



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**November 9, 2021 Government Records Council Meeting**

Craig Francis Szemple  
Complainant

Complaint No. 2020-234

v.

NJ Department of Corrections  
Custodian of Record

At the November 9, 2021 public meeting, the Government Records Council (“Council”) considered the October 26, 2021 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 requested trust account information is not subject to access under OPRA because it is exempt under Executive Order No. 26 (Gov. McGreevey 2002). N.J.S.A. 47:1A-9(a); Farra’D v. N.J. Dep’t of Corr., GRC Complaint No. 2010-47 (October 2011). Sheridan v. N.J. Dep’t of Corr., GRC Complaint No. 2013-122 (December 2013). Further, the record is exempt from disclosure regardless of the fact the Complainant sought a record from his own account. See Spillane v. N.J. State Parole Bd., 2017 N.J. Super. Unpub. LEXIS 2392 (App. Div. 2017). Thus, the Custodian lawfully denied access to the subject 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 9<sup>th</sup> Day of November 2021

Robin Berg Tabakin, Esq., 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: November 15, 2021**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
November 9, 2021 Council Meeting**

**Craig Francis Szemple<sup>1</sup>  
Complainant**

**GRC Complaint No. 2020-234**

v.

**N.J. Department of Corrections<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Copies of “[a]ny and all information” in the Complainant’s trust account “which shows all transactions forwarded to Global Tek Link” from 2006 through 2016.

**Custodian of Record:** John Falvey  
**Request Received by Custodian:** November 4, 2020  
**Response Made by Custodian:** November 5, 2020  
**GRC Complaint Received:** December 8, 2020

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

**Request and Response:**

On October 26, 2020, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On November 5, 2020, the Custodian responded in writing denying the Complainant’s OPRA request under Executive Order No. 26 (Gov. McGreevey, 2002) (“EO 26”). The Custodian noted that the Complainant may wish to contact his facility’s business office to obtain inmate account statements in accordance with N.J.A.C. 10A:2-2.1(b).

**Denial of Access Complaint:**

On December 8, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant disputed the denial of access but did not include any arguments supporting his position.

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

<sup>2</sup> Represented by Deputy Attorney General Tasha Marie Bradt.

<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.

Craig Francis Szemple v. N.J. Department of Corrections, 2020-234 – Findings and Recommendations of the Executive Director

### Statement of Information:

On December 22, 2020, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on November 4, 2020. The Custodian certified that he responded in writing on November 5, 2020 denying the subject OPRA request under EO 26.

The Custodian argued that he lawfully denied access to the request records because they contain personal financial information expressly exempt from disclosure under EO 26. The Custodian contended that while OPRA allows the public to access “government records,” it does not afford a requestor the right to access their own records that are otherwise exempt from disclosure. See MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005). The Custodian noted that in furtherance of the forgoing, he provided the Complainant an alternate means of obtaining access to the records sought that did not invoke OPRA.

### 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 further provides that:

The provisions of this act . . . shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to [OPRA] . . . any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; *Executive Order of the Governor*; Rules of Court; any federal law; federal regulation; or federal order.

[N.J.S.A. 47:1A-9(a) (emphasis added).]

EO 26 provides that:

The following records shall not be considered to be government records subject to public access pursuant to . . . [i]nformation describing a natural person’s finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed.

[Id.]

In Farra’D v. N.J. Dep’t of Corr., GRC Complaint No. 2010-47 (October 2011), the custodian denied the complainant’s OPRA requested for a copy of his own “Inmate Payment on

Obligations” summary. The Council determined that the requested record was exempt from disclosure pursuant to EO 26 applicable to OPRA through N.J.S.A. 47:1A9(a).

Further, in Sheridan v. N.J. Dep’t of Corr., GRC Complaint No. 2013-122 (December 2013), the complainant sought a copy of his state pay account. The custodian noted in both his original response and his SOI that the “Business Manager of the correctional facility shall be responsible for maintaining inmate accounts and recordkeeping . . . [and] shall be responsible for providing an inmate with a monthly statement containing each financial transaction processed.” N.J.A.C. 10A:2-2.1(a)-(b). The Council recognized the record as information of the type contemplated by EO 26. As such, the Council found that the responsive record was exempt from disclosure. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a).

In the instant complaint, the Custodian denied the Complainant’s OPRA request seeking his information from his trust account from 2006 to 2016 under EO 26. The Complainant subsequently filed this complaint disputing the denial. In the SOI, the Custodian contended that he lawfully denied access to the responsive record under EO 26. The Custodian further asserted that OPRA did not contemplate the identity of a requestor trying to obtain his or her own financial record.

The facts of the instant complaint are on point with those in Farra’D, GRC 2010-47, where the complainant sought a record of his own financial activity. The requested account record thus falls under EO 26 because it represents the financial activity of a natural person. N.J.S.A. 47:1A-9(a); Sheridan, GRC 2013-122. Further, the fact that the Complainant sought his own financial information is of no moment. See Spillane v. N.J. State Parole Bd., 2017 N.J. Super. Unpub. LEXIS 2392 (App. Div. 2017)<sup>4</sup> (dismissing appellant’s assertion that he was entitled to the requested report because it was about him).

Therefore, the requested trust account information is not subject to access under OPRA because it is exempt under EO 26. N.J.S.A. 47:1A-9(a); Farra’D, GRC 2010-47; Sheridan, GRC 2013-122. Further, the record is exempt from disclosure regardless of the fact the Complainant sought a record from his own account. See Spillane, 2017 N.J. Super. Unpub. LEXIS 2392. Thus, the Custodian lawfully denied access to the subject OPRA request. N.J.S.A. 47:1A-6.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the requested trust account information is not subject to access under OPRA because it is exempt under Executive Order No. 26 (Gov. McGreevey 2002). N.J.S.A. 47:1A-9(a); Farra’D v. N.J. Dep’t of Corr., GRC Complaint No. 2010-47 (October 2011). Sheridan v. N.J. Dep’t of Corr., GRC Complaint No. 2013-122 (December 2013). Further, the record is exempt from disclosure regardless of the fact the Complainant sought a record from his own account. See Spillane v. N.J. State Parole Bd., 2017 N.J. Super. Unpub. LEXIS 2392 (App. Div. 2017). Thus, the Custodian lawfully denied access to the subject OPRA request. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso  
Executive Director

October 26, 2021

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<sup>4</sup> Affirming on appeal Spillane v. N.J. Dep’t of Corr., GRC Complaint No. 2014-169 (March 2015).  
Craig Francis Szemple v. N.J. Department of Corrections, 2020-234 – Findings and Recommendations of the Executive Director