



**State of New Jersey**  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 819  
TRENTON, NJ 08625-0819

**PHILIP D. MURPHY**  
*Governor*

**LT. GOVERNOR SHEILA Y. OLIVER**  
*Commissioner*

**FINAL DECISION**

**August 24, 2021 Government Records Council Meeting**

Anonymous  
Complainant

Complaint No. 2020-108

v.

Borough of Haledon (Passaic)  
Custodian of Record

At the August 24, 2021 public meeting, the Government Records Council (“Council”) considered the August 17, 2021 Supplemental Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian complied with the Council’s July 27, 2021 Interim Order because he responded in the prescribed time frame disclosing the six (6) outstanding summonses to the Complainant and simultaneously providing certified confirmation of compliance to the Executive Director.
2. The Custodian’s failure to timely respond resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, the Custodian unlawfully denied access to the six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6. However, the Custodian disclosed multiple records to the Complainant on July 13, 2020 and complied with the Council’s July 27, 2021 Interim Order. Additionally, the evidence of record does not indicate that the Custodian’s violations of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the  
Government Records Council  
On The 24<sup>th</sup> Day of August 2021

Robin Berg Tabakin, Esq., Chair  
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary  
Government Records Council

**Decision Distribution Date: August 25, 2021**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director  
August 24, 2021 Council Meeting**

**Anonymous<sup>1</sup>  
Complainant**

**GRC Complaint No. 2020-108**

**v.**

**Borough of Haledon (Passaic)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of fifty-two (52) Computer-Aided Dispatch (“CAD”) reports and summons(es) for one (1) of them.

**Custodian of Record:** Allan R. Susen

**Request Received by Custodian:** April 21, 2020

**Response Made by Custodian:** July 13, 2020

**GRC Complaint Received:** June 2, 2020

**Background**

July 27, 2021 Council Meeting:

At its July 27, 2021 public meeting, the Council considered the July 20, 2021 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, found that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian may have unlawfully denied access to at least six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6; Macek v. Bergen Cnty. Sheriff’s Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). Thus, the Custodian shall initiate a new search for the requested summonses corresponding with the above CAD report. Should the Custodian locate responsive

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Andrew Oddo, Esq., of Oddo Law Firm (Oradell, NJ).

summonses, he shall disclose them to the Complainant. Should the Custodian's, or any other Borough employee, search fail to yield responsive records, the Custodian and those employees shall submit a certification specifically stating as such and inclusive of a detailed search explanation.

3. **The Custodian shall comply with conclusion No. 2 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>3</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>4</sup> to the Executive Director.<sup>5</sup>**
4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

#### Procedural History:

On July 28, 2021, the Council distributed its Interim Order to all parties. On August 3, 2021, the Custodian responded to the Council's Interim Order attaching a memorandum from Borough of Haledon ("Borough") Police Department Records Clerk Nicholas Freitas.<sup>6</sup> Therein, the Custodian certified that he was providing six (6) summonses associated with CAD report 18-17463. The Custodian certified that because responsive records were maintained by the Borough Police Department, he was required to work with them to identify responsive records. The Custodian referred to Mr. Freitas' memorandum in noting that:

1. Summonses for CAD report 18-17463 could not be located because the report related to "Traffic Enforcement Detail" with the note "Sweeper." Thus, searching by CAD report only would result in no existent summonses. Further, searching "Lawsoft" for all CAD reports with a date of September 11, 2018 and by CAD report number did not reveal the six (6) summonses. The summonses were only located after receiving the actual summonses numbers and inputting them into the "INFOCOP" system. Freitas Memorandum.

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<sup>3</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>4</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>5</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

<sup>6</sup> The Custodian refers to Mr. Freitas' memorandum as a legal certification; however, said submission does not contain the required language set forth in R. 1:4-4. Although a legal certification would have been preferable, it was not required here because all responsive records were located and disclosed.

The Custodian contended that based on the forgoing, there was no willful or deliberate attempt to withhold the outstanding summonses.

## Analysis

### Compliance

At its July 27, 2021 meeting, the Council ordered the Custodian to a new search for six (6) or more summonses associated with CAD report 18-17463. The Council ordered the Custodian to either disclose those records located or certify to their non-existence inclusive of additional certifications from the employees conducting said search. The Council further ordered the Custodian to submit certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4, to the Executive Director. On July 28, 2021, the Council distributed its Interim Order to all parties, providing the Custodian five (5) business days to comply with the terms of said Order. Thus, the Custodian's response was due by close of business on August 4, 2021.

On August 3, 2021, the fourth (4<sup>th</sup>) business day after receipt of the Council's Order, the Custodian submitted certified confirmation of compliance to the Executive Director (copying the Complainant) and including six (6) outstanding summonses and a memorandum from Mr. Freitas regarding the searches conducted to locate said records.

