



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

July 29, 2025 Government Records Council Meeting

Donald Albano
Complainant

Complaint No. 2023-250

v.

Warren 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:

1. The Custodian has borne his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, no "deemed" denial of access occurred here. N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i).
2. The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "police reports" because the responsive report 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).
3. While the criminal investigatory exemption does not apply to the requested death certificate, same is nonetheless exempt from disclosure under N.J.S.A. 47:1A-9(b) and N.J.S.A. 26:8-59.1(a). Thus, notwithstanding the Custodian's misplaced citation, he lawfully denied access to the requested death certificate. N.J.S.A. 47:1A-6; Fenton v. State of N.J. Dep't of Health, GRC Complaint No. 2013-359 (July 2014).
4. The Custodian unlawfully denied access to the requested autopsy report. N.J.S.A. 47:1A-6; Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated June 30, 2015). Thus, the Custodian shall disclose the responsive autopsy report to the Complainant, with redactions where applicable and lawful.
5. **The Custodian shall comply with conclusion No. 4 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).

6. The requested autopsy photographs are exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1; Boretsky v. Middlesex Cnty. Examiner's Office, GRC Complaint No. 2016-219 (January 2018). Further, there is no evidence in the record to support that the Complainant fell within one of the exceptions present in OPRA. Thus, the Custodian lawfully denied access to this portion of the Complainant's OPRA 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 29th 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**

**Donald Albano¹
Complainant**

GRC Complaint No. 2023-250

v.

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

Records Relevant to Complaint: Copies of a police report, death certificate, and autopsy report (including photographs) for the "Princess Doe" murder occurring on July 15, 1982, in Blirstown, NJ.

Custodian of Record: Brian Longenhagen, Esq.

Request Received by Custodian: August 24, 2023

Response Made by Custodian: August 29, 2023

GRC Complaint Received: October 12, 2023

Background³

Request and Response:

On August 24, 2023, the Complainant submitted an Open Public Records Act ("OPRA") request to the Warren County ("County") Public Information Office e-mail account seeking the above-mentioned records. On the same day, Public Information Officer Holly Luberto forwarded via e-mail the OPRA request to the Custodian. About a half hour later, Ms. Luberto e-mailed the Complainant acknowledging receipt of the OPRA request and advising that it was forwarded to the Warren County Prosecutor's Office ("WCPO") for a response. On August 29, 2023, the third (3rd) business day after receipt of the OPRA request, the Custodian responded in writing denying the subject OPRA request because the identified case remained ongoing and thus the records were "unable to be released at this time" under N.J.S.A. 47:1A-1, *et seq.*

On September 30, 2023, the Complainant e-mailed the WCPO stating that he submitted an OPRA request to the County on August 24, 2023; Ms. Luberto advised that this office would be responding to it. The Complainant stated that, to date, he had not received a response to the subject OPRA request.

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.

Denial of Access Complaint:

On October 12, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he submitted an OPRA request to the County Public Information Office on August 24, 2023. The Complainant noted that Ms. Luberto confirmed receipt and advised that the OPRA request was forwarded to the WCPO for a response. The Complainant asserted that after not receiving a response, he e-mailed the WCPO on September 30, 2023, seeking a status update. The Complainant argued that he never received a response to his OPRA request.

The Complainant contended that the records sought were disclosable under OPRA. The Complainant asserted that the defendant in the case has admitted his guilt in writing to the authorities. The Complainant thus contended there is no reason that the requested records should be withheld from the public.

Statement of Information:

On December 18, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on August 24, 2023. The Custodian affirmed that he located a police report (approximately 250 pages), a death certificate (1 page), an autopsy report (approximately 34 pages), and autopsy photographs (approximately 50). The Custodian certified that he responded in writing on August 29, 2023, denying the subject OPRA request because all responsive documents located were part of an open investigation and not available for disclosure.

The Custodian certified that, contrary to the Complainant’s allegation, he responded to the subject OPRA request in writing on August 29, 2023. The Custodian included a copy of his response to the Complainant in support of his position.

