



MARK MUSELLA
Bergen County Prosecutor

Office of the County Prosecutor

County of Bergen

Two Bergen County Plaza
Hackensack, New Jersey 07601

(201) 646-2300

HEATHER SUFFIN
First Assistant Prosecutor

THOMAS MCGUIRE
Executive Assistant Prosecutor

BRANDY MALFITANO
Deputy First Assistant Prosecutor

MATTHEW FINCK
Chief of Detectives

October 24, 2025

Via email opra+request-79441-4d53e647@requests.opramachine.com

Re. Request for Public Records 10-15-25

Dear Concerned Citizen:

This is in response to your request for public records dated 08-12-25, which this office received on 10-15-25, and in which you requested the following:

I am writing to request an internal review of Bergen County Prosecutor's Office's handling of my OPRA request 'Benjamin Praught Ritter'.

Your request concerns a matter in which Defendant was charged with possession of child abuse material. Your request is granted in part. The criminal case is open at this time.

It may be helpful to you to first explain OPRA as it relates to your request. As a general rule, charging documents such as criminal complaints and indictments, press releases, judgment of convictions, and items arising from open court such transcripts, may be obtained pursuant to OPRA while narrative police reports, witness statements, (written or recorded), criminal histories, forensics, search warrants, evidence, notes and related documents are criminal investigatory records and are exempt from disclosure. *N.J.S.A. 47:1A-1.1*. A criminal investigatory record remains exempt from disclosure even after the criminal investigation has been closed. *West Solloway v. Bergen County Prosecutor's Office Custodian of Records*, GRC Complaint No. 2011-39; *Woojin Hwang v. Bergen County Prosecutor's Office Custodian of Records*, GRC Complaint No. 2011-348. The majority of this agency's file would consist of exempt criminal investigatory records.



A State Accredited and Nationally Recognized Law Enforcement Agency

So viewed, with the exception of the press release, criminal complaint, accusation, disposition form and judgement of conviction which are attached and redacted of personal identifiers in accordance with law, this office's file consists of exempt criminal investigatory records. *N.J.S.A. 47:1A-1.1*. A criminal investigatory record remains exempt from disclosure even after the criminal investigation has been closed. *West Solloway v. Bergen County Prosecutor's Office Custodian of Records*, GRC Complaint No. 2011-39; *Woojin Hwang v. Bergen County Prosecutor's Office Custodian of Records*, GRC Complaint No. 2011-348; *Donna Janeczko v. New Jersey Department of Law and Public Safety, Division of Criminal Justice, Custodian of Record*, GRC Complaint Nos. 2002-79 and 2002-80; *Andrew Johnson/Press of Atlantic City v. New Jersey Division of State Police, Custodian of Record*, GRC Complaint No. 2004-46. *Cf. R. 1:38-3(f)(3)* as to investigative police reports under the control of a court, unless they have been admitted into evidence. Consequently, with the exception of the attached records, the remainder of your request is denied.

Many of the remaining records within the file are also exempt on other grounds. For example, criminal case histories (rap sheets) are not public records. Access to them is controlled not only in terms of who may obtain them, but also in terms of which governmental agencies may disseminate them, to whom and under what circumstances. *National Crime Prevention and Privacy Compact, N.J.S.A. 53:1-32*. See also, *N.J.S.A. 53:1-20.5* through *N.J.S.A. 53:1-20.37* and *N.J.A.C. 13:59-1.1* through *N.J.A.C. 13:59-2.4*. Only the New Jersey State Bureau of Identification (SBI) within the New Jersey State Police may release a criminal case history for non-criminal justice purposes. *N.J.A.C. 13:59-1.2*. For information about who may obtain a criminal case history for non-criminal justice purposes and how to do so, go to www.njsp.org. Click on "Services." Click on "Criminal Background Checks." Additionally, Search warrants, and subpoenas are not public records. *R. 1:38-3(c)(10)*; *R. 3:5-4*; *R. 3:5-6c*. Presentence investigation reports are not public records. *State v. DeGeorge*, 113 N.J. Super. 542 (App. Div. 1971); *N.J.S.A. 2C:44-6d*; *R. 1:38-3(f)5*. Reports of the Adult Diagnostic and Treatment Center are confidential. *R. 3:21-3*; *R. 1:38-3(c)(8)*. Records related to the registration of sex offenders are not public records. *N.J.S.A. 2C:7-5*; *R. 38-3(c)(11)*. Lastly, names and addresses of victims or alleged victims of domestic violence or sexual offenses are excluded from public access. *R. 38-3(c)(12)*.

Additionally, the *Open Public Records Act (OPRA)* provides for access to records, unless otherwise prohibited by law. *N.J.S.A. 47:1A-9*. Release of records pertaining to cases involving the Endangering or exploitation of minor children, as is here, is controlled by *N.J.S.A. 2A:82-46* and Administrative Office of the Courts Directive #11-90, *Disclosure of Identity of Child Victims in Sexual Assault, Endangering the Welfare, or Child Abuse/Neglect Cases*, Issued November 15, 1990. Importantly, the statute and directive prohibit disclosing the victim's identity, not simply the victim's name. The "information described in [the statute] shall remain confidential and unavailable to the public unless the court, after a hearing, determines that good cause exists for disclosure. The hearing shall be held after notice has been made to the victim, parents of victim, spouse, or other person legally responsible for the maintenance and care of the victim, and to the person charged with the commission of the offense, counsel or guardian of that person." *N.J.S.A. 2A:82-46c*. Accordingly, this office will also not release any violative records you requested, if any, unless and until such a hearing is conducted upon notice to all requisite parties.

As to remaining records you seek, this Office does not possess responsive records including but not limited to accident reports, aided reports, internal affairs reports, vehicle reports, legal actions, lawsuits, settlement agreements, citations, journals, ambulance reports, patient care reports, fire department reports, sobriety reports, 911 calls, dispatch calls. See *Williams v. Passaic County Prosecutor's Office*, GRC Complaint No. 2014-297 (finding that where "no records responsive to the request exist, no unlawful denial of access occurred).

The Bergen County Prosecutor's Office also reserves the right to raise any other ground for denial not raised in this response. The failure of the Bergen County Prosecutor's Office to assert an exception or privilege does not act as a waiver of any ground for denial.

You have a right to appeal the decision that the document or documents are not public records or are otherwise exempt from disclosure. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council ("GRC") by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at PO Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your county.

Very truly yours,

MARK MUSELLA
Bergen County Prosecutor

Maria Fagliarone/s/
Maria Fagliarone
Assistant Records Custodian

Attachment