



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

October 6, 2025 Government Records Council Meeting

Katia De Jesus Sanci
Complainant

Complaint No. 2023-70

v.

Secaucus Police Department (Hudson)
Custodian of Record

At the October 6, 2025, public meeting, the Government Records Council (“Council”) considered the September 29, 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 lawfully denied access to the Complainant’s OPRA request item No. 1 seeking all investigative reports during her employment with the Town because such records are exempt from disclosure under OPRA and the Internal Affairs Policy and Procedures. See O’Shea v. Twp. of West Milford, 410 N.J. Super. 371, 382 (App. Div. 2009); Rivera v. Union Cnty. Prosecutor’s Office, 250 N.J. 124, 142 (2022).
2. The Custodian has borne his burden of proof that he lawfully denied access to the Complainant’s OPRA request item No. 2. Specifically, the Custodian certified in the Statement of Information and the record reflects, that no records responsive to OPRA request item No. 2 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 6th Day of October 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: October 7, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
October 6, 2025 Council Meeting**

**Katia De Jesus Sancí¹
Complainant**

GRC Complaint No. 2023-70

v.

**Secaucus Police Department (Hudson)²
Custodial Agency**

Records Relevant to Complaint: Copies for pick-up of:

1. All investigative reports including each allegation against the undersigned.
2. A copy of the transcript of the tape-recorded interview made by Lt. Christina Liptak on November 2, 2022 at 11 AM.

Custodian of Record: Lt. Michael Viggiani

Request Received by Custodian: January 25, 2023

Response Made by Custodian: February 2, 2023

GRC Complaint Received: March 30, 2023

Background³

Request and Response:

On January 25, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On February 2, 2023, the Custodian responded in writing denying the request for investigative reports pursuant to N.J.S.A. 47:1A-9(b), Internal Affairs Policy and Procedures (“IAPP”), and Rivera v. Union Cnty. Prosecutor’s Office, 250 N.J. 124 (2022). The Custodian further stated Secaucus Police Department (“SPD”) was not in possession of responsive records regarding the tape recordings.

Denial of Access Complaint:

On March 30, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted she was unlawfully denied access to copies of investigations issued and conducted by SPD Internal Affairs. The Complainant

¹ No legal representation listed on record.

² Represented by Kirstin Bohn, Esq., of Chasan Lamparello Mallon & Cappuzzo (Secaucus, 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.

argued that she should receive copies of the investigations because she is the person of interest in the investigations and an employee at the Town of Seacaucus (“Town”).

The Complainant stated she was denied access to the following records: “3:18.8 ‘Conduct Toward Other Department Employees’, ongoing lack of workplace courtesy by me, a copy of the transcript of the tapes-recorded at Detective Interrogation room on November 2, 2022 at 11:06 AM, and a copy of the interview recorded by Lt. Liptak on November 2, 2022 at 11:06 AM.” The Complainant argued that, pursuant to Rivera, 250 N.J. 124, she had a right to all records related to the internal affairs complaint (No. 2022-024) made against her.

Statement of Information:

On April 24, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on January 25, 2023. The Custodian certified that SPD’s Police Records, Public Information, and Licensing Bureau and Internal Affairs Departments conducted a search of their files for the requested records. The Custodian certified that he responded in writing on February 2, 2023, denying OPRA request item No. 1 pursuant to N.J.S.A. 47:1A-9(b), the IAPP, and Rivera, 250 N.J. 124 (2022). The Custodian certified that he also denied access to OPRA request item No. 2 because no records exist.

The Custodian stated that the basis of the Complainant’s OPRA request stemmed from an internal affairs complaint filed against the Complainant resulting in a “not sustained” finding. The Custodian argued that he lawfully denied access to OPRA request item No. 1, which sought a copy of investigative reports, because the records sought were exempt from disclosure as internal affairs records under N.J.S.A. 47:1A-9(b), the IAPP, and Rivera. The Custodian argued that because the IAPP has the force of law it is recognizable as an exemption under OPRA. The Custodian noted that both New Jersey’s courts and the GRC has repeatedly upheld a denial of access to internal affairs records, citing Rivera, O’Shea v. Twp. of West Milford, 410 N.J. Super. 371 (App. Div. 2009), and Wakefield v. Twp. of Middle (Camden), GRC Complaint No. 2019-141 (January 2021). The Custodian certified that SPD did not possess any responsive records to OPRA request item No. 2 seeking a “copy of the transcript of the tape-recorded interview” conducted by Lt. Liptak on November 2, 2022.

The Custodian noted that in the Denial of Access Complaint, the Complainant listed items in the “Records Denied List” that were arguably not sought or subsumed by the original OPRA request. Nevertheless, the Custodian argued this complaint should be dismissed as no unlawful denial of access occurred.

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 Request Item No. 1

OPRA provides that “[n]otwithstanding the provisions [OPRA] or any other law to the contrary, the personnel or pension records of any individual in the possession of a public agency . . . shall not be considered a government record” N.J.S.A. 47:1A-10. OPRA begins with a presumption against disclosure and “proceeds with a few narrow exceptions that . . . need to be considered.” Kovalcik v. Somerset Cnty. Prosecutor's Office, 206 N.J. 581, 594 (2011). In Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (Interim Order dated March 11, 2004), the Council held that:

The Complainant’s request to review the records of complaints filed against Officer Tuttle were properly denied by the Custodian. N.J.S.A. 47:1A-10 provides in pertinent [part] that “the personnel or pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a public record and shall not be made available for public access” [emphasis omitted]. As a result, records of complaints filed against Officer Tuttle and/or reprimands he has received are not subject to public access.