The Custodian contended that he lawfully denied access to the responsive records under the criminal investigatory exemption at N.J.S.A. 47:1A-1.1. The Custodian averred that the case involving “Princess Doe” was still active and the responsive records were part of an ongoing investigation. The Custodian also argued that the autopsy reports and photographs were exempt under “OPRA [e]xemptions.”

Analysis

Timeliness

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian’s failure to respond within the required seven (7) business days results in a “deemed” denial. Id. Further, a custodian’s response, either granting or denying access, must be in writing pursuant to

N.J.S.A. 47:1A-5(g).⁴ Thus, a custodian's failure to respond in writing to a complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).

In the instant matter, the Complainant contended that Custodian failed to respond to the subject OPRA request notwithstanding Ms. Luberto's acknowledgement of it and his September 30, 2023 status update e-mail. In the SOI, the Custodian certified that he did respond in writing on August 29, 2023, denying access to the subject OPRA request due to an ongoing investigation. The Custodian attached documentation supporting his position. The GRC finds this evidence compelling to determine that no "deemed" denial of access occurred.

Therefore, the Custodian has borne his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, no "deemed" denial of access occurred here. N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i).

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.

For a brief background, the "Princess Doe" case involved the 1982 discovery of an unidentified murder victim in Blairstown, New Jersey. The case went unsolved for four (4) decades until recent DNA technology resulted in identification of "Princess Doe" in 2022. Having identified the victim, authorities were able to charge the suspect who allegedly confessed to the murder in 2005.⁵

A record is deemed exempt as a criminal investigatory record when it meets both prongs of the statutory definition of investigatory reports: (1) the record must "not [be] required by law to be made, maintained, or kept on file that is held by a law enforcement agency"; and the record must "pertain[] to any criminal investigation or related civil enforcement proceeding." N.J.S.A. 47:1A-1.1. Only when both those prongs are met is a record is deemed exempt as a criminal investigatory record pursuant to N.J.S.A. 47:1A-1.1. O'Shea v. Twp. of West Milford, 410 N.J. Super. 371, 380-81 (App. Div. 2009); see also N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 564 (2017) (affirming criminal investigatory record exception).

⁴ A custodian's written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency's official OPRA request form, is a valid response pursuant to OPRA.

⁵ <https://www.njherald.com/story/news/local/2022/07/15/blairtown-nj-cold-case-solved-princess-doe-accused-killer-identified/65374641007/> (accessed April 11, 2025).

In N. Jersey Media Grp., Inc., the Supreme Court made 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 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.

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).⁶ 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).

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 v. N.J. Dep’t of Law & Pub. Safety, Div. of Criminal Justice, GRC Complaint No. 2002-79, *et seq.* (June 2004), 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.”⁷ 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.”

However, where a particular record to which a custodian is exempting access under the criminal investigatory exemption does not meet the two-prong test, then an unlawful denial of access occurred unless the record in question is found to be exempt under another lawful basis. See e.g. Dericks (O.B.O. TAPintoSparta.net) v. Sparta Twp. (Sussex), GRC Complaint No. 2016-227 (September 2017).

Police Report and Death Certificate

Regarding the portion of the Complainant’s OPRA request seeking “police reports,” the GRC has previously held that police reports were exempt from disclosure where they met the two (2) prong test required to be a criminal investigatory record under OPRA. See Nance v. Scotch Plains Twp. Police Dep’t, GRC Complaint No. 2003-125 (January 2005) (holding that incident reports are exempt from disclosure under OPRA as criminal investigatory records). However, the Council has found these records can be disclosable where they did not meet the criminal investigatory test. See De La Cruz, Esq. v. City of Union City (Hudson), GRC Complaint No.

⁶This is instructive for police agencies because it underscores the fact that their role in society is multi-faceted; hence, not all 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.

⁷ The GRC’s ruling was affirmed in an unpublished opinion of the Appellate Division.

