



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

FINAL DECISION

December 13, 2022 Government Records Council Meeting

Kristen Danielle Augelli
Complainant

Complaint No. 2021-172

v.

Cherry Hill Township (Camden)
Custodian of Record

At the December 13, 2022 public meeting, the Government Records Council (“Council”) considered the December 6, 2022 Supplemental 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 did not fully comply with the Council’s November 9, 2022 Interim Order. Specifically, although the Custodian provided responsive records in the prescribed time frame, she failed to timely provide certified confirmation of compliance to the Executive Director.
2. The Custodian unlawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The Custodian also failed to fully comply with the Council’s November 9, 2022 Interim Order. However, the Custodian ultimately provided the Complainant with all responsive records in accordance with said Order. Additionally, the evidence of record does not indicate that the Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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 13th Day of December 2022

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: December 15, 2022

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director
December 13, 2022 Council Meeting**

**Kristen Danielle Augelli¹
Complainant**

GRC Complaint No. 2021-172

v.

**Cherry Hill Township (Camden)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of: “[A] report completed by Detective Dennis Moore of Cherry Hill Police on criminal case #21-036384 . . . I am victim of the crimes reported/investigated to Cherry Hill and Haddon Township Police.”

Custodian of Record: Patti Chacker

Request Received by Custodian: July 14, 2021

Response Made by Custodian: July 23, 2021

GRC Complaint Received: July 28, 2021

Background

November 9, 2022 Council Meeting:

At its November 9, 2022 public meeting, the Council considered the October 27, 2022 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, found that:

1. The Custodian unlawfully denied access to the Complainant’s OPRA request seeking a police report completed by Detective Dennis Moore of Cherry Hill Police Department. N.J.S.A. 47:1A-6. The Complainant demonstrated that she was the victim of the alleged crime detailed in the requested report and is thus entitled to access records pertaining to her victimization. N.J.S.A. 47:1A-1.1. Accordingly, the Custodian shall disclose the police report to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 above within five (5) business days from receipt of the Council’s Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each**

¹ No legal representation listed on record.

² Represented by Brandon Hawkins, Esq., Deputy Solicitor (Cherry Hill, NJ).

redaction, if applicable. Further, the Custodian shall simultaneously deliver³ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁴ to the Executive Director.⁵

3. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Procedural History:

On November 10, 2022, the Council distributed its Interim Order to all parties. On November 18, 2022, the Custodian e-mailed the Complainant with copy to the Government Records Council ("GRC"), providing copies of the requested police report along with previously provided e-mail correspondence between Det. Moore and the Complainant. On November 21, 2022, the GRC e-mailed the Custodian requesting certified confirmation of compliance as per the Order. On November 23, 2022, the Custodian submitted certified confirmation of compliance to the Executive Director.

Analysis

Compliance

At its November 9, 2022 meeting, the Council ordered the Custodian to provide the Complainant with the requested police report. The Council also ordered the Custodian to submit certified confirmation of compliance, in accordance with R. 1:4-4, to the Executive Director. On November 10, 2022, the Council distributed its Interim Order to all parties, providing the Custodian five (5) business days to comply with the terms of said Order. Thus, the Custodian's response was due by close of business on November 18, 2022.

On November 18, 2022, the fifth (5th) business day after receipt of the Council's Order, the Custodian provided the Complainant with the requested records via e-mail. However, the Custodian did not provide certified confirmation of compliance until November 23, 2022, or the eighth (8th) business day after receipt of the Order. Therefore, the Custodian did not fully comply with the Interim Order due to a timeliness issue.

Therefore, the Custodian did not fully comply with the Council's November 9, 2022 Interim Order. Specifically, although the Custodian provided responsive records in the prescribed

³ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

⁴ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁵ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

time frame, she failed to timely provide certified confirmation of compliance to the Executive Director.

Knowing & Willful

OPRA states that “[a] public official, officer, employee or custodian who knowingly and willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty . . .” N.J.S.A. 47:1A-11(a). OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically OPRA states “. . . [i]f the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA] . . .” N.J.S.A. 47:1A-7(e).

