

Mr. Alec S. Ferretti  
2582 Bellmore Avenue  
Bellmore, NY 11710

Dear Mr. Ferretti:

This is in response to the referenced email request for government records dated, April 26, 2017 and the custodian's denial of your request seeking a marriage index database. You state in your email that the "index typically contains only the names of the parties to the marriage, the date of the document, and the certificate/license number." Specifically, your request does not expressly exclude names and names are not always implicitly non-public under the law governing access to government records, N.J.S.A. 47:1A-1 et seq.; it depends on the type of record and the context.

I find that the request does not exclude, and indeed, expressly seeks other fields that would allow one to identify individual persons using a "surname of the groom and bride."

*Specifically, the referenced request states that "a marriage index is the document either contained at the end of a book of marriage records, or in a separate volume, alphabetically listing all marriages which took place in a jurisdiction during a specified time period, organized by surname of the groom and bride. The index typically contains only the names of the parties to the marriage, the date of the document, and the certificate/license number. These indexes have often been digitized in a searchable database format, or as scanned images of a previously-made handwritten index.*

*This information is available to the public under 2013 New Jersey Revised Statutes Title 26 - HEALTH AND VITAL STATISTICS: Section 26:8-44 - Indexing, tabulation and preservation of records by State registrar. The text is as follows:*

*The State registrar shall cause all certificates of marriages and civil unions and marriage and civil union licenses received to be alphabetically indexed and shall cause to be transcribed or otherwise recorded from the certificates such of the vital facts appearing thereon as the department may deem necessary or useful.*

*The certificates of marriage and civil union shall be so tabulated as to present in separate and distinct classes the record of each county or registration district of over 5,000 inhabitants, which record shall be preserved as a public record and the original certificates shall be preserved in the archives of the department.*

*I request that this index be sent to me digitally, in a searchable database format, if such database exists. If you would prefer me to supply storage media to your office directly, such as flash drives or DVD's, please let me know. Otherwise, I look forward to hearing from you as to the estimates of costs. Please do not proceed until I have consented to all costs."*

## Findings

In reviewing your request, the custodian must consider the following record types that are exempt from disclosure pursuant to the referenced Statute, Regulation, Rule, or other law including:

1. N.J.S.A. 47:1A-1 Legislative findings, declarations, states, in pertinent part:

The Legislature finds and declares it to be the public policy of this State that:

- government records shall be subject to public access unless exempt from such access by P.L. 1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law, federal regulation, or federal order;
  
- a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy; and nothing contained in P.L. 1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, shall be construed as affecting in any way the common law right of access to any record, including but not limited to criminal investigatory records of a law enforcement agency.

2. N.J.S.A. 47:1A-9 Other laws, regulations, privileges unaffected, states:

- b. The provisions of this act, P.L.2001,c.404 (C.47:1A-5 et al.), shall not abrogate or erode any exemption of a public record or government record from public access heretofore made pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.); any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order.

3. Executive Order 18 (Governor McGreevey, 2002) states, in pertinent part:  
[The] New Jersey Domestic Security Preparedness Task Force has supported measures to deter the misuse of vital records by establishing safeguards regarding the issuance of such records; [and] the misuse of official identifying records presents grave risks to the public by those seeking to perpetrate frauds and other crimes on our citizens, and, more critically, potentially by those within our borders who wish to endanger the safety and security of our State and our nation through terrorism.

Executive Order 18 limits access to vital records, which include marriage records:  
To persons who establish themselves as the subject of the vital record, the subject's parent, legal guardian or legal representative, spouse, child, grandchild or sibling, if of legal age, to a State or federal agency for official purposes, pursuant to court order or under other emergent circumstances as determined by the Commissioner.

N.J.S.A. 47:1A-1 et seq., and Executive Order 18 prohibit the custodian from releasing the requested records. The custodian hereby expressly reserves decision as to the applicability of other exemptions to the requested material, including the issue of whether disclosure of the requested records would violate the reasonable expectations of privacy of the subjects of the records and/or third parties. See *Burnett v. County of Bergen*, 198 N.J. 408 (2009).

Lastly, you have the right to appeal this determination in accordance with applicable law.

Sincerely,

Custodian of Records, Office of Policy and Strategic Planning, and Office of Population Health