2015-14 (May 2017) (holding that certain incident reports were disclosable where they were not criminal investigatory, medical, or otherwise exempt under State regulations). In the instant complaint, the GRC must determine whether the responsive records meet the N. Jersey Media Grp., Inc. test and act accordingly based on the result.

For the requested police report, the GRC must apply the two-prong test set forth in N.J.S.A. 47:1A-1.1 to determine if a lawful denial occurred. 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 WCPO may be maintaining the responsive record does not support that the reports were “required by law” to be “maintained” or “kept on file.” In the absence of any other evidence that the record was required by law to be maintained or kept on file, the GRC must find that the responsive report meets the first prong of the test. Regarding the second prong, the evidence clearly supports that the responsive report related to a criminal investigation, specifically a “cold case” involving a murder.

Further, the GRC does not find persuasive the Complainant’s argument that the public should be able to view the reports because an individual confessed to the crime. Instead, the criminal investigatory exemption survives the conclusion of an investigation and is narrowly construed to criminal matters. Janeczko, GRC 2002-79, *et seq.* Also, the Council briefly addressed the applicability of the criminal investigatory exemption to “cold cases” in a recent decision. See Marchesano v. Monmouth Cnty. Prosecutor’s Office, GRC Complaint No. 2023-71 (April 2025), finding that “OPRA supports that any record falling within the two-prong test, absent a time or status constraint, are exempt from disclosure under the criminal investigatory exemption.” (Citations omitted).

Accordingly, the Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking “police reports” because the responsive report 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., 229 N.J. 541; Janeczko, GRC 2002-79, *et seq.*

Moving onto the death certificate portion of the OPRA request, in Fenton v. State of N.J. Dep’t of Health, GRC Complaint No. 2013-359 (July 2014), the complainant sought “computerized . . . death records containing the name, address, age or birthdate” of every deceased Passaic County resident. The custodian denied access under EO 18, N.J.S.A. 26:8-62, and N.J.A.C. 8:2A-2.2. In the Denial of Access Complaint, the complainant argued that the forgoing did not apply because he was not seeking “death certificates,” but information contained therein. The custodian argued in the SOI that, in addition to her initial denial, the complainant failed to identify a record that could be provided “for informational purposes.” The Council agreed, holding that the custodian lawfully denied access to the subject request because:

The Complainant failed to demonstrate that he was authorized to receive the requested records because he failed to establish that he is an eligible person as listed in N.J.S.A. 26:8-62(a), N.J.A.C. 8:2A-2.1(a). Further, the Complainant failed to identify the records sought with the degree of specificity required by the agency; therefore, he was not eligible to receive the records for informational purposes pursuant to N.J.A.C. 8:2A-2.2.

[Id.]

In reaching this conclusion, the Council noted that the complainant correctly stated that he could obtain certain information without the required identification. Id. However, the Council stressed that the complainant failed to identify a specific government record sought. Id.

To the forgoing, and as it relates to application of the criminal investigatory exemption to death certificates, OPRA provides that its provisions “shall not abrogate or erode any . . . grant of confidentiality . . . recognized by statute . . . which privilege or grant of confidentiality may duly be claimed to restrict access.” N.J.S.A. 47:1A-9(b) (emphasis added). N.J.S.A. 26:8-24 empowers the State Registrar with “general supervision through the State of the registration of vital records.” Id. at (a). Further, the Registrar’s responsibilities include preparing, printing, and supplying to all registrars within the State “all blanks and forms used in registering the records required by said law” which “shall require the person registering a birth or death record, at a minimum, to provide the same information as is required by the National Center for Vital Health Statistics in its standardized U.S. certificates of live birth, death, and fetal death.” Id. at (c). Further, the State Registrar is required to “[a]rrange or bind, and permanently preserve the certificates of vital records, or the information comprising those records.” Id. at (e).