Certain legal standards must be considered when making the determination of whether the Custodian’s actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian’s actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001)); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian’s actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian’s actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (*id.*; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1983)); the Custodian’s actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

In the instant matter, the Custodian unlawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The Custodian also failed to fully comply with the Council’s November 9, 2022 Interim Order. However, the Custodian ultimately provided the Complainant with all responsive records in accordance with said Order. Additionally, the evidence of record does not indicate that the Custodian’s violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not fully comply with the Council’s November 9, 2022 Interim Order. Specifically, although the Custodian provided responsive records in the prescribed time frame, she failed to timely provide certified confirmation of compliance to the Executive Director.

2. The Custodian unlawfully denied access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. The Custodian also failed to fully comply with the Council's November 9, 2022 Interim Order. However, the Custodian ultimately provided the Complainant with all responsive records in accordance with said Order. Additionally, the evidence of record does not indicate that the Custodian's violation of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Prepared By: Samuel A. Rosado
Staff Attorney

December 6, 2022



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

INTERIM ORDER

November 9, 2022 Government Records Council Meeting

Kristen Danielle Augelli
Complainant

Complaint No. 2021-172

v.

Cherry Hill Township (Camden)
Custodian of Record

At the November 9, 2022 public meeting, the Government Records Council (“Council”) considered the October 27, 2022 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 unlawfully denied access to the Complainant’s OPRA request seeking a police report completed by Detective Dennis Moore of Cherry Hill Police Department. N.J.S.A. 47:1A-6. The Complainant demonstrated that she was the victim of the alleged crime detailed in the requested report and is thus entitled to access records pertaining to her victimization. N.J.S.A. 47:1A-1.1. Accordingly, the Custodian shall disclose the police report to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 above within five (5) business days from receipt of the Council’s Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver¹ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,² to the Executive Director.³**
3. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian’s compliance with the Council’s Interim Order.

¹ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

² "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

³ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

Interim Order Rendered by the
Government Records Council
On The 9th Day of November 2022

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 10, 2022

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
November 9, 2022 Council Meeting**

**Kristen Danielle Augelli¹
Complainant**

GRC Complaint No. 2021-172

v.

**Cherry Hill Township (Camden)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of: “[A] report completed by Detective Dennis Moore of Cherry Hill Police on criminal case #21-036384 . . . I am victim of the crimes reported/investigated to Cherry Hill and Haddon Township Police.”

Custodian of Record: Patti Chacker

Request Received by Custodian: July 14, 2021

Response Made by Custodian: July 23, 2021

GRC Complaint Received: July 28, 2021

Background³

Request and Response:

On July 14, 2021, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On July 23, 2021, Danielle Gyange responded on behalf of the Custodian in writing stating that the record was exempt from disclosure under OPRA as a criminal investigatory record. N.J.S.A. 47A:1A-1.1. Ms. Gyange also included in her response copies of e-mail correspondence between the Complainant and Det. Moore dated between June 4, 2021, and July 14, 2021.

Denial of Access Complaint:

On July 28, 2021, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that on or about June 4, 2021 she tried to initiate a criminal investigation with the Cherry Hill Police Department (“CHPD”), and thereafter communicated with Det. Moore via e-mail and telephone. The Complainant asserted that on July 14, 2021, Det. Moore informed her via e-mail that the investigation was to be closed.

¹ No legal representation listed on record.

² Represented by Brandon Hawkins, Deputy Solicitor (Cherry Hill, 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.

The Complainant stated that she submitted the instant OPRA request seeking a copy of the police report created from the investigation. The Complainant argued that she needed the report notwithstanding whether the investigation was open or closed.

