



Minutes of the Government Records Council August 27, 2024 Public Meeting – Open Session

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:29 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Ms. Berg Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on August 22, 2024.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Michael Hahn, Esq. (designee of Department of Education Acting Commissioner Kevin Dehmer), and John Alexy (designee of Department of Community Affairs Commissioner, Jacquelyn A. Suárez), and Steven Ritardi, Esq., Public Member.

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), and Deputy Attorney General Mark Gulbranson.

II. Executive Director’s Report:

- Since OPRA’s inception in July 2002, the GRC has received 7,155 Denial of Access Complaints. That averages about 322 annual complaints per a little more than 22 tracked program years. So far in the current program year (FY2025), the GRC has received 41 Denial of Access Complaints.

- 563 of the 7,155 complaints remain open and active (7.9%). Of those open cases:
 - 9 complaints are on appeal with the Appellate Division (1.6%);
 - 32 complaints are currently in mediation (5.7%);
 - 4 complaints are proposed for the Office of Administrative Law (0.7%);
 - 25 complaints await adjudication by the Office of Administrative Law (4.4%);
 - 38 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (6.7%);
 - 455 complaints are work in progress (80.8%); and
 - 0 complaints are being held in abeyance (0.0%).
- Since Program Year 2004, the GRC has received and responded to 39,506 total inquiries, averaging about 1,863 annual inquiries per a little more than 21 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2025), the GRC has received 252 inquiries (6.3 inquiries per workday).

GRC Outreaches

- The GRC has three (3) outreaches between now and it's the next monthly meeting. The first presentation will be on August 28, 2024 held virtually and hosted by the New Jersey League of Municipalities. The second presentation will be on September 5, 2024 also held virtually for all State-level custodians and support staff. The third presentation will be on September 18, 2024 held in Newton, NJ and hosted by the Sussex County Municipal Clerk's Association.

Pending OPRA Legislation

- The unofficial end of the summer is less than a week away. In a bit of a poetic sense, with the turning of the calendar comes the end of an OPRA era and the beginning of another. For the last 22 years, almost 18 of which I have been with the GRC, OPRA has been shaped by requestors, custodians, and litigation. The GRC has been an integral part of this history through the myriads of Council decisions, online resources, and training opportunities.

On September 3, 2024, OPRA is not going away, it is simply evolving into a new phase. With this evolution comes many changes, including new statutory language, new council and staff members, and new processes. The GRC is prepared to meet these new challenges head on. As former Executive Director Catherine Starghill often demanded, it is up to the GRC to recommit to quickly resolidifying our status as OPRA experts.

In the coming months, the GRC will address these significant changes to OPRA with updated versions of those resources on the GRC's website that have long been of value to the OPRA community. The GRC will also be conducting its annual seminar again this

year with an obvious focus on the new version of OPRA. Of immediate import, and likely paired with a hearty sigh of relief from public agencies around the State, the GRC is pleased to announce that its “Adoptable OPRA Request Form” portal will be going live tomorrow, August 28, 2024 at 2:00pm. Further details will be provided on the GRC’s homepage as soon as possible.

III. Closed Session:

IV. Approval of Minutes of Previous Meetings:

July 30, 2024, Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the July 30, 2024 meeting. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

July 30, 2024, Closed Session Meeting Minutes

Ms. Berg Tabakin noted that the agenda was amended to add the closed session minutes to it. Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the July 30, 2024 meeting. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for this portion of the agenda to ensure his non-participation in the items from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda item.

V. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that an “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’s recommendation of dismissal based on jurisdictional, procedural, or other defects of the complaint. The reason for the Administrative Disposition is under each complaint below:

A. Administrative Disposition Adjudications with Recusals (Consent Agenda):

1. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Sayreville Borough Police Department (Middlesex) (2022-110) (SR Recusal)**
 - All Records Responsive Provided in a Timely Manner.
 - Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

