



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

May 20, 2025 Government Records Council Meeting

Tremaine I. Adams
Complainant

Complaint No. 2023-24

v.

Passaic 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 the Complainant's request is invalid. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Specifically, the subject request failed to include sufficient identifiers necessary for the Custodian to avoid performing research. Pierce v. Salem Cnty. Prosecutor's Office, GRC Complaint No. 2017-176 (May 2019) (citing Shadid v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2008-251 (November 2009) and Donato v. Twp. of Union, GRC Complaint. No. 2005-182 (January 2007)). Thus, the Custodian lawfully denied 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 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**

**Tremaine I. Adams¹
Complainant**

GRC Complaint No. 2023-24

v.

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

Records Relevant to Complaint: Paper copies via U.S. mail of:

1. All Pre Trial Memorandum; and
2. All Plea Offers by the State.

Custodian of Record: Peter M. Roby³

Request Received by Custodian: January 25, 2023

Response Made by Custodian: January 25, 2023

GRC Complaint Received: February 3, 2023

Background⁴

Request and Response:

On January 9, 2023, the Complainant submitted an Open Public Records Act ("OPRA") request to the Custodian seeking the above-mentioned records. On January 25, 2023, the original Custodian responded in writing denying access to the OPRA request as invalid pursuant to Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 172 (App. Div. 2007); and Renna v. Cnty. of Union, 407 N.J. Super. 230, 245 (App. Div. 2009) because it was "overly broad and vague" and included "no identifiers."

Denial of Access Complaint:

On February 3, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant asserted the subject OPRA request was

¹ No legal representation listed on record.

² Represented by Passaic County Chief Assistant Prosecutor Peter M. Roby.

³ The original custodian of record was Vivian Khalil.

⁴ 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.

“properly stated” and that he was unlawfully denied access to same.

Statement of Information:

On March 24, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that the original Custodian received the Complainant’s OPRA request on January 25, 2023. The Custodian certified that a search of the InfoShare database revealed three (3) separate matters involving the Complainant. The Custodian certified that the original Custodian responded in writing on January 25, 2023, denying the request as invalid.

The Custodian asserted that the Complainant’s OPRA request was overly broad because it failed to include identifiers as to which government records were sought. The Custodian asserted that he was under no obligation to locate potentially responsive records to an overly broad and vague request, as stated in Bent, 381 N.J. Super. at 37. The Custodian further stated that requests requiring a custodian to exercise discretion in its interpretation or undertake research to determine whether a particular record is responsive are overly broad and invalid under OPRA pursuant to Doe v. Rutgers, The State Univ. of N.J., 466 N.J. Super. 14, 27-28 (App. Div. 2021); N.J. Builders Ass’n, 390 N.J. Super. at 172; and Renna, 407 N.J. Super. at 245 (App. Div. 2009). The Custodian further stated that under Bent, 381 N.J. Super. at 37, a proper OPRA request must identify with reasonable clarity the desired documents, and a party cannot satisfy this requirement by requesting all of an agency’s documents. The Custodian also asserted that the subject records were not disclosable under OPRA’s criminal investigatory exemption.

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;⁵ 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 Shahid v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2008-251 (November 2009), the complainant sought statements and discovery motions filed in relation to two (2) individuals identified by two (2) dates. The custodian denied the request as invalid, arguing that the request items did not provide sufficient information necessary to identify the records sought. The custodian later provided several supplemental certifications, wherein she described the agency’s filing system and noted that multiple cases existed for the two (2) individuals identified in the request. The Council, citing Donato, GRC 2005-182, found that the request was invalid because it required research. The Council reasoned that “without further identifying information,” the custodian would have needed to conduct research to ascertain which individuals were the correct ones referred to in the request.

Similarly, in Pierce v. Salem Cnty. Prosecutor’s Office, GRC Complaint No. 2017-176 (May 2019), the complainant sought his “judgement of conviction,” “grand jury charges,” and “promis gavel.” The custodian noted that the agency’s Infoshare system revealed multiple cases wherein the complainant was a named defendant. The custodian denied the request as invalid, arguing that the items lacked reasonable identifiers necessary to identify records responsive to the Complainant’s request. The Council, relying on Shahid, GRC 2008-251 and Donato, GRC 2005-182, found that the request was invalid because it failed to include sufficient identifiers, such as date ranges, indictment or case numbers, case names, etc., necessary for the custodian to avoid performing research. Id. at 4.

Here, the Complainant’s request sought all pretrial memoranda and plea offers by the State. The original Custodian denied access to this request as invalid stating it was overly broad and vague and failed to include identifiers. This complaint followed, wherein the Complainant argued

⁵ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

that the original Custodian unlawfully denied access to his “properly stated” OPRA request. In the SOI, the Custodian certified that a search of the InfoShare database was conducted and revealed three (3) separate matters involving the Complainant. The Custodian argued that notwithstanding the search, the Complainant’s request was invalid because it failed to include any identifiers narrowing the records sought.

Upon review, the GRC is persuaded that the subject request was invalid for the reasons set forth in Donato, GRC 2005-182, Shadid, GRC 2008-251, and Pierce, GRC 2017-176. Specifically, the subject request would require the Custodian to conduct a search for and disclose every pretrial memorandum and plea offer in existence for each municipality, county, and throughout the State. Without specific identifiers, such as a name, case number or Indictment number, the Custodian would be left to make a judgment call as to the exact records the Complainant was seeking. The Custodian is not required to perform such an open-ended search or perform research under OPRA. MAG, 375 N.J. Super. 534, 549.

Therefore, the Complainant’s request is invalid. MAG, 375 N.J. Super. 534; Bent, 381 N.J. Super. 30; N.J. Builders, 390 N.J. Super. 166; Schuler, GRC 2007-151 (February 2009). Specifically, the subject request failed to include sufficient identifiers necessary for the Custodian to avoid performing research. Pierce, GRC 2017-176 (citing Shahid, GRC 2008-251 and Donato, GRC 2005-182). Thus, the Custodian lawfully denied 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. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Specifically, the subject request failed to include sufficient identifiers necessary for the Custodian to avoid performing research. Pierce v. Salem Cnty. Prosecutor’s Office, GRC Complaint No. 2017-176 (May 2019) (citing Shadid v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2008-251 (November 2009) and Donato v. Twp. of Union, GRC Complaint. No. 2005-182 (January 2007)). Thus, the Custodian lawfully denied the subject request. N.J.S.A. 47:1A-6.

Prepared By: Jennifer C. Howell
Staff Attorney

May 13, 2025