Statement of Information:

On September 1, 2021, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on July 14, 2021. The Custodian certified that her search included forwarding the request to CHPD to locate records. The Custodian certified that on July 20, 2021, CHPD provided Ms. Gyange with responsive records. The Custodian certified that Ms. Gyange left a voicemail with the Complainant seeking verification of her identity, and that she could obtain the records in person from CHPD with proper identification. The Custodian certified neither she nor Ms. Gyange received a response from the Complainant. The Custodian certified that Ms. Gyange responded on her behalf in writing on July 23, 2021, denying access to the police report but providing the e-mail correspondence between the Complainant and Det. Moore.

The Custodian asserted that the requested report was a criminal investigatory record as well as a victim’s record. The Custodian argued that although the Township of Cherry Hill (“Township”) could release a criminal investigatory record and victim’s record to the victims themselves, she required proper identification or proof that the Complainant was in fact the victim. The Custodian asserted that the Township did not receive a response from the Complainant when requesting said proof. The Custodian contended that the Township did not receive any further response from the Complainant until receiving the instant complaint.

Additional Submissions:

On September 1, 2021, the Complainant e-mailed the GRC in response to the SOI. The Complainant asserted that she was told to submit an OPRA request to get a copy of the police report. The Complainant next asserted that she elected not to return the voicemail left by Ms. Gyange because she provided identifying information within the OPRA request and with CHPD at the time she initiated the investigation. The Complainant argued she should not have been denied access and the Custodian’s actions were improper.

On September 10, 2021, Custodian’s Counsel e-mailed the GRC maintaining that the requested record was a criminal investigatory record as defined under OPRA as it pertained to a criminal investigation and was not required by law to be made, maintained, or kept on file. N.J.S.A. 47:1A-1.1. Further, Counsel asserted that while the Complainant may be the purported victim of the alleged crime, the requested record was created to document the criminal investigation and should still be classified as an exempt criminal investigatory record and not a victim’s record.

On October 18, 2022, the GRC submitted a request for additional information to the Custodian. Specifically, the GRC inquired whether the Township had the ability to confirm the Complainant’s status as the alleged victim in the police report by comparing the details within the report with the contact information provided within the OPRA request.

On October 21, 2022, Custodian's Counsel responded to the GRC's request, providing a certification from the Custodian. The Custodian certified that the Complainant submitted her OPRA request to the Township electronically and requested a response via e-mail. The Custodian also certified that the Complainant provided an e-mail address and phone number in her request. The Custodian certified that Ms. Gyange provided the Complainant with e-mail correspondence between the Complainant and Det. Moore as well as the police report's cover sheet in responsive to the request. The Custodian certified the only document withheld from disclosure was the two (2) page narrative prepared by Det. Moore. The Custodian certified that no other identifying information was contained in the requested police report other than the e-mail address.

The Custodian certified that as the custodian of record, she would not release victim's records without confirming the requestor was the victim of the alleged crime. The Custodian certified the e-mail address was the only identifying information she had on the responsive police report or the OPRA request, since calls to the phone number listed in the OPRA request were unanswered. The Custodian certified the Complainant provided no validation of the phone number or address from the OPRA request. The Custodian certified she was willing to provide those documents if the Complainant provided adequate supporting documentation that she was the victim of the purported crime.

Custodian's Counsel added that the police report contained personal information of both the accused and the alleged victim. Counsel argued that given the alleged criminal activity was stalking, it would not have been appropriate to release the records to anyone other than the alleged victim. Counsel also argued that an e-mail account should not be considered adequate verification for release as they could be easily hacked or spoofed.

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 defines a criminal investigatory record as "a record which is not required by law to be made, maintained, or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding." N.J.S.A. 47:1A-1.1. Therefore, for a record to be considered exempt from disclosure under OPRA as a criminal investigatory record pursuant to N.J.S.A. 47:1A-1.1, that record must meet both prongs of a two-prong test. See O'Shea v. Twp. of West Milford, 410 N.J. Super. 371, 380-81 (App. Div. 2006).