N.J.S.A. 26:8-59.1(a) governs the disclosability of death certificates to authorized persons, as follows:

Persons authorized to obtain and receive a certification or certified copy of a death certificate from a local registrar, deputy registrar, alternate deputy registrar, subregistrar, or an incorporated political subdivision comprising a registration district, shall include those individuals who establish themselves as one of the following: the parent, legal guardian or other legal representative of the subject of that record; the subject’s spouse, child, grandchild or sibling, if of legal age, or the subject’s legal representative; an agency of State or federal government for official purposes; a person possessing an order of a court of competent jurisdiction; or a person who is authorized under other emergent circumstances as determined by the commissioner.

[(emphasis added); see also N.J.S.A. 28:8-62.]

A portion of the Complainant’s OPRA request sought “Princess Doe’s” death certificate. The Custodian responded in writing denying the request under the “ongoing investigation” exemption. This complaint followed, wherein the Complainant in part contended that because a suspect admitted guilt in the case, no valid reason for denial existed. In the SOI, the Custodian contended that he located a police report that was exempt from disclosure as a criminal investigatory record under N.J.S.A. 47:1A-1.1. The Custodian noted that the case was still active and ongoing.

In applying the two-prong criminal investigatory test, the GRC is persuaded that the requested death certificate cannot be considered a criminal investigatory record because the certificate does not meet the first prong of that test. Specifically, N.J.S.A. 26:8-24 requires the

State Registrar to make available and permanently maintain standard forms for vital statistics records, including death certificates. Thus, regardless of whether the requested death certificate related to a criminal investigation, the statutory requirement that it be made and maintained removes it from the definition of a “criminal investigatory” record.

However, those same statutory provisions carry an express process for disclosure if the requestor is an authorized person. Here, there is no evidence supporting the Complainant is an authorized person as defined in N.J.S.A. 26:8-59.1(a). Thus, and like in Fenton, GRC 2013-359, the requested death certificate is exempt from disclosure under OPRA.

Accordingly, while the criminal investigatory exemption does not apply to the requested death certificate, same is nonetheless exempt from disclosure under N.J.S.A. 47:1A-9(b) and N.J.S.A. 26:8-59.1(a). Thus, notwithstanding the Custodian’s misplaced citation, he lawfully denied access to the requested death certificate. N.J.S.A. 47:1A-6; Fenton, GRC 2013-359.

Autopsy Report

The Council has determined that autopsy reports were exempt as criminal investigatory records in previous decisions. Leak v. Union Cnty. Prosecutor’s Office, GRC Complaint No. 2007-148 (Interim Order dated February 25, 2009); Crook v. Atlantic Cnty. Prosecutor’s Office, GRC Complaint No. 2010-92 (March 2011); Lado v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2010-102 (May 2011). However, in Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated June 30, 2015), the GRC reversed course based on the custodian’s acknowledgement that N.J.S.A. 52:17B-88 required the creation of autopsy reports. Based on this, the Council required disclosure of the requested autopsy report, reasoning that:

[A]utopsy reports generally are not exempt as criminal investigatory records by virtue of the fact that they do not meet the two-prong test contemplated by both OPRA and precedential case law. O’Shea, 410 N.J. Super. at 380-381. However, the GRC is not prepared to determine that autopsy reports must be disclosed in their entirety going forward, as certain information contained therein may fall within other exemptions not contemplated herein.

[Id. at 5.]

The GRC acknowledges that N.J.S.A. 52:17B-88 was repealed as of July 3, 2018, through legislation creating the Office of the Chief State Medical Examiner within the New Jersey Department of Health. However, the language regarding autopsies in the replacement provision at N.J.S.A. 26:6B-10 largely mirrors the language in N.J.S.A. 52:17B-88.

Here, the GRC need not engage in an exhaustive analysis, as Schulz, GRC 2014-390 is directly on point with this portion of the complaint. Notwithstanding a repeal to N.J.S.A. 52:17B-88, the superseding statute at N.J.S.A. 26:6B-10 still maintains that autopsy reports are required by law to be made and thus cannot be considered “criminal investigatory” records for purposes of OPRA. Thus, it follows that an unlawful denial of access occurred here.

