



State of New Jersey

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Commissioner

FINAL DECISION

July 29, 2025 Government Records Council Meeting

Thomas Ciszak
Complainant

Complaint No. 2023-148

v.

City of Trenton (Mercer)
Custodian of Record

At the July 29, 2025, public meeting, the Government Records Council (“Council”) considered the July 22, 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 did not bear his burden of proof that he timely responded to the Complainant’s request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s request either granting access, denying access, seeking clarification or requesting an extension of time within the extended time frame results in a “deemed” denial of the Complainant’s 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 dated October 31, 2007). See also Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008).
2. The Complainant’s request is invalid. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Elcavage v. West Milford Twp., GRC Complaint No. 2009-07 (April 2010). Specifically, the subject request failed to identify a sender, recipient and specific date or range of dates during which the email(s) were transmitted. Further, the Custodian’s efforts to accommodate the Complainant’s request did not cure the validity issue. See Ciszewski v. Newton Police Dep’t (Sussex), GRC Complaint No. 2013-90 (October 2013); Gartner v. Borough of Middlesex (Middlesex), GRC Complaint No. 2014-203 (Interim Order dated February 24, 2015). Thus, the Custodian lawfully denied access to the subject OPRA request.

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 29th Day of July 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: July 31, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 29, 2025 Council Meeting**

**Thomas Ciszak¹
Complainant**

GRC Complaint No. 2023-148

v.

**City of Trenton (Mercer)²
Custodial Agency**

Records Relevant to Complaint: Copies of “emails and text messages that have the words ‘Kadja Manuel’ or any combination of the quoted phrases (i.e.: Manuel Kadja) in them being sent to and from city-assigned devices. Devices such as mobile phones, iPads, and other city-owned electronic devices.”³

Custodian of Record: Brandon Garcia

Request Received by Custodian: June 8, 2023

Response Made by Custodian: June 15, 2023; June 27, 2023; August 14, 2023

GRC Complaint Received: June 27, 2023

Background⁴

Request and Response:

On June 8, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the original Custodian seeking the above-mentioned records. On June 15, 2023, the fifth (5th) business day after receipt of the OPRA request, City Clerk employee Jeramine Lee responded in writing on behalf of the Custodian extending the response timeframe until June 22, 2023.

Denial of Access Complaint:

On June 27, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian did not respond to his request within the statutorily mandated and extended time frames. The Complainant further stated that the Custodian failed to advise him of any further delays.

¹ No legal representation listed on record.

² No legal representation listed on record.

³ The Complainant’s request sought additional documents that are not at issue in this Denial of Access 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 Response:

On June 27, 2023, after receiving a copy of the Complainant's Denial of Access Complaint, the Custodian responded in writing advising the Complainant that his request was invalid because it required "open ended research and fail[ed] to identify specific records sought." The Custodian stated that the Complainant's request failed to state a specific time frame or identify a sender or recipient of the requested records.

Statement of Information:

On July 10, 2023, the GRC sent the Custodian a request to file the Statement of Information ("SOI"). Having received no response, the GRC sent a "No Defense" letter to the Custodian on August 31, 2023, requesting a completed SOI within three (3) business days of receipt and noting that failure to submit an SOI could lead to an adjudication based solely on the Complainant's submission. N.J.A.C. 5:105-2.4(g).

Supplemental Response (cont'd):

On August 14, 2023, City Clerk employee Jorge Osoria responded in writing on behalf of the Custodian sharing 178 responsive records with the Complainant via One Drive.

Statement of Information (cont'd):

On January 23, 2025, the Custodian e-mailed the GRC apologizing for not submitting an SOI for this complaint. The Custodian asserted that this failure was due to "a misunderstanding of internal procedures." The Custodian requested an extension of time to submit the SOI through January 29, 2025. On January 24, 2025, the GRC responded granting the requested extension and noted that no further extensions would be granted.

On January 29, 2025, the Custodian filed an SOI. The Custodian certified that he received the Complainant's OPRA request on June 8, 2023. The Custodian certified that a search conducted by Mr. Osoria resulted in 178 responsive .pdf files, which on his behalf Mr. Osoria disclosed to the Complainant on August 14, 2023 via a shared One Drive folder. The Custodian certified that any redactions were made in accordance with N.J.S.A. 47:1A-1 and Burnett v. Cnty. of Bergen, 198 N.J. 408 (2009).

