



PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lieutenant Governor

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

JACQUELYN A. SUÁREZ  
Commissioner

## FINAL DECISION

### August 26, 2025 Government Records Council Meeting

Rotimi Owoh, Esq. (o/b/o African American  
Data & Research Institute)  
Complainant

Complaint No. 2022-234

v.  
Ridgewood Police Department (Bergen)  
Custodian of Record

At the August 26, 2025, public meeting, the Government Records Council (“Council”) considered the August 19, 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 unlawfully denied access to the requested complaints and summonses responsive to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian had an obligation to locate and retrieve responsive records created by Ridgewood Police Department and maintained on eCDR. See Simmons v. Mercado, 247 N.J. 24, 42, 45 (2021). Thus, the Custodian shall locate through the eCDR system those records responsive to the Complainant’s OPRA request and disclose them. The GRC notes that the Custodian is not required to disclose those complaints and summonses already sent to the Complainant on May 2, 2022.
2. **The Custodian shall comply with conclusion No. 1 above within twenty (20) business days from receipt of the Council’s Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council’s Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**
3. The Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 76 (2008). Specifically, the Custodian was ordered to locate and provide the records sought by the Complainant in accordance with prevailing case law. Further, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney’s**

**fees to be paid to Complainant within twenty (20) business days. The parties shall promptly notify the GRC in writing if a fee agreement is reached. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13.**

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 26<sup>th</sup> Day of August 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: August 28, 2025**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
August 26, 2025 Council Meeting**

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

**GRC Complaint No. 2022-234**

**v.**

**Ridgewood Police Department (Bergen)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of summonses and complaints that were issued by the Ridgewood Police Department (“RPD”) relating to “drug possession and drug paraphernalia (“CDS”), and specifically “marijuana” and “other drugs,” from 2019 to present.<sup>3</sup>

**Custodian of Record:** Chief Jacqueline Luthcke

**Request Received by Custodian:** April 14, 2022

**Response Made by Custodian:** May 2, 2022

**GRC Complaint Received:** June 1, 2022

**Background<sup>4</sup>**

**Request and Response:**

On an unknown date,<sup>5</sup> the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On April 26, 2022, Deputy Clerk Eileen Young responded in writing on behalf of Municipal Clerk Heather A. Mailander stating that “the Court” maintains the records sought and the Complainant would need to submit a judicial records request.

On May 2, 2022, the Custodian responded to the Complainant advising that RPD received the Complainant’s OPRA request on April 14, 2022.<sup>6</sup> The Custodian stated that, while performing a search, RPD was able to locate records “in a different medium.” The Custodian stated that she

---

<sup>1</sup> The Complainant represents the African American Data & Research Institute (“AADARI”) and Baffi Obafemi.

<sup>2</sup> Represented by Matthew S. Rogers, Esq., of the Law Office of Matthew S. Rogers, LLC. (Ridgewood, NJ).

<sup>3</sup> The Complainant sought additional records that are not at issue in this complaint.

<sup>4</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.

<sup>5</sup> The Complainant stated “unsure of exact date” in the Denial of Access Complaint and the OPRA request submitted by the Custodian did not contain a date.

<sup>6</sup> The Custodian’s response was on the twelfth (12<sup>th</sup>) business day, which is a “deemed” denial of access. However, the GRC will not address this issue because the Complainant did not raise it.

Rotimi Owoh, Esq. (on behalf of African American Data & Research Institute) v. Ridgewood Police Department (Bergen), 2022-234 – Findings and Recommendations of the Executive Director

was sending those located records, encompassing summonses and complaints from 2019 and 2020, with redactions for personal information, to the Complainant via e-mail and U.S. mail.

#### Denial of Access Complaint:

On June 1, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant argued that the Custodian unlawfully denied access to summonses and complaints (or CDR-1) and violated OPRA pursuant to Simmons v. Mercado, 247 N.J. 24 (2021).

The Complainant requested the GRC order RPD to comply with the OPRA request. The Complainant also requested the GRC award counsel fees.

#### Statement of Information:

On November 14, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on April 14, 2022. The Custodian certified that Ms. Young responded in writing on April 26, 2022, advising that the Complainant needed to submit a judicial records request for requested summonses and complaints. The Custodian certified that she subsequently responded in writing on May 2, 2022, advising that 2019 and 2020 records located “in a different medium” were being disclosed to the Complainant via e-mail and U.S. mail.

### Analysis

#### 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.

Additionally, the Council has previously held that criminal complaints and summonses are subject to disclosure. Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (July 2004); see also Mawhinney v. Egg Harbor City Police Dep’t (Atlantic), GRC Complaint No. 2015-85 (January 2016).

In Simmons, the complainant requested the same or similar records as those at issue in the instant matter, with the custodian asserting the records were not maintained by the Millville Police Department (“MPD”) once its officers created and submitted the records through eCDR. Id. at 32. The Court reversed the Appellate Division and found that the requested records were government records subject to disclosure under OPRA. Id. at 29. The Court found that notwithstanding which government branch created the CDR-1 and -2 forms, it is the information contained within those forms by MPD officers that is sought by AADARI. Id. at 40-41. Thus, the Court held that:

Because MPD officers create the completed CDR-1s by populating the forms with the information necessary to generate a summons and submit it to the court, there is no question that the CDR-1s are government records subject to disclosure pursuant to OPRA.

[Id.]

The Complainant filed the instant matter on June 1, 2022, stating the Custodian failed to provide the requested complaints and summonses, specifically the CDR-1 records for CDS. In the SOI, the Custodian certified that she located summonses and complaints “in a different medium” and disclosed them to the Complainant on May 2, 2022. The Custodian provided no additional arguments or statements on whether she attempted to locate records through the eCDR system.

