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DEPARTMENT OF COMMUNITY AFFAIRS  
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JACQUELYN A. SUÁREZ  
*Commissioner*

## FINAL DECISION

### July 29, 2025 Government Records Council Meeting

Angelous Jackson  
Complainant

Complaint No. 2023-229

v.

Somerset County Prosecutor's Office  
Custodian of Record

At the July 29, 2025, public meeting, the Government Records Council ("Council") considered the July 22, 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 sought information instead of identifiable government records and would have required the Custodian to conduct research to create a record. See 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, 171 (App. Div. 2007); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Thus, the Custodian did not unlawfully deny access to the subject 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 29<sup>th</sup> Day of July 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: July 31, 2025**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
July 29, 2025 Council Meeting**

**Angelous Jackson<sup>1</sup>  
Complainant**

**GRC Complaint No. 2023-229**

**v.**

**Somerset County Prosecutor's Office<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Hardcopies via U.S. mail of "all information on Graves Act waivers."

**Custodian of Record:** Kelly L. Mager  
**Request Received by Custodian:** September 15, 2023  
**Response Made by Custodian:** September 18, 2023  
**GRC Complaint Received:** September 25, 2023

**Background<sup>3</sup>**

**Request and Response:**

On September 13, 2023, the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On September 18, 2023, Assistant Prosecutor Lauren R. Casale responded in writing on behalf of the Custodian denying the subject OPRA request as invalid because it failed to seek specific records. Ms. Casale cited to 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, 171 (App. Div. 2007); and Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008) among other prior decisions.

**Denial of Access Complaint:**

On September 25, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant asserted that the requested information is subject to review based on State v. Benjamin, 442 N.J. Super. 258 (App. Div. 2015). The

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Bradley D. Tishman, Esq., of Cleary, Giacobbe, Alfieri, Jacobs, LLC (Oakland, NJ).

<sup>3</sup> 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.

Complainant argued that he was also relying on Serrano v. South Brunswick Twp., 358 N.J. Super. 352 (March 19, 2003) and Courier News v. Hunterdon Cnty. Prosecutor's Office, 358 N.J. Super. 373 (App. Div. 2003) to support disclosure and the Custodian should not be allowed to engage in “stall tactics.”

#### Statement of Information:

On November 13, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on September 15, 2023. The Custodian certified that she did not perform a search because the OPRA request sought “information” and not “government records.” The Custodian certified that Ms. Casale responded in writing on her behalf on September 18, 2023, denying the request as invalid.

The Custodian contended that the subject request was invalid because it sought information. The Custodian argued that all case law cited by Ms. Casale supports that such a request is “outside the scope of OPRA.” The Custodian argued that the Somerset County Prosecutor’s Office (“SCPO”) was not required to “analyze, collate, and compile data” to determine which “information” was responsive to the request. The Custodian noted that this argument was supported by the case law cited by Ms. Casale, as well as Burke v. Brandes, 429 N.J. Super. 169, 174 (App. Div. 2012) and Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015).

### 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;<sup>4</sup> 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).

In LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009), the complainant requested the number of Jamesburg residents that held library cards. The GRC deemed that the complainant’s request was a request for information, holding that “because request Item No. 2 of the Complainant’s June 25, 2008 OPRA request seeks information rather than an identifiable government record, the request is invalid pursuant to [MAG] . . . .” Id. at 6; see also Ohlson v. Twp. of Edison (Middlesex), GRC Complaint No. 2007- 233 (August 2009).

Here, the Complainant’s September 13, 2023 OPRA request sought “all information on Graves Act waivers.” Ms. Casale responded on behalf of the Custodian denying the request as invalid. This complaint ensued, in which the Complainant argued that the Custodian failed to disclose responsive records. In the SOI, the Custodian argued that the request was invalid because it sought information.

Upon review, the GRC agrees that the subject request is invalid because, as in LaMantia, GRC 2008-140, it sought “all information” on Graves Act waivers. Such a request is not only devoid of the identification of any actual type of specific government record but is devoid of any specific case by party name or docket number and contains no time frames. Reasonably, properly responding to such a request would require the Custodian to 1) review every case ever addressed by the SCPO; 2) determine if a Graves Act waiver was part thereof; and 3) determine what is considered acceptable “information” that would satisfy the Complainant’s request. Further, longstanding case law provides that the Custodian was not required to “make a preliminary determination as to” those records sought. Lagerkvist, 443 N.J. Super. at 236-237. The Custodian was not required to conduct research and collate information from multiple different physical and electronic records to satisfy the request.

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<sup>4</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

The GRC should also note that Benjamin, 442 N.J. Super. 258, has no bearing on the instant complaint. That case addressed whether a defendant was allowed to access records regarding plaintiff's denial of a Graves Act waiver as part of a post-sentence appeal. The court's decision allowing the defendant access to those records did not come from the GRC and was not an OPRA action. Further, that case does not analyze whether an OPRA request seeking information was invalid, as is the case here. Thus, any disclosure ordered in Benjamin is inapplicable to the instant complaint.

Accordingly, the Complainant's request is invalid because it sought information instead of identifiable government records and would have required the Custodian to conduct research to create a record. See MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; N.J. Builders, 390 N.J. Super. at 180; LaMantia, GRC 2008-140. Thus, the Custodian did not unlawfully deny access to the subject 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 sought information instead of identifiable government records and would have required the Custodian to conduct research to create a record. See 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, 171 (App. Div. 2007); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Thus, the Custodian did not unlawfully deny access to the subject request. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso  
Executive Director

July 22, 2025