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 dated October 31, 2007).

The GRC has also addressed the issue of requests for additional time to respond to OPRA requests. In Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008), the custodian responded in writing on the fifth (5th) business day after receipt of the complainant's March 19, 2007 OPRA request seeking an extension of time until April 20, 2007. Then on April 20, 2007, the custodian responded stating that the requested records would be provided later in the week. Id. The evidence of record showed that no records were provided until May 31, 2007. Id. The GRC held that:

The Custodian properly requested an extension of time to provide the requested records to the Complainant by requesting such extension in writing within the statutorily mandated seven (7) business days pursuant to N.J.S.A. 47:1A-5(g) and N.J.S.A. 47:1A-5(i) . . . however . . . [b]ecause the Custodian failed to provide the Complainant access to the requested records by the extension date anticipated by the Custodian, the Custodian violated N.J.S.A. 47:1A-5(i) resulting in a "deemed" denial of access to the records.

[Id.]

Here, the Complainant submitted his OPRA request on June 8, 2023. Mr. Lee responded in writing on behalf of the Custodian on June 15, 2023, extending the response time frame through June 22, 2023. The Complainant subsequently filed this complaint on June 27, 2023, asserting that the Custodian failed to respond within the statutory and extended time frames. In the SOI, the Custodian certified that he received the subject request on June 8, 2023. The Custodian certified that Mr. Lee responded in writing on June 15, 2023, extending the response timeframe until June 22, 2023. However, the Custodian did not respond again until June 27, 2023, after the filing of this complaint. Thus, the evidence of record indicates that while the Custodian, through Mr. Lee, responded in a timely manner extending the response time frame, the Custodian ultimately failed to respond again until after the expiration thereof, 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 request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's request either granting access, denying access, seeking clarification or requesting an extension of time within the extended time frame results in a "deemed" denial of the Complainant's request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11. See also Kohn, GRC 2007-124.

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.

Validity of Request

The New Jersey Appellate Division has held that:

While OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records “readily accessible for inspection, copying, or examination.”* N.J.S.A. 47:1A-1.

[MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005) (emphasis added).]

The court reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (emphasis added).]

The court further held that “[u]nder OPRA, *agencies are required to disclose only ‘identifiable’ government records* not otherwise exempt . . . In short, OPRA does not countenance open-ended searches of an agency's files.” Id. (emphasis added). Bent v. Stafford Police Dep’t., 381 N.J. Super. 30, 37 (App. Div. 2005);⁶ N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Invalid OPRA requests typically fall into three (3) categories. The first is a request that is overly broad (“any and all,” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. See e.g. Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See e.g. Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

⁶ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

In Elcavage v. West Milford Twp., GRC Complaint No. 2009-07 (April 2010), the GRC established specific criteria deemed necessary to establish a valid request for e-mails under OPRA. The Council determined that to be valid, such requests must contain (1) the content and/or subject of the email, (2) the specific date or range of dates during which the email(s) were transmitted, and (3) the identity of the sender and/or the recipient thereof. Id. See also Sandoval v. N.J. State Parole Bd., GRC Complaint No. 2006-167 (Interim Order dated March 28, 2007). The Council has also applied the criteria set forth in Elcavage to other forms of correspondence, such as letters and text messages. See *e.g.* Armenti v. Robbinsville Bd. of Educ., GRC 2009-154 (Interim Order dated May 24, 2011); Alt v. City of Vineland (Cumberland), GRC 2013-205 (June 2014). The GRC notes that the Council has determined that requests seeking correspondence but omitting the specific date or range of dates are invalid. See Tracey-Coll v. Elmwood Park Bd. of Educ. (Bergen), GRC Complaint No. 2009-206 (June 2010); Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2013-118 (January 2014). The Council has also found that an OPRA request not containing a sender and/or recipient is invalid. See Caggiano v. N.J. Office of the Governor, GRC Complaint No. 2015-276 (Final Decision dated November 13, 2018).

Here, the request at issue seeks e-mails and text messages containing the words ‘Kadja Manuel’ (or a similar combination thereof), that were sent to and from city-assigned devices, such as mobile phones, iPads, and other city-owned electronic devices. The Custodian denied access to this request as invalid, stating it required “open ended research and fail[ed] to identify specific records sought.”