Therefore, the Custodian unlawfully denied access to the requested autopsy report. N.J.S.A. 47:1A-6; Schulz, GRC 2014-390. Thus, the Custodian shall disclose the responsive autopsy report to the Complainant, with redactions where applicable and lawful.

Autopsy Photographs

The Custodian denied Complainant's request seeking "autopsy photographs," stating they are exempt as criminal investigatory records under N.J.S.A. 47:1A-1.1. The Custodian also noted these records are subject to "OPRA [e]xemptions." Aside from the criminal investigatory exemption, OPRA's provisions also provide that:

A government record shall not include . . . *any copy, reproduction or facsimile of any photograph, negative or print, including instant photographs and videotapes of the body, or any portion of the body, of a deceased person, taken by or for the medical examiner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the medical examiner except:*

- when used in a criminal action or proceeding in this State which relates to the death of that person,
- for the use as a court of this State permits, by order after good cause has been shown and after written notification of the request for the court order has been served at least five days before the order is made upon the county prosecutor for the county in which the post mortem examination or autopsy occurred,
- for use in the field of forensic pathology or for use in medical or scientific education or research, or
- for use by any law enforcement agency in this State or any other state or federal law enforcement agency.

[N.J.S.A. 47:1A-1.1 (emphasis added).]

In Boretsky v. Middlesex Cnty. Examiner's Office, GRC Complaint No. 2016-219 (January 2018), the complainant sought, among other records, color photographs from an autopsy. The custodian denied access under N.J.S.A. 47:1A-1.1 and Executive Order No. 69 (Gov. Whitman 1997). The Council agreed, finding that the custodian lawfully denied access to the responsive records. Further, the Council noted that the complainant failed to meet any of the exceptions contained in N.J.S.A. 47:1A-1.1.

A plain reading of OPRA and Boretsky, GRC 2016-219 confirm that the Custodian's denial of access was lawful, if not on the exact basis presented in the Custodian's response and SOI. OPRA expressly exempts access to photographs "of a deceased person . . . in the course of a post mortem examination or autopsy." N.J.S.A. 47:1A-1.1. The forgoing is exactly the type of records the Complainant sought here. Additionally, there is no evidence in the record to support that the Complainant falls within any of the exceptions set forth in N.J.S.A. 47:1A-1.1.

Accordingly, the requested autopsy photographs are exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1; Boretsky, GRC 2016-219. Further, there is no evidence in the record to support that the Complainant fell within one of the exceptions present in OPRA. Thus, the Custodian lawfully denied access to this portion of the Complainant's OPRA request. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian has borne his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, no "deemed" denial of access occurred here. N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i).
2. The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "police reports" because the responsive report 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).
3. While the criminal investigatory exemption does not apply to the requested death certificate, same is nonetheless exempt from disclosure under N.J.S.A. 47:1A-9(b) and N.J.S.A. 26:8-59.1(a). Thus, notwithstanding the Custodian's misplaced citation, he lawfully denied access to the requested death certificate. N.J.S.A. 47:1A-6; Fenton v. State of N.J. Dep't of Health, GRC Complaint No. 2013-359 (July 2014).
4. The Custodian unlawfully denied access to the requested autopsy report. N.J.S.A. 47:1A-6; Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated June 30, 2015). Thus, the Custodian shall disclose the responsive autopsy report to the Complainant, with redactions where applicable and lawful.
5. **The Custodian shall comply with conclusion No. 4 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).**
6. The requested autopsy photographs are exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1; Boretsky v. Middlesex Cnty. Examiner's Office, GRC Complaint No. 2016-219 (January 2018). Further, there is no evidence in the record to support that the Complainant fell within one of the exceptions present in OPRA. Thus, the Custodian lawfully denied access to this portion of the Complainant's OPRA request. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso
Executive Director

July 22, 2025