B. Administrative Disposition Adjudications with no Recusals (Consent Agenda):

1. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Bernards Police Department (Somerset) (2022-79)**
 - All Records Responsive Provided in a Timely Manner.
2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Branchburg Police Department (Somerset) (2022-82)**
 - All Records Responsive Provided in a Timely Manner.
3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Westwood Police Department (Bergen) (2022-96)**
 - All Records Responsive Provided in a Timely Manner.
4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Mount Olive Township Police Department (Morris) (2022-104)**
 - All Records Responsive Provided in a Timely Manner.
5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Voorhees Township Police Department (Camden) (2022-107)**
 - All Records Responsive Provided in a Timely Manner.
6. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cranbury Police Department (Middlesex) (2022-121)**
 - All Records Responsive Provided in a Timely Manner.
7. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Delanco Township Police Department (Burlington) (2022-122)**
 - All Records Responsive Provided in a Timely Manner.
8. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Hopewell Township Police Department (Mercer) (2022-123)**
 - All Records Responsive Provided in a Timely Manner.
9. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Hanover Township Police Department (Morris) (2022-127)**
 - All Records Responsive Provided in a Timely Manner.
10. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Lower Township Police Department (Cape May) (2022-153)**
 - All Records Responsive Provided in a Timely Manner.
11. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Monroe Township Police Department (Gloucester) (2022-154)**
 - All Records Responsive Provided in a Timely Manner.
12. **Bernard J. Meenan, Jr. v. Township of Edgewater Park (Burlington) (2024-32)**
 - No Records Responsive to the Request Exist.
13. **Andrea Ryan Vaccariello v. Town of Newton (Sussex) (2024-90)**
 - All Records Responsive Provided in a Timely Manner.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

C. Administrative Disposition of Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):

1. **Scott Madlinger v. Ho-Ho-Kus Board of Education (Bergen) (2023-224)**
 - Complaint Settled in Mediation.
2. **Maximillian Hayden v. Rutgers University (2024-13)**
 - Complaint Settled in Mediation.
3. **Kevin M. Baron v. Hudson County Prosecutor's Office (2024-43)**
 - Complaint Settled in Mediation.
4. **Tyler La Fronz v. NJ Transit (2024-48)**
 - Complaint Settled in Mediation.
5. **John C. McMahon, Jr. v. Voorhees Township Police Department (Camden) (2024-72)**
 - Complaint Settled in Mediation.
6. **John C. McMahon, Jr. v. Voorhees Township Police Department (Camden) (2024-78)**
 - Complaint Settled in Mediation.
7. **Joy Bembry v. City of Newark (Essex) (2024-163)**
 - Complaint Voluntarily Withdrawn.
8. **William J. Cappuccio v. Township of Mullica (Atlantic) (2024-164)**
 - Complaint Voluntarily Withdrawn.
9. **Joseph Tarulli v. Township of Cranford (Union) (2024-189)**
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Consent Agenda Administrative Order

Ms. Berg Tabakin stated that an “Administrative order” means an order issued by the Council requiring the records custodian or the complainant to perform a specific action in furtherance of the adjudication of a pending denial of access complaint or taking other actions deemed appropriate to adjudicate a complaint in an expedited manner. The Executive Director’s recommended reason for the Administrative Order is under each complaint below.

A. Administrative Orders with Recusals (Consent Agenda): None

B. Administrative Orders with No Recusals (Consent Agenda): None

VII. New Business – Cases Scheduled for Individual Complaint Adjudication

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for this portion of the agenda to ensure his non-participation in the items from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda item.

A. Individual Complaint Adjudications with Recusals:

1. **Luis S. Manso v. County of Essex (2022-128) (SR Recusal)**

- The Custodian lawfully denied access to user agreements between inmates and Global Tel Link (“GTL”) because they are exempt from disclosure under N.J.A.C. 10A:31-6.10(a)(12). N.J.S.A. 47:1A-9(a); Lugo v. N.J. Dep’t of Corr., GRC Complaint No. 2017-8 (March 2018).
- The Custodian unlawfully denied access to the contracts between GTL and Essex County Correctional Facility because same are generalized and not associated with individual inmates. N.J.S.A. 47:1A-6. The Custodian shall disclose the responsive contracts or certify if none exist.
- The portion of the request seeking “types of GTL media” is invalid because it sought information. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Thus, the Custodian lawfully denied access to same. N.J.S.A. 47:1A-6.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Hahn made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

