, with respect to concluded investigations, the Council pointed out in Janeczko that, “[the criminal investigatory records exemption] does not permit access to investigatory records once the investigation is complete.”

Here, the Complainant’s OPRA request item No. 1 sought handwriting analysis reports related to Indictment No. 10-01-0190 wherein she was a defendant. The Custodian responded in writing denying the request under multiple bases, including the criminal investigatory exemption. This complaint followed, wherein the Complainant acknowledged that she was incarcerated as a result of a 2013 conviction under Indictment No. 10-01-0190. The Complainant also contended that she believed the handwriting analysis reports, which were not provided during the initial trial, were exculpatory evidence integral to her defense. The Complainant disputed the criminal investigatory denial, among other points, because the investigation into her case had long since ended and N.J.S.A. 47:1A-3(a) no longer applied. The Complainant further argued that because ECPO had to maintain her criminal file, such requirement negated the criminal investigatory exemption.

To determine if a lawful denial of access occurred, the GRC must apply the two-prong criminal investigatory test to the requested handwriting analysis reports. Regarding the first prong, the N. Jersey Media Grp., Inc. Court held that retention is not akin to requiring records to be made by law. Thus, the fact that ECPO may be maintaining the responsive record does not support that the reports were “required by law” to be made. In the absence of any other evidence to the contrary, the GRC must find that the requested reports meet the first prong of the test. Regarding the second prong, the evidence clearly supports that the requested reports related to a criminal investigation that resulted in the Complainant’s conviction and incarceration.

Further, the GRC does not find compelling the Complainant’s attempt to apply the investigation in progress exemption at N.J.S.A. 47:1A-3(a) to the records at issue here. In fact, the criminal investigatory and investigation in progress exemptions can apply separate and distinct from one another. Specifically, the criminal investigatory exemption survives the conclusion of an investigation and is narrowly construed to criminal matters and related civil proceedings. Janeczko, GRC 2002-79, *et seq.* The investigation in progress exemption, on the other hand, is more broadly applicable to many types of investigations, not just where a potential crime has occurred. Also highlighting this separation is the fact that the Court in N. Jersey Media Grp., Inc., 229 N.J. 541, 564-78 (2017), addressed each exemption separately for applicability to the records at issue there. As to the Complainant’s assertion that she should be given the records as part of her PCR process, the GRC has previously not considered the presence of PCR actions as an exception to the criminal investigatory exemption. See also Williams v. Union Cnty. Prosecutor’s Office, GRC Complaint No. 2019-21 (July 2020).

Accordingly, the Custodian lawfully denied access to the Complainant’s OPRA request item No. 1 because the requested handwriting analysis reports met both prongs of the criminal

⁸ The GRC’s ruling was affirmed in an unpublished opinion of the Appellate Division.

investigatory test and are exempt under OPRA. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; N. Jersey Media Grp., Inc., 229 N.J. 541; Janeczko, GRC 2002-79, *et seq.* Based on this finding, the GRC declines to determine the applicability of the Custodian's remaining asserted exemptions.

OPRA request item No. 2

Having found that a portion of the Complainant's OPRA request item No. 2 is invalid, the GRC now turns to the remaining portion of OPRA request item No. 2 seeking logs. 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, following the filing of this complaint, the Custodian certified in the SOI that no records existed in the Complainant's homicide file. Upon review, the GRC is persuaded that no unlawful denial of access has occurred because, as in Pusterhofer, GRC 2005-49, no records exist. The Custodian has certified to this response and there is no evidence in the record to refute this certification. Thus, a conclusion in line with Pusterhofer is appropriate here.

Accordingly, the Custodian has borne his burden of proof that he lawfully denied access to the portion of the Complainant's OPRA request item No. 2 seeking "logs." Specifically, the Custodian certified in the SOI, and the record reflects, that no records responsive to the OPRA request exist. N.J.S.A. 47:1A-6; see Pusterhofer, GRC 2005-49.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The portion of the Complainant's request item No. 2, seeking "[r]ecords . . . or any related documents" is invalid because it represented a blanket request for generic records requiring an open-ended search. 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); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008). Thus, the Custodian lawfully denied access to this portion of OPRA request item No. 2. N.J.S.A. 47:1A-6.
2. The Custodian lawfully denied access to the Complainant's OPRA request item No. 1 because the requested handwriting analysis reports met both prongs of the criminal investigatory test and are exempt under OPRA. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017); Janeczko v. N.J. Dep't of Law & Pub. Safety, Div. of Criminal Justice, GRC Complaint No. 2002-79, *et seq.* (June 2004). Based on this finding, the GRC declines to determine the applicability of the Custodian's remaining asserted exemptions.
3. The Custodian has borne his burden of proof that he lawfully denied access to the portion of the Complainant's OPRA request item No. 2 seeking "logs." Specifically, the Custodian certified in the Statement of Information, and the record reflects, that no records responsive to the OPRA request exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

Prepared By: Frank F. Caruso
Executive Director

May 13, 2025