

## Catherine Stargill / Records council has improved process of getting information



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How much money does your town spend on attorney's fees? How is your school district utilizing your tax dollars? What topics did your Town Council discuss at its most recent meeting? You can find the answers to these questions by utilizing the Open Public Records Act, or OPRA.

The state Legislature enacted OPRA in January 2002, and the law became effective in July of the same year. Under OPRA, New Jersey citizens may gain access to government records maintained by public agencies. The Legislature also created the Government Records Council to administer OPRA. The functions of the GRC include: adjudicating denial-of-access complaints; creating and disseminating informational resources about OPRA and GRC services; operating a toll-free information hot line and Web site; issuing advisory opinions regarding the accessibility of government records; and providing OPRA training to the public and records custodians.

As we reflect on the past eight years, it is clear that, while the GRC may have gotten off to a bumpy start, it has since made significant gains in fostering open government in New Jersey. The GRC has helped requesters gain access to government records and also helped records custodians respond to OPRA requests. The bottom line is that the GRC is an invaluable resource to accessing government records in New Jersey.

First, the GRC has set countless precedents regarding access to government records. Several of OPRA's provisions are vague. These provisions require clarification from OPRA's administering agency. Specifics include the GRC's clarification of what constitutes a payroll record, clarification of the specific information that can be released from an arrest report, and whether draft meeting minutes are subject to public access.

Second, the GRC provides free training opportunities for the public and records custodians. In 2007, the GRC began its annual OPRA seminar for the public, held in Trenton. The law only mandates training opportunities for custodians. However, the GRC found that requestors, too, wanted training on the law. In response to the public's need for additional training, the GRC went beyond what the law mandates in order to be responsive to citizens of the state.

Third, the GRC provides guidance to requesters and records custodians via our toll-free information hot line, 866-850-0511. To date, GRC staff has responded to 10,737 inquiries. Although the GRC cannot provide legal advice, it can and does guide requesters and records custodians to relevant provisions of the law, or applicable GRC and court decisions. Additionally, in a proactive approach, the GRC began a periodic newsletter, The OPRA Alert, which informs the public and records custodians about new OPRA issues and recent GRC and court decisions concerning access to records.

Fourth, in 2007 the GRC launched a new, more user-friendly Web site at [www.nj.gov/grc](http://www.nj.gov/grc). The new site contains training materials, a search engine for all prior GRC decisions, and various reference materials for both requesters and records custodians. The newly constructed Web site is a one-stop shop for anyone wanting information about OPRA-related issues.

Finally, as the years have progressed, so has the quality of the GRC's written decisions. The GRC's seven-person staff now includes three attorneys. Written decisions of the GRC must pass through several layers of legal approval before they reach the council members for actual adjudication. The Appellate Division of New Jersey Superior Court has affirmed many GRC decisions on appeal. Further, judges have begun to reference prior GRC decisions in their written opinions despite OPRA's provision that GRC decisions shall not be precedential for any case initiated in Superior Court.

Clearly, the GRC has often been criticized for the length of time it takes to adjudicate a complaint, but given the aforementioned statistics and the end result, you can see why. Each case manager carries a caseload of about 60 cases at any given time. The GRC has received 1,973 complaints since 2002 and has adjudicated 1,676 or 85 percent of the complaints to completion. All of these final decisions contain detailed chronologies of the events surrounding the request and response, as well as an analysis of the issues raised. Indeed, to adjudicate almost 40 complaints a month, as the GRC has for some time, is quite a feat given the small size of the agency. For the calendar year of 2009, the GRC received 336 complaints but adjudicated to completion 348 complaints, making the agency's productivity 104 percent.

During the past eight years, the GRC has clarified gray areas of the law, trained thousands of individuals about OPRA, launched a user-friendly, resource-rich Web site and disseminated a


multitude of legally sound decisions. The citizens of New Jersey can only expect more great things over the next eight years.

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