[Id.]

Further, the personnel records exemption may apply to records that “bear many of the indicia of personnel files.” N. Jersey Media Grp. v. Bergen Cnty. Prosecutor’s Office, 405 N.J. Super. 386, 390 (App. Div. 2009); Rodriguez v. Kean Univ., GRC Complaint No. 2013-296 (June 2014). In Rodriguez, GRC 2013-296, the Council held that “disciplinary actions are not specifically identified as personnel information subject to disclosure under OPRA.” Id. at 5.

Moreover, the Appellate Division has held that Attorney General Guidelines have the force of law for police entities. See O’Shea v. Twp. of West Milford, 410 N.J. Super. 371, 382 (App. Div. 2009). In particular, the IAPP is bound upon all law enforcement agencies in New Jersey pursuant to statute. See N.J.S.A. 40A:14-181. Further, the IAPP explicitly provides that “[t]he nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information.” IAPP at 9.6.1 (August 2020). Consistent with the IAPP, the Council held in Wares v. Passaic Cnty. Prosecutor’s Office, GRC Complaint No. 2014-330 (June 2015), that internal affairs records are not subject to access under OPRA. (citing N.J.S.A. 47:1A-9). See also Rivera, 250 N.J. 124 at 142 (2022), (holding that internal affairs reports are exempt from disclosure under OPRA); Camarata v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2014-127 (June 2015); Rivera v. Borough of Keansburg Police Dep’t (Monmouth), GRC Complaint No. 2007-222 (June 2010).

Here, the Complainant’s OPRA request item No. 1 sought all investigative reports including each allegation against her while employed with the Town. The Custodian responded in writing denying access to OPRA request item No 1 pursuant to N.J.S.A. 47:1A-9(b), the IAPP,

and Rivera, 250 N.J. 124 (2022). The Complainant subsequently filed this complaint alleging she was entitled to the requested records because she was the person of interest in the investigations and an employee with the right to the records pursuant to Rivera. In the SOI, the Custodian maintained that the investigation report records sought are exempt from disclosure as internal affairs records.

Upon review of all facts and available caselaw, the GRC finds that a lawful denial of access occurred. A Custodian can lawfully deny access to OPRA requests seeking disciplinary actions, complaints, and investigation records pursuant to both N.J.S.A. 47:1A-10 and the IAPP. See Merino, GRC 2003-110; Rodriguez, GRC 2013-296. Nothing in Rivera changes this conclusion. On the contrary, Rivera addressed internal affairs records and specifically provided that, while exempt under OPRA, they may be disclosed under the common law.⁴ For these reasons, the GRC is satisfied that the Custodian lawfully denied access to OPRA request item No. 1.

Therefore, the Custodian lawfully denied access to the Complainant's OPRA request item No. 1 seeking all investigative reports during her employment with the Town because such records are exempt from disclosure under OPRA and the IAPP. See O'Shea, 410 N.J. Super. 371; Rivera, 250 N.J. 124.

OPRA Request Item No. 2

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, the Complainant's OPRA request item No. 2 sought a copy of the transcript of the tape-recorded interview made by Lt. Liptak from November 2, 2022. The Custodian responded in writing denying this OPRA request item because the Town had no responsive records. Further, in the SOI, the Custodian certified that SPD's Public Records, Public Information and Licensing Bureau, and Internal Affairs Department conducted a search of their files for the requested records. The Custodian certified that OPRA request item No. 2 was therefore denied because no responsive records exist.

Upon review, the GRC is persuaded that no unlawful denial of access has occurred. The evidence of record supports the Custodian's position that no responsive records exist. That is, the Custodian certified that no records exist. Further, the Complainant has not provided competent, credible evidence necessary to refute the certifications presented by the Custodian in the SOI. Based on the foregoing, 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 Complainant's OPRA request item No. 2. Specifically, the Custodian certified in the SOI and the record reflects, that no records responsive to OPRA request item No. 2 exist. N.J.S.A. 47:1A-6; see Pusterhofer, GRC 2005-49.

⁴ The GRC notes that the Complainant also sought access to the requested records under the common law, for which the Custodian denied access. However, the GRC does not have the authority to address a requestor's common law right to access records. N.J.S.A. 47:1A-7(b); Rowan, Jr. v. Warren Hills Reg'l Sch. Dist. (Warren), GRC Complaint No. 2011-347 (January 2013); Kelly v. N.J. Dep't of Transp., GRC Complaint No. 2010-215 (November 2011). Thus, the GRC cannot address any common law right of access to the requested records.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian lawfully denied access to the Complainant's OPRA request item No. 1 seeking all investigative reports during her employment with the Town because such records are exempt from disclosure under OPRA and the Internal Affairs Policy and Procedures. See O'Shea v. Twp. of West Milford, 410 N.J. Super. 371, 382 (App. Div. 2009); Rivera v. Union Cnty. Prosecutor's Office, 250 N.J. 124, 142 (2022).
2. The Custodian has borne his burden of proof that he lawfully denied access to the Complainant's OPRA request item No. 2. Specifically, the Custodian certified in the Statement of Information and the record reflects, that no records responsive to OPRA request item No. 2 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: Maria M. Rossi
Staff Attorney

September 29, 2025