



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

INTERIM ORDER

April 29, 2025 Government Records Council Meeting

Rotimi Owoh, Esq. (O.B.O. AADARI)
Complainant

GRC Complaint No. 2022-125

v.

Hillside Township Police Department (Union)
Custodian of Record

At the April 29, 2025 public meeting, the Government Records Council (“Council”) considered the April 15, 2025 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’s March 23, 2022 response was insufficient because she failed to address each request item. See N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008); Lenchitz v. Pittsgrove Twp. (Salem), GRC Complaint No. 2012-265 (Interim Order dated August 27, 2013). Specifically, the Custodian failed to indicate whether responsive agreements existed between Hillside Township and any separated police officer. The Custodian shall therefore conduct a search for responsive agreements or certify that none exists.
2. The Custodian may have unlawfully denied access to the portion of the Complainant’s March 18, 2022 OPRA request seeking disclosable personnel information under N.J.S.A. 47:1A-10. N.J.S.A. 47:1A-6. Specifically, the Custodian failed to indicate how the information was generated. Thus, the Custodian shall certify to the Council how the provided spreadsheet was generated. If the responsive personnel information was not extracted through an electronic database, the Custodian shall locate and provide the most comprehensive records containing the information. See Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012); Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008).
3. **The Custodian shall comply with conclusion Nos. 1 and 2 above within ten (10) 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 deliver¹**

¹ 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. 1:4-4,² to the Executive Director.³

4. The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 29th Day of April 2025

John A. Alexy, 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: May 1, 2025

² "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."

³ 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
April 29, 2025 Council Meeting**

**Rotimi Owoh, Esq. (on Behalf of African American
Data & Research Institute)¹
Complainant**

GRC Complaint No. 2022-125

v.

**Hillside Township Police Department (Union)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of: Names, date of hire, date of separation and reason for separation, salary, payroll record, amount and type of pension of individuals who either resigned or retired or terminated or otherwise separated from 2014 to the present. N.J.S.A. 47:1A-10.

- a. This request includes any agreement entered with each one of the separated police officer(s).
- b. When stating the reason for separation, please note that some police officers separate due to plea deal, criminal convictions, criminal charges, sentences, and or other court agreement or court proceedings that require officers to be separated from your police department and or law enforcement jobs.
- c. Some police officers separate due to internal affairs investigations within the police departments.

Custodian of Record: Brook Nieves

Request Received by Custodian: March 18, 2022

Response Made by Custodian: March 23, 2022

GRC Complaint Received: April 12, 2022

Background³

Request and Response:

On March 18, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On March 23, 2022, the Custodian responded in writing, providing a spreadsheet containing the responsive personnel information.

¹ The Complainant represents the African American Data & Research Institute.

² Represented by Gracia R. Montilus, Esq., Town Attorney.

³ 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.

Rotimi Owoh, Esq. (on behalf of African American Data & Research Institute) v. Hillside Township Police Department (Union), 2022-125 – Findings and Recommendations of the Executive Director

Denial of Access Complaint:

On April 12, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted the records did not provide the reasons for separation. The Complainant also asserted that creating a new spreadsheet or list stating “terminated” or “resigned” or “retired” is not sufficient. The Complainant also stated the response did not state whether any officers left due to a plea deal or court proceeding that precludes them from law enforcement positions. Furthermore, the Complainant asserted the time for compliance had expired.

The Complainant requested the GRC order Hillside Township (“Township”) to comply with the New Jersey Supreme Court decision Libertarians for Transparent Gov't v. Cumberland Cnty., 250 N.J. 46 (2022), issued on March 7, 2022. The Complainant also requested the GRC award counsel fees.⁴

Statement of Information:

On July 27, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on March 18, 2022. The Custodian certified she forwarded the request to the appropriate agency for an adequate response. The Custodian certified that she responded in writing on March 23, 2022, providing the spreadsheet to the Complainant.

The Custodian contended she was not obligated to perform research under OPRA, citing MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005). The Custodian also asserted OPRA only allows requests seeking government records and not information. The Custodian also contended OPRA did not obligate her to maintain government records in a specialized format to allow the requestor to perform any correlative analysis they desire citing MAG, 375 N.J. Super. at 546. The Custodian therefore argued that the complaint should be dismissed.

Additional Submissions:

On November 19, 2024, the GRC submitted a request for additional information to the Custodian. Specifically, the GRC inquired whether the provided personnel information was collected from an electronic database, and whether the spreadsheet was created via Excel. The GRC also inquired whether the Township conducted a search for agreements at the time of the request.

On December 18, 2024, the GRC submitted the request for additional information a second time to Shereefah Alexander and Jason Laryea of the Township Clerk’s Office. As of April 18,

⁴ The Complainant further noted that access to the records should have been granted under the “common law ‘right to access public records.’” However, the GRC does not have the authority to address a requestor’s common law right to access records. N.J.S.A. 47:1A-7(b); Rowan, Jr. v. Warren Hills Reg’l Sch. Dist. (Warren), GRC Complaint No. 2011-347 (January 2013); Kelly v. N.J. Dep’t of Transp., GRC Complaint No. 2010-215 (November 2011). Thus, the GRC cannot address any common law right of access to the requested records.