When considering the Court’s decision in Simmons here, the Custodian had an obligation to provide the Complainant with responsive records created by RPD. Notwithstanding that RPD may have maintained physical copies of certain responsive records, the Court held that since police departments created the CDR-1s and CDR-2s when inputting information, they were government records even if the records were maintained on eCDR, the Judiciary’s electronic databases. Simmons, 247 N.J. at 42. Further, the GRC is persuaded that neither the Custodian, Ms. Young, or Ms. Mailander, endeavored to search through and produce records from eCDR. Specifically, Ms. Young directed the Complainant to a judicial records request and the Custodian certified in the SOI that she disclosed records found “in a different medium.” Moreover, the disclosed summonses and complaints encompass only 2019 and 2020; the Custodian did not disclose any for 2021 or 2022 and did not address the existence thereof in the SOI.

Accordingly, the Custodian unlawfully denied access to the requested complaints and summonses responsive to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian had an obligation to locate and retrieve responsive records created by RPD and maintained on eCDR. See Simmons, 247 N.J. at 42, 45. Thus, the Custodian shall locate through the eCDR system those records responsive to the Complainant’s OPRA request and disclose them. The GRC notes that the Custodian is not required to disclose those complaints and summonses already sent to the Complainant on May 2, 2022.

### **Prevailing Party Attorney’s Fees**

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council . . . . A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Appellate Division held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Id. at 432. Additionally, the court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008), the Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct.” (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court held that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” Id. at 603 (quoting Black’s Law Dictionary 1145 (7<sup>th</sup> ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties . . . .” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney’s fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney’s fees than the former RTKL did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney’s fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney’s fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature’s revisions therefore: (1) mandate, rather than permit, an award of attorney’s fees to a prevailing party; and (2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA.

[196 N.J. at 73-76.]

The Court in Mason further held that:

[R]equestors are entitled to attorney's fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) "a factual causal nexus between plaintiff's litigation and the relief ultimately achieved"; and (2) "that the relief ultimately secured by plaintiffs had a basis in law." Singer v. State, 95 N.J. 487, 495, cert. denied, New Jersey v. Singer, 469 U.S. 832 (1984).

[Id. at 76.]

Here, the Complainant sought complaints and summonses prepared by RPD pertaining to CDS from 2019 to present. In response, Ms. Young directed the Complainant to the judicial record request process and the Custodian disclosed summonses and complaints from 2019 and 2020 "in a different medium." The Complainant then filed the instant complaint, asserting that RPD failed to provide complaints and summonses, or CDR-1 forms.

In determining whether the Complainant is a prevailing party entitled to attorney's fees, the GRC is satisfied that the evidence of record supports a conclusion in the affirmative. The GRC found that the Custodian was obligated to provide the actual records sought from eCDR per Simmons. The Custodian was therefore required to conduct a search for the CDR-1 forms as requested. Teeters, 387 N.J. Super. at 432. Thus, a causal nexus exists between this complaint and the change in the Custodian's conduct. Mason 196 N.J. at 76. Accordingly, the Complainant is a prevailing party entitled to attorney's fees.<sup>7</sup>

Therefore, the Complainant has achieved "the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian's conduct." Teeters, 387 N.J. Super. 432. Additionally, a factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. 51. Specifically, the Custodian was ordered to locate and provide the records sought by the Complainant in accordance with prevailing case law. Further, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney's fees to be paid to Complainant within twenty (20) business days. The parties shall promptly notify the GRC in writing if a fee agreement is reached. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13.**

---

<sup>7</sup> The Council makes this determination with the understanding that the Complainant acted on behalf of a bona fide client at the time of the request. Although the Complainant's status as representing an actual client has been previously challenged, the available evidence on the record is insufficient to address that issue herein. See Owoh, Esq. (O.B.O. AADARI) v. Neptune City Police Dep't (Monmouth), GRC Complaint No. 2018-153 (April 2020) and Owoh, Esq. (O.B.O. AADARI) v. Freehold Twp. Police Dep't (Monmouth), GRC Complaint No. 2018-155 (Interim Order dated September 29, 2020).

Rotimi Owoh, Esq. (on behalf of African American Data & Research Institute) v. Ridgewood Police Department (Bergen), 2022-234 – Findings and Recommendations of the Executive Director

## **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian unlawfully denied access to the requested complaints and summonses responsive to the Complainant's OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian had an obligation to locate and retrieve responsive records created by Ridgewood Police Department and maintained on eCDR. See Simmons v. Mercado, 247 N.J. 24, 42, 45 (2021). Thus, the Custodian shall locate through the eCDR system those records responsive to the Complainant's OPRA request and disclose them. The GRC notes that the Custodian is not required to disclose those complaints and summonses already sent to the Complainant on May 2, 2022.
2. **The Custodian shall comply with conclusion No. 1 above within twenty (20) business days from receipt of the Council's Final Decision. In the circumstance where the records ordered for disclosure are not provided to the Complainant, the Council's Final Decision may be enforced in the Superior Court of New Jersey. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).**
3. The Complainant has achieved "the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian's conduct." Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 76 (2008). Specifically, the Custodian was ordered to locate and provide the records sought by the Complainant in accordance with prevailing case law. Further, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. **Based on this determination, the parties shall confer in an effort to decide the amount of reasonable attorney's fees to be paid to Complainant within twenty (20) business days. The parties shall promptly notify the GRC in writing if a fee agreement is reached. If the parties cannot agree on the amount of attorney's fees, Complainant's Counsel shall submit a fee application to the Council in accordance with N.J.A.C. 5:105-2.13.**

Prepared By: Frank F. Caruso  
Executive Director

August 19, 2025