2. **Andrew H. Graulich, Esq. v. City of Newark (Essex) (2024-128) (SR Recusal)**

- The Custodian’s failure to submit a Statement of Information (“SOF”) resulted in a violation of N.J.A.C. 5:105-2.4(a).
- The Custodian’s failure to respond within the extended time frame resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008).
- The Complainant’s request was invalid because it sought generic “records”. MAG, 375 N.J. Super. 534; Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015). Thus, notwithstanding the “deemed” denial, the Custodian did not unlawfully deny access to the request. N.J.S.A. 47:1A-6.
- The Complainant is not a prevailing party.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Hahn made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

A brief summary of the Executive Director's recommended action is under each complaint:

B. Individual Complaint Adjudications with no Recusals:

1. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Haworth Police Department (Bergen) (2022-49)**
 - The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking agreements because she certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
 - The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2007-156 (February 2008). The Custodian shall thus locate and provide such records.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.
2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Lyndhurst Police Department (Bergen) (2022-68)**
 - The Custodian's failure to submit a SOI resulted in a violation of N.J.A.C. 5:105-2.4(a).
 - The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking disclosable personnel information. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010). The current Custodian shall locate and disclose the responsive personnel information or certify if none exists.
 - The Custodian may have unlawfully denied access to the portion of the Complainant's OPRA request seeking "agreements." N.J.S.A. 47:1A-6. The current Custodian shall perform a search and either disclose those agreements located or certify if none exist.
 - The prevailing party analysis is deferred.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ewing Police Department (Mercer) (2022-81)**
- The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "agreement[s]" because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes, GRC 2007-156. The Custodian shall thus locate and provide such records.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Buena Borough Police Department (Atlantic) (2022-83)**
- The Custodian's response was insufficient because she failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
 - The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "agreement[s]" because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes, GRC 2007-156. The Custodian shall thus locate and provide such records.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
5. **Scott Madlinger v. Berkeley Township (Ocean) (2022-149)**
- The Custodian violated N.J.S.A. 47:1A-5(f) by seeking a deposit from the Complainant, who filed his OPRA request anonymously, although the anticipated cost was less than \$5.00.

- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

6. **Vincent Lepore v. City of Long Branch (Monmouth) (2022-157)**

- The Custodian's extensions were warranted and substantiated; thus, no "deemed" denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Rodriguez v. Kean Univ., GRC Complaint No. 2016-87 (April 2018).
- The Custodian did not violate OPRA by charging the actual cost associated with disclosing the responsive records on flash drives. The Custodian is not required to disclose the responsive records until the Complainant remits payment of the actual current cost to disclose the records. Santos v. N.J. State Parole Bd., GRC Complaint No. 2004-74 (August 2004).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

7. **Marcus L. Kirschenbaum v. Wall Township Public Schools (Monmouth) (2022-259)**

- The Complainant's February 14, 2022 request seeking a list is invalid because it sought information. MAG, 375 N.J. Super. 534; LaMantia, GRC 2008-140. Further, the Complainant's April 11, 2022 requests are invalid because they sought information that would have required research and/or the creation of a record. Id. Thus, the Custodian lawfully denied access to these requests. N.J.S.A. 47:1A-6.
- The Custodian did not unlawfully deny access to the Complainant's March 22, 2022 OPRA request seeking personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

8. **John Paff v. Wall Township (Monmouth) (2022-662)**

- The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking "payroll records" related to Sgt. Cadigan under the basis that it was invalid. Danis, GRC 2009-156, *et seq.*
- The Custodian unlawfully denied access to the requested leave status. N.J.S.A. 47:1A-10; Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004). However, the GRC declines to order any further disclosure

because the Custodian acknowledged that Sgt. Cadigan was on paid leave during the identified time frame and Complainant's Counsel acknowledged this disclosure.

