



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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Governor

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Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

January 27, 2026 Government Records Council Meeting

Perrault Jean-Paul
Complainant

Complaint No. 2022-317

v.

City of Jersey City (Hudson)
Custodian of Record

At the January 27, 2026, public meeting, the Government Records Council (“Council”) considered the January 20, 2026, 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 failure to immediately respond in writing to the Complainant’s request for an immediate access record; namely a contract, either granting access, denying access, seeking clarification or requesting an extension of time violates N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i); Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007) and Harris v. N.J. Dep’t of Corr., GRC Complaint No. 2011-65 (August 2012), resulting in a “deemed” denial of access. Moreover, the Custodian failed to provide an explanation that would reasonably justify a delay in access to the requested record.
2. The Custodian’s June 15, 2022 response was insufficient because he failed to address each request item individually. N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
3. Notwithstanding the Custodian’s “deemed” denial, he did not unlawfully deny access to a contract between the City and Moran Towing because the Custodian certified that such a record does not exist, and the Complainant failed to submit any competent, credible evidence to refute the Custodian’s certification. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).

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 27th Day of January 2026

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: February 2, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 27, 2026 Council Meeting**

**Perrault Jean-Paul¹
Complainant**

GRC Complaint No. 2022-317

v.

**City of Jersey City (Hudson)²
Custodial Agency**

Records Relevant to Complaint: Copy via e-mail of “[c]urrent contract between Jersey City Police Department and Moran Towing for Towing Vehicles.”³

Custodian of Record: Sean J. Gallagher
Request Received by Custodian: June 10, 2022
Response Made by Custodian: June 15, 2022
GRC Complaint Received: July 6, 2022

Background⁴

Request and Response:

On June 10, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On June 15, 2022, the third (3rd) business day following receipt of said request, the Custodian responded in writing informing the Complainant to log on to the Jersey City (“City”) OPRA Center (Open Public Records Act – C002148-061422) to retrieve responsive documents.

Denial of Access Complaint:

On July 6, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that on June 10, 2022, he submitted a request for two (2) items. The Complainant stated that the Custodian disclosed a record responsive to his request for item number 1 but failed to address or disclose the contract responsive to his request item number 2. The Complainant stated that because the Custodian failed to disclose the requested towing contract, the request is now a “deemed” denial.

¹ No legal representation listed on record.

² Represented by Mailise Marks, Esq. (City of Jersey City, NJ).

³ There were other records requested that are not relevant to this complaint.

⁴ 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.

Supplemental Submission:

On July 20, 2022, via the online OPRA portal, the Custodian notified the Complainant that there are no records responsive to his request for a contract between the City and Moran Towing.

Statement of Information:

On July 21, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on June 10, 2022, and responded in writing on June 15, 2022, providing a hyperlink to responsive documents. The Custodian further certified that he erred in neglecting to inform the Complainant that there are no records responsive to his request for the towing contract.

The Custodian certified that the Complainant never informed him that he did not receive the towing contract and instead filed the within complaint. The Custodian certified that if the Complainant contacted him to inquire about the contract, he would have informed the Complainant that no records were located responsive to the request. The Custodian asserted that Grieco v. Borough of Haddon Heights, 449 N.J. Super. 513 (App. Div. 2015), is a case that involved a failure to provide documents as a result of inadvertent human error. The Custodian certified that the Appellate Division in Grieco stated, “[i]t is clear that defendants neglected to turn over the subject document not out of any ill will or malice, but through simple human error When alerted to the mistake, defendants turned over the document plaintiff sought within a reasonable time.” Id. at 520.

The Custodian certified that the City complied with the OPRA request in a timely manner, and his failure to mention in the June 10, 2022 response that no towing contract could be located was inadvertent error. The Custodian certified that he corrected the error on July 20, 2022, by informing the Complainant that no towing contract responsive to the request was located; therefore, the complaint should be dismissed.

Additional Submissions:

On July 21, 2022, the GRC e-mailed the Custodian a request for additional information. The GRC informed the Custodian that he certified in the SOI that he responded on June 15, 2022, and again on July 20, 2022; however, in item 8 of the SOI the Custodian attached only a police impound report. The GRC asked the Custodian to provide the GRC with copies of his responses.

On July 21, 2022, the Custodian replied to the GRC’s request for additional information. The Custodian certified that the City communicates with OPRA requestors through GovQA online portal software, which transmits communications via e-mail. The Custodian attached to the certification copies of his responses in satisfaction of SOI item 8.