Therefore, the Custodian complied with the Council's July 27, 2021 Interim Order because he responded in the prescribed time frame disclosing the six (6) outstanding summonses to the Complainant and simultaneously providing certified confirmation of compliance to the Executive Director.

### Knowing & Willful

OPRA states that “[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty . . .” N.J.S.A. 47:1A-11(a). OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically OPRA states “. . . [i]f the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA] . . .” N.J.S.A. 47:1A-7(e).

Certain legal standards must be considered when making the determination of whether the Custodian's actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian's actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001)); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian's actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian's actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (*id.*; Marley v. Borough of Palmyra, 193 N.J. Super.

271, 294-95 (Law Div. 1993)); the Custodian's actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

In this matter, the Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, the Custodian unlawfully denied access to the six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6. However, the Custodian disclosed multiple records to the Complainant on July 13, 2020 and complied with the Council's July 27, 2021 Interim Order. Additionally, the evidence of record does not indicate that the Custodian's violations of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian complied with the Council's July 27, 2021 Interim Order because he responded in the prescribed time frame disclosing the six (6) outstanding summonses to the Complainant and simultaneously providing certified confirmation of compliance to the Executive Director.
2. The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, the Custodian unlawfully denied access to the six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6. However, the Custodian disclosed multiple records to the Complainant on July 13, 2020 and complied with the Council's July 27, 2021 Interim Order. Additionally, the evidence of record does not indicate that the Custodian's violations of OPRA had a positive element of conscious wrongdoing or was intentional and deliberate. Therefore, the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Prepared By: Frank F. Caruso  
Executive Director

August 17, 2021



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO BOX 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**INTERIM ORDER**

**July 27, 2021 Government Records Council Meeting**

Anonymous  
Complainant

Complaint No. 2020-108

v.

Borough of Haledon (Passaic)  
Custodian of Record

At the July 27, 2021 public meeting, the Government Records Council (“Council”) considered the July 20, 2021 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian may have unlawfully denied access to at least six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6; Macek v. Bergen Cnty. Sheriff’s Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). Thus, the Custodian shall initiate a new search for the requested summonses corresponding with the above CAD report. Should the Custodian locate responsive summonses, he shall disclose them to the Complainant. Should the Custodian’s, or any other Borough employee, search fail to yield responsive records, the Custodian and those employees shall submit a certification specifically stating as such and inclusive of a detailed search explanation.
3. **The Custodian shall comply with conclusion No. 2 above within five (5) business days from receipt of the Council’s Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>1</sup>**

<sup>1</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

**certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>2</sup> to the Executive Director.<sup>3</sup>**

4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the  
Government Records Council  
On The 27<sup>th</sup> Day of July 2021

Robin Berg Tabakin, Esq., Chair  
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary  
Government Records Council

**Decision Distribution Date: July 28, 2021**

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<sup>2</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>3</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
July 27, 2021 Council Meeting**

**Anonymous<sup>1</sup>  
Complainant**

**GRC Complaint No. 2020-108**

**v.**

**Borough of Haledon (Passaic)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of fifty-two (52) Computer-Aided Dispatch (“CAD”) reports and summons(es) for one (1) of them.

**Custodian of Record:** Allan R. Susen

**Request Received by Custodian:** April 21, 2020

**Response Made by Custodian:** July 13, 2020

**GRC Complaint Received:** June 2, 2020

**Background<sup>3</sup>**

**Request:**

On April 20, 2020, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records.

**Denial of Access Complaint:**

On June 2, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian failed to respond to the subject OPRA request.

**Response:**

On July 13, 2020, the fifty-seventh (57<sup>th</sup>) business day after receipt of the subject OPRA request, the Custodian responded in writing disclosing multiple records to the Complainant including a memorandum advising that no summonses existed for CAD report 18-17463.

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Andrew Oddo, Esq., of Oddo Law Firm (Oradell, NJ).

<sup>3</sup> The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

### Statement of Information:

On July 15, 2020, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that the Borough of Haledon (“Borough”) received the Complainant’s OPRA request on April 20, 2020 at 10:08 p.m. The Custodian noted that the OPRA request was mistakenly not processed, this fact was discovered on July 7, 2020. The Custodian certified that, upon this realization, his search for the records included forwarding the subject OPRA request to the Borough Police Department. The Custodian certified that he responded on July 13, 2020 disclosing records to the Complainant.

The Custodian asserted that his failure to respond to the subject OPRA request was due to the mistaken failure to process same upon receipt. The Custodian argued that notwithstanding this mistake, he endeavored to respond after being alerted to the existence of the OPRA request on July 7, 2020.