- The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

VIII. Court Decisions of GRC Complaints on Appeal: None

IX. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:

- Lotocki v. Port Auth. of N.Y. & N.J., 2024 N.J. Super. Unpub. LEXIS 1930 (App. Div. 2024): The Plaintiff requested video footage from the Defendant on September 1, 2022. Thereafter, the Plaintiff and Defendant traded communications until the Plaintiff stated that if he did not receive a response by October 21, 2022, he would consider the request denied. On October 14, 2022, the Defendant responded to the Plaintiff stating an extension was needed until November 4, 2022. On November 16, 2022, the Plaintiff gave the Defendant another ultimatum of November 22, 2022. The Defendant responded stating they would respond by December 15, 2022. On December 15, 2022, the Defendant again extended the date of response to January 12, 2023. On December 21, 2023, the Plaintiff e-mailed the Defendant stating he would file an action in court if he did not receive the footage by January 12, 2023. On January 3, 2023, the Plaintiff filed this action against the Defendant. On January 5, 2023, the Defendant provided the requested footage. The trial court held that the Plaintiff filed his action outside of the forty-five-day period. The trial court found that the deadlines the Plaintiff issued in his communications with the Defendant marked the beginning of the period, and regardless of whether clock started on October 21, 2022 or November 4, 2022, the Plaintiff's action was untimely. The trial court therefore dismissed the action.
- In re Adoption of N.J.A.C. 5:105-1.6(a)(1), 2024 N.J. Super. LEXIS 84 (App. Div. 2024) (Approved for Publication): The Government Records Counsel ("GRC") promulgated a new regulation (N.J.A.C. 5:105-1.6(a)(1)) stating that all submissions to the GRC regarding a complaint would not be subject to OPRA while said complaint was pending adjudication. The Plaintiffs challenged the regulation, arguing that the regulation was inconsistent with, and in contravention to, the purposes of OPRA. The Appellate Division found that the provision directly contravened OPRA which requires that government records are to be provided within seven (7) business days, whereas the regulation would delay the release of the submissions to however long the GRC takes to adjudicate the complaint. The Court further held that OPRA did not include submissions to the GRC among its list of exemptions to access, and the GRC did not point to any statute which

authorized this exemption. The Court also held that the exemption would undermine the ability of potential interveners to discern whether they are entitled to intervene in an ongoing complaint. Moreover, the Court found that the GRC's basis for the regulation is undermined further because the exempted submissions may be obtained via OPRA from a public agency that is a party to a complaint. The Court thus held the regulation invalid.

- Szemple v. Morris Cnty. Prosecutor's Off., 2024 N.J. Super. Unpub. LEXIS 1998 (App. Div. 2024): On January 12, 2022, the Plaintiff submitted an OPRA request seeking several records pertaining to his criminal matter. The Defendant denied the request, stating primarily that the request essentially sought previously provided discovery, and that OPRA was not intended as a substitute for discovery. The trial court held that the requested records were exempt as criminal investigatory records and noted that the Plaintiff had access to the requested records throughout his criminal proceedings. On appeal, the Appellate Division held that because there were no pending post-conviction relief applications, there was no reason to overturn the trial court's determination that the request sought criminal investigatory records. Affirmed.

X. Complaints Adjudicated in U.S. District Court: None

XI. Public Comment:

Mr. Vincent Lepore (GRC Complaint No. 2022-157): Mr. Lepore asserted that the record at issue in his complaint was destroyed and asked for the GRC's position on having ordered disclosure for a destroyed record. Mr. Caruso noted that public comments are not for discussion of specific cases and suggested that Mr. Lepore contact his complaint manager after he receives the Council's decision.

XII. Council Comments

Mr. Caruso reiterated from his earlier report that as of September 3, 2024, OPRA is changing drastically to include the composition of the Council. Mr. Caruso stated that due to the fact this was likely the last meeting for current Council members, he opened the meeting for any wishing to give final comment.

Mr. Hahn stated that it was a pleasure working with the Council over the past year and a half that he has been the N.J. Department of Education Acting Commissioner's designee. Mr. Hahn stated that he enjoyed his time and looked forward to seeking the Council evolve in its next iteration.

Mr. Caruso thanked Mr. Hahn and extended his appreciation to all designees put forth by the N.J. Department of Education.