Rotimi Owoh, Esq. (on behalf of African American Data & Research Institute) v. Hillside Township Police Department (Union), 2022-125 – Findings and Recommendations of the Executive Director

2025, the GRC has not received a response from the Custodian nor from Ms. Alexander or Mr. Laryea.

Analysis

Sufficiency of Response

Agreements

OPRA provides that if a “custodian is unable to comply with a request for access, the custodian *shall indicate the specific basis therefor . . .* on the request form and promptly return it to the requestor.” N.J.S.A. 47:1A-5(g) (emphasis added). In Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008), the Council held that “[t]he Custodian’s response was legally insufficient because he failed to respond to each request item individually. Therefore, the Custodian has violated N.J.S.A. 47:1A-5(g).” See also Lenchitz v. Pittsgrove Twp. (Salem), GRC Complaint No. 2012-265 (Interim Order dated August 27, 2013).

Upon review, the GRC is satisfied that the Custodian provided an insufficient response. Here, the Custodian responded to the Complainant’s OPRA request by providing a spreadsheet containing responsive personnel information. However, the response failed to indicate whether any “agreement” existed between the Township and the listed officers. Furthermore, neither the Custodian nor other employees at the Township responded to the GRC’s requests for additional information inquiring whether any search for responsive agreements occurred.

Therefore, the Custodian’s March 23, 2022 response was insufficient because she failed to address each request item. See N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272; Lenchitz, GRC 2012-265. Specifically, the Custodian failed to indicate whether responsive agreements existed between the Township and any separated police officer. The Custodian shall therefore conduct a search for responsive agreements or certify that none exists.

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.

Personnel Information

Regarding personnel records, OPRA begins with a presumption against disclosure and “proceeds with a few narrow exceptions that . . . need to be considered.” Kovalcik v. Somerset Cnty. Prosecutor’s Office, 206 N.J. 581, 594 (2011). These exceptions include “an individual’s name, title, position, salary, payroll record, length of service, date of separation and the reason therefore, and the amount and type of any pension received shall be government record.” N.J.S.A. 47:1A-10 (“Section 10”).

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010), the Council determined that “name, title, position, salary, payroll record and length of service” is information which is specifically considered to be a “government record” under Section 10, and that “payroll records” must be disclosed pursuant to Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004). The Council thus held that the complainant’s March 25, 2009 request for “[t]he name, position, salary, payroll record and length of service for every [agency] employee who was employed in whole or part from January 1, 2008, to March 24, 2009,” was a valid request pursuant to OPRA. *Id.* at 5. Additionally, prior GRC case law supports the disclosure of database information regarding personnel actions. See Matthews v. City of Atlantic City (Atlantic), GRC Complaint No. 2008-123 (February 2009).

However, the Council has previously held that responding to an OPRA request for personnel information requires a custodian to provide the most comprehensive records containing responsive information. See Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012). In Valdes, the complainant sought the same personnel information at issue in the instant case. The custodian denied access since the requestor sought only information and did not identify a specific record that may contain the requested information. The Council held that OPRA did not require the custodian to extract and synthesize requested information from government records, but instead to provide the most comprehensive record containing said information, with necessary redactions. See also Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008).

In the instant matter, the Complainant requested in part Section 10 information from the Custodian. In response, the Custodian provided a spreadsheet containing the requested information. However, while such information could be provided in that format if originating from an electronic database, the Custodian failed to respond to the GRC’s request for additional information. Therefore, it is unclear whether the Section 10 information originated from an electronic database or from physical files.

Accordingly, the Custodian may have unlawfully denied access to the portion of the Complainant’s March 18, 2022 OPRA request seeking Section 10 personnel information. N.J.S.A. 47:1A-6. Specifically, the Custodian failed to indicate how the information was generated. Thus, the Custodian shall certify to the Council how the provided spreadsheet was generated. If the responsive information was not extracted through an electronic database, the Custodian shall locate and provide the most comprehensive records containing the information. See Valdes, GRC 2011-64 and Morgano, GRC 2007-156.

Prevailing Party Attorney’s Fees

The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian’s compliance with the Council’s Interim Order.

Conclusions and Recommendations

1. The Custodian's March 23, 2022 response was insufficient because she failed to address each request item. See N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008); Lenchitz v. Pittsgrove Twp. (Salem), GRC Complaint No. 2012-265 (Interim Order dated August 27, 2013). Specifically, the Custodian failed to indicate whether responsive agreements existed between Hillside Township and any separated police officer. The Custodian shall therefore conduct a search for responsive agreements or certify that none exists.
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3. **The Custodian shall comply with conclusion Nos. 1 and 2 above within ten (10) 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 deliver⁵ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁶ to the Executive Director.⁷**
4. The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Samuel A. Rosado
Senior Staff Attorney

April 15, 2025

⁵ 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.

⁶ "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."

⁷ 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.

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