### Additional Submissions:

On September 9, 2020, the Complainant e-mailed the GRC acknowledging receipt of the SOI. The Complainant noted that attached to the Custodian’s July 13, 2020 disclosure was a memorandum advising that no summonses for CAD report 18-17463 existed. The Complainant contended that six (6) summonses did exist, which are numbered 1603-E18-4069 through 1603-E18-4074. The Complainant contended that the Custodian failed to perform an adequate search.

On the same day, the Custodian forwarded the Complainant’s e-mail to the Borough Police Department seeking an immediate reply. The Custodian noted that the Police Department advised that no summonses existed, but that the Complainant identified six (6) individual summonses that did exist. The Custodian sought an immediate response to the Complainant’s e-mail.

## Analysis

### Timeliness

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian’s failure to respond within the required seven (7) business days results in a “deemed” denial. Id. Further, a custodian’s response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).<sup>4</sup> Thus, a custodian’s failure to respond in writing to a complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).

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<sup>4</sup> A custodian’s written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency’s official OPRA request form, is a valid response pursuant to OPRA.

In the instant matter, the Complainant argued that the Custodian failed to respond to the subject OPRA request. In the SOI, the Custodian certified that he received the subject OPRA request on April 20, 2020 after business hours but did not respond due to a mistake. The Custodian affirmed that he disclosed responsive records to the Complainant on July 13, 2020 and stated that no summonses for CAD report 18-17463 existed. Notwithstanding the forgoing, the evidence of record supports a “deemed” denial of access here.

Therefore, the Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11.

### **Unlawful Denial of Access**

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request “with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010), the Council found that the custodian did not unlawfully deny access to the requested records based on the custodian’s certification that all such records were provided to the complainant. The Council held that the custodian’s certification, in addition to the lack of refuting evidence from the complainant, was sufficient to meet the custodian’s burden of proof. See also Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Holland v. Rowan Univ., GRC Complaint No. 2014-63, *et seq.* (March 2015). However, in Macek v. Bergen Cnty. Sheriff’s Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019), the Council held that evidence contained in the record suggested that additional responsive records may exist. Based on this, the Council ordered the Custodian to perform another search and submit a certification regarding the results of that search.

Here, the Complainant initially contended that the Custodian failed to respond to the subject OPRA request. Thereafter, in the SOI, the Custodian certified that he disclosed all responsive CAD reports on July 13, 2020 and noted that no summonses for CAD report 18-17463 existed. On September 9, 2020, the Complainant disputed the non-existence of responsive summonses, stating that they numbered 1603-E18-4069 through 1603-E18-4074. On the same day, the Custodian forwarded the Complainant’s e-mail to the Borough Police Department seeking an immediate response. Notwithstanding, no further communication was received from the Custodian.

The GRC has reviewed each of correspondence submitted regarding the existence of summonses corresponding to CAD report 18-17463, as well as the arguments of the parties. Having received no explanation as to why the Custodian or Mr. Ramadan could not locate the

summonses corresponding with CAD report 18-17463, this complaint more closely mirrors the facts in Macek, GRC 2017-156 than Danis, 2009-156. That is, there is sufficient evidence to support that the Custodian failed to disclose at least six (6) summonses. In fact, the Custodian sought to address the Complainant's September 9, 2020 e-mail, but no further communication from the Borough occurred. Thus, determining that another search in this matter is appropriate and consistent with Macek.

Accordingly, the Custodian may have unlawfully denied access to at least six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6; Macek, GRC 2017-156. Thus, the Custodian shall initiate a new search for the requested summonses corresponding with the above CAD report. Should the Custodian locate responsive summonses, he shall disclose them to the Complainant. Should the Custodian's, or any other Borough employee, search fail to yield responsive records, the Custodian and those employees shall submit a certification specifically stating as such and inclusive of a detailed search explanation.

### **Knowing & Willful**

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian may have unlawfully denied access to at least six (6) summonses associated with CAD report 18-17463. N.J.S.A. 47:1A-6; Macek v. Bergen Cnty. Sheriff's Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). Thus, the Custodian shall initiate a new search for the requested summonses corresponding with the above CAD report. Should the Custodian locate responsive summonses, he shall disclose them to the Complainant. Should the Custodian's, or any other Borough employee, search fail to yield responsive records, the Custodian and those employees shall submit a certification specifically stating as such and inclusive of a detailed search explanation.
3. **The Custodian shall comply with conclusion No. 2 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each**

**redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>5</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>6</sup> to the Executive Director.<sup>7</sup>**

4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Frank F. Caruso  
Executive Director

July 20, 2021

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<sup>5</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>6</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>7</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.