Mr. Alexy stated that he enjoyed his time with the current Council and also looked forward to the next iteration if he is chosen to continue to participate as the N.J. Department of Community Affairs Commissioner designee.

Mr. Ritardi read the following statement into the record:

Mr. Caruso previously used the word “era”. It’s a good word. My appointment goes back to Catherine Starghill as the Executive Director (“ED”). After Catherine, I believe there have been 4 EDs leading up to Mr. Caruso, who supported each of his predecessors and candidly helped educate us all.

As to Frank and his staff, John and Sam, neither Westlaw nor Lexis Nexis or any other data bank can keep up with you – and that’s not an exaggeration. You all do yeoman’s work, which the new Council members will soon come to realize and appreciate as did Robin and I.

It has been an Honor to work with the DCA and DOE, and particularly John and Michael.

Rose, you’ve been a delight. I’ll miss you calling out our names for roll call.

Of course, we have all benefited the Attorney General Office’s good counsel under Deputy Attorney General (“DAG”) Debra Allen for most of my time on the GRC, and today DAG Mark [Gulbranson].

And I’m especially thankful for Robin and her outstanding leadership as Chair over these many years.

To sum it up, I have enjoyed working with everyone and am truly grateful for my service and time on the GRC. I wish New Jersey and its newly minted council good luck and good wishes to a new era that remains in good hands with this Executive Director at the helm.

Mr. Caruso noted that when Mr. Ritardi was appointed to the Council, the GRC had been rolling over cases that did not have a quorum to be adjudicated. Mr. Caruso stated that upon appointment, the GRC was able to move all of them quickly and was grateful for Mr. Ritardi’s assistance there. Mr. Caruso also noted that Mr. Ritardi has been of great value to the GRC staff, especially in *in camera* discussions and on the issue of attorney’s fees. Mr. Caruso expressed his appreciation for Mr. Ritardi’s longtime participation on the Council.

Ms. Berg Tabakin read the following statement into the record:

It has been an honor and a privilege to serve as a public member of the Council since 2005 and as Chairwoman since 2007. Over the past years, the Council has relied on a dedicated team committed to transparency, accountability, and the principles of open government. I want to express my sincere gratitude for the hard work and dedication of the GRC staff and executive directors over the years, including Catherine Starghill, Acting ED Karen Gordon, Brandon Minde, Acting ED Dawn San Filippo, Joe Glover, and our current ED, Frank Caruso. I am also deeply appreciative of my colleagues on the Council, including the representatives from the DCA and DOE, as well as public members, notably my long-time colleague, Steve Ritardi.

Since the adoption of OPRA in 2002, the Council has been tasked with the important responsibility of interpreting the legislature's intentions and shaping the law to ensure that public access to government records is maintained while also respecting privacy, confidentiality, and security where required. I am proud of the diligent efforts the Council has made to strike this balance, and I believe we have played a significant role in advancing the public's right to know and promoting open governance.

I am deeply grateful for the trust that the public has placed in the Council over these many years, and it has been a profound experience to contribute to the Council's mission. Together, we have upheld the values of transparency and public service, albeit not without its challenges.

As I step down as Chair, I am confident that the Council will continue its vital work with the same dedication and integrity that has characterized our efforts thus far. I extend my heartfelt thanks to my fellow Council members, the GRC staff, and all those who have supported us along the way. I would like to also mention Sam, John, and Rose, who have been here almost as long as me. Thank you very much.

Thank you for the opportunity to serve. It has truly been an honor.

Mr. Caruso noted the bittersweet nature of holding a final meeting under the expiring Council configuration right at the end of summer. Mr. Caruso also stated that from a personal standpoint, he and Ms. Berg Tabakin had been working together for almost 18 years, and he is appreciative of the Council's accomplishments. Mr. Caruso noted that from the GRC position, the Council members deserve lasting appreciation for serving for so long as volunteers and addressing many great difficult issues of transparency. Mr. Caruso noted that he has no doubt the incoming Council members will be equally dedicated to advanced the GRC's mission.

XIII. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Mr. Ritardi made a motion, which was seconded by Mr. Hahn. The motion passed by a unanimous vote. The meeting adjourned at 2:19 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: November 7, 2024