The New Jersey Supreme Court considered this two-prong test in N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 569 (2017), on appeal from N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 441 N.J. Super. 70 (App. Div. 2015). In the appeal, the Court affirmed that OPRA's criminal investigatory records exemption applies to police records which originate from

a criminal investigation. However, the court stated that “to qualify for the exception — and be exempt from disclosure — a record (1) must not be ‘required by law to be made,’ and (2) must ‘pertain[] to a criminal investigation.’ N.J.S.A. 47:1A-1.1.” Id. at 564.

The Court made it 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, 410 N.J. Super. at 382, 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).⁴ Therefore, 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).

The Council has also long held that once a record is determined to be a criminal investigatory record, it is exempt from access. See Janeczko v. Div. of Criminal Justice, GRC Complaint Nos. 2002-79 and 2002-80 (June 2004) (“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”).⁵ 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, OPRA also provides that a “victim of a crime shall have access to the victim’s own records[.]” N.J.S.A. 47:1A-1.1. OPRA further provides that “no fee shall be charged to a victim of a crime for a copy or copies of a record to which the crime victim is entitled to access, as provided in [N.J.S.A. 47:1A-1.1.]” N.J.S.A. 47:1A-5(b).

Initially, the GRC notes that the requested police report satisfies the two-prong test as a criminal investigatory record because it pertained to a criminal investigation and there is no evidence suggesting that same was required by law to be made or maintained. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc., 229 N.J. at 546. Instead, the Complainant contended she was the victim of the alleged crime documented by the report, and she contacted CHPD to initiate the criminal investigation. In the SOI, the Custodian asserted the Complainant did not respond to requests for identity confirmation as the purported victim. Additionally, on September 10, 2021,

⁴This is instructive for police agencies because it underscores the fact that their role in society is multi-faceted; hence, not all of 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.

⁵The GRC’s ruling was affirmed in an unpublished opinion of the Appellate Division.

Custodian's Counsel argued that the police report should be exempt from disclosure notwithstanding the Complainant's status as the victim of the alleged crime. Furthermore, in response to the GRC additional information request, the Custodian certified that the only identifying information contained the police report was the e-mail address.

The plain language of OPRA demonstrates that a victim is entitled to access records pertaining to their victimization, including records that would normally constitute criminal investigatory records such as police reports and temporary restraining orders. See N.J.S.A. 47:1A-1.1. Here, the name, telephone number, and e-mail address provided by the Complainant in her OPRA request matches the information provided in the instant complaint. More importantly, notwithstanding the basis for denying access to the police report, the Custodian provided the Complainant with e-mail correspondence between the Complainant and Det. Moore. The e-mail correspondence, provided without redactions, contains detailed information of the alleged accused, including a full name, physical description, vehicle description, and a license plate number. The correspondence also included the alleged victim's name, e-mail address, and phone number, all matching that of the Complainant's contact information provided in the OPRA request and instant complaint. It is therefore unreasonable for the Custodian to withhold the police report based on lack of verification yet disclose unredacted correspondence containing the very personal information the Custodian desires to protect. The GRC is thus satisfied that the Custodian unlawfully denied access to the requested police report.

Therefore, the Custodian unlawfully denied access to the Complainant's OPRA request seeking a police report completed by Det. Moore of CHPD. N.J.S.A. 47:1A-6. The Complainant demonstrated that she was the victim of the alleged crime detailed in the requested report and is thus entitled to access records pertaining to her victimization. N.J.S.A. 47:1A-1.1. Accordingly, the Custodian shall disclose the police report to the Complainant.

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian unlawfully denied access to the Complainant's OPRA request seeking a police report completed by Detective Dennis Moore of Cherry Hill Police Department. N.J.S.A. 47:1A-6. The Complainant demonstrated that she was the victim of the alleged crime detailed in the requested report and is thus entitled to access records pertaining to her victimization. N.J.S.A. 47:1A-1.1. Accordingly, the Custodian shall disclose the police report to the Complainant.
2. **The Custodian shall comply with conclusion No. 1 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions,**

including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver⁶ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁷ to the Executive Director.⁸

3. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Samuel A. Rosado
Staff Attorney

October 27, 2022

⁶ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

⁷ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁸ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.