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(E-MAIL AND REGULAR MAIL)

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments
Hughes Justice Complex;
P.O. Box 037
Trenton, New Jersey
08625-0037

**RE: Proposed amendments to 4:18-1 re
FOIA AND OPRA**

Dear Judge Grant:

I disagree with the proposed amendments to the discovery rule. Initially, I would liken the demand for public records as an equivalent to investigation rather than a response to a subpoena. There separate statutory requirements that must be met in order to even request the appropriate records. Then there is the cost issue. I frequent request records from the DMV and of the costs can range from \$50-\$300. Who would be responsible for the costs of complying with the OPRA demands?

I submit that the regulation of access to public records pursuant to the OPRA guidelines is beyond the jurisdiction of the committee. There is already a statutory framework for obtaining the records and a statutory threshold that must be met. In essence, the court is now legislating access the public records rather than addressing litigation issues.

As an attorney I can either request records or not. If I intend to use these records I provide them to counsel. I comply with the statutory requirements in requesting the records and pay the appropriate fees. The court is now imposing additional obligations



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upon receiving public records which are statutorily accessible. What if the individual litigant demands records, not the attorney?

I must also note that any and all public records are freely available to both sides in any litigation. Thus either side may request whatever record they deem appropriate. Again, I consider this investigation rather than subpoena related documentation. The other issue is that many of these records can be requested before litigation ever begins. How does the rules committee reconcile prelitigation requests and post litigation requests? The rules committee will force attorneys to demand public records before litigation begins.

Again, the court needs to reconsider these amendments and as submitted are not likely to assist attorneys in accessing these records. Quite frankly, the potential amendments will reduce access to public records which was contrary to the very purpose of OPRA.

SINCERELY

JONATHAN RUDNICK