On July 21, 2022, the Complainant e-mailed a letter to the GRC objecting to the Custodian’s SOI. The Complainant stated that he waited over three (3) weeks for the Custodian to respond to his request for the towing contract before filing the complaint on July 6, 2022. The Complainant stated that the Custodian’s failure to timely respond to an OPRA request results in a

“deemed” denial of the request pursuant to N.J.S.A. 47:1A-1.1 et seq. The Complainant further stated that, contrary to the Custodian’s assertion, under OPRA he had no duty to follow up on his request. The Complainant argued that the Custodian’s alleged oversight as a reason for violating OPRA is not acceptable.

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).⁵ 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).

Barring extenuating circumstances, a custodian’s failure to respond immediately in writing to a complainant’s OPRA request for immediate access records, either granting access, denying access, seeking clarification, or requesting an extension of time, also results in a “deemed” denial of the request pursuant to N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i).⁶ See Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007) (holding that the custodian was obligated to notify the complainant immediately as to the status of “immediate access” records). See also Harris v. N.J. Dep’t of Corr., GRC Complaint No. 2011-65 (August 2012).

Here, the Complainant’s request sought “immediate access” records, viz., a towing contract. Contracts are immediate access records pursuant to N.J.S.A. 47:1A-5(e). The Custodian certified in the SOI that he inadvertently erred by failing to address the towing contract in his June 15, 2022 response to the Complainant. However, even if the Custodian did address the towing contract in the response, the evidence of record reveals that he did not respond until the third (3rd) business day following receipt of the request, which would not have been an immediate response. The Custodian finally did address the Complainant’s request for the contract on July 20, 2022, following receipt of the complaint. Thus, the evidence of record supports a violation by the Custodian of OPRA’s immediate access requirement, resulting in a “deemed” denial of access.

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 immediately

⁵ 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.

⁶ OPRA lists immediate access records as “budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.” N.J.S.A. 47:1A-5(e). The Council has also determined that invoices are “immediate access” records. See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2012-03 (April 2013).

respond in writing to the Complainant's request for an immediate access record; namely a contract, either granting access, denying access, seeking clarification or requesting an extension of time violates N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i); Herron, GRC 2006-178 and Harris, GRC 2011-65, resulting in a "deemed" denial of access. Moreover, the Custodian failed to provide an explanation that would reasonably justify a delay in access to the requested record.

Sufficiency of Response

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).

Here, the Custodian responded to the Complainant's OPRA request on June 15, 2022, informing the Complainant to log on to the City's OPRA Center to retrieve responsive documents. However, the evidence of record reveals that the document the Complainant retrieved from the OPRA Center was responsive to a request item that is not relevant to the instant complaint. If the Custodian responded to each request item individually, he would have addressed the request item at issue in this complaint; however, the Custodian failed to do so, resulting in an insufficient response.

Therefore, the Custodian's June 15, 2022 response was insufficient because he failed to address each request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.

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 Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005), the custodian certified that no records responsive to the complainant's request for billing records existed and the complainant submitted no evidence to refute the custodian's certification regarding said records. The GRC determined that, because the custodian certified that no records responsive to the request existed and no evidence existed in the record to refute the custodian's certification, there was no unlawful denial of access to the requested records.

Here, the Custodian certified in the SOI that that there is no towing contract responsive to the request, and so notified the Complainant on July 20, 2022. Moreover, there is nothing in the

evidence of record to indicate that the Complainant submitted any evidence to contradict the Custodian's certification.

As such, notwithstanding the Custodian's "deemed" denial, he did not unlawfully deny access to a contract between the City and Moran Towing because the Custodian certified that such a record does not exist and the Complainant failed to submit any competent, credible evidence to refute the Custodian's certification. Pusterhofer, GRC 2005-49.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to immediately respond in writing to the Complainant's request for an immediate access record; namely a contract, either granting access, denying access, seeking clarification or requesting an extension of time violates N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i); Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007) and Harris v. N.J. Dep't of Corr., GRC Complaint No. 2011-65 (August 2012), resulting in a "deemed" denial of access. Moreover, the Custodian failed to provide an explanation that would reasonably justify a delay in access to the requested record.
2. The Custodian's June 15, 2022 response was insufficient because he failed to address each request item individually. N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
3. Notwithstanding the Custodian's "deemed" denial, he did not unlawfully deny access to a contract between the City and Moran Towing because the Custodian certified that such a record does not exist, and the Complainant failed to submit any competent, credible evidence to refute the Custodian's certification. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

Prepared By: John E. Stewart

January 20, 2026⁷

⁷ This complaint was prepared for adjudication at the Council's November 7, 2024 meeting, but could not be adjudicated due to lack of quorum.