Upon review, the GRC agrees that the subject request was invalid because of its failure to identify a sender, recipient, or a specific date or range of dates for the records sought. MAG, 375 N.J. Super. 534; Elcavage, GRC 2009-07. As presented the subject request would leave the Custodian to conduct research to determine who was issued City-owned devices before conducting a search for potentially responsive emails, text messages, and other communications containing the words “Kadja Manuel” (or a similar combination thereof). Without these specific identifiers, such as a sender’s name, recipient’s name, or a specific date or range of dates, the Custodian would be required to conduct an open-ended search for responsive records, which OPRA does not contemplate. Id. Thus, the GRC is satisfied that the subject request is invalid, as it clearly omits the requisite criteria provided for in precedential case law.

Notwithstanding, the GRC is compelled to address the Custodian’s efforts to accommodate the subject OPRA request during the pendency of this complaint. Specifically, although the Custodian initially denied access to the subject request as invalid, he accommodated the Complainant’s request by disclosing one hundred seventy-eight (178) responsive .pdf files via a shared One Drive folder on August 14, 2023. In the SOI, the Custodian certified that Mr. Osoria conducted a search for responsive records and certified to the August 14, 2023 disclosure.

A similar issue was addressed by the court in Burke v. Brandes, 429 N.J. Super. 169 (App. Div. 2012), where the court held that the defendant “performed a search and was able to locate records responsive . . .” which “. . . belied any assertion that the request was lacking in specificity or was overbroad.” Id. at 177. See also Gannett v. Cnty. of Middlesex, 379 N.J. Super. 205 (App. Div. 2005) (holding that “[s]uch a voluntary disclosure of most of the documents sought . . .

constituted a waiver of whatever right the County may have had to deny Gannett's entire OPRA request on the ground that it was improper.” Id. at 213).

Generally, in situations where a request was overly broad on its face but the custodian was able to locate records, the Council followed Burke, in determining that the request contained sufficient information for record identification. See Bond v. Borough of Washington (Warren), GRC Complaint No. 2009-324 (Interim Order dated March 29, 2011); Verry v. Borough of South Bound Brook (Somerset), GRC Complaint No. 2010-302 (Interim Order dated January 31, 2012). However, there have been instances where, notwithstanding the custodian’s ability to locate certain records, the Council has determined that the request was nevertheless invalid. See Ciszewski v. Newton Police Dep’t (Sussex), GRC Complaint No. 2013-90 (October 2013) at 4-5; Gartner v. Borough of Middlesex (Middlesex), GRC Complaint No. 2014-203 (Interim Order dated February 24, 2015).

Similar to Ciszewski and Gartner, the request here required research that the Custodian was not obligated to perform. Thus, although Mr. Osoria undertook the task of locating records, which were disclosed to the Complainant, the invalid nature of the request makes it impossible to ensure that all records falling within the confines of the request were located and disclosed. See also Wolosky v. Twp. of Booton (Morris), GRC Complaint No. 2010-243 (February 2012). Based on this, the GRC is persuaded that the facts of this complaint are more in line with the preceding case law and distinguishable from Burke.

Accordingly, the Complainant’s request is invalid. See MAG, 375 N.J. Super. at 546; Bent, 381 N.J. Super. at 37; N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC 2007-151; Elcavage, GRC 2009-07. Specifically, the subject request failed to identify a sender, recipient and specific date or range of dates during which the email(s) were transmitted. Further, the Custodian’s efforts to accommodate the Complainant’s request did not cure the validity issue. See Ciszewski, GRC 2013-90; Gartner, GRC 2014-203. Thus, the Custodian lawfully denied access to the subject OPRA request.

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 request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s request either granting access, denying access, seeking clarification or requesting an extension of time within the extended time frame results in a “deemed” denial of the Complainant’s 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 dated October 31, 2007). See also Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008).
2. The Complainant’s request is invalid. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super.

166 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Elcavage v. West Milford Twp., GRC Complaint No. 2009-07 (April 2010). Specifically, the subject request failed to identify a sender, recipient and specific date or range of dates during which the email(s) were transmitted. Further, the Custodian's efforts to accommodate the Complainant's request did not cure the validity issue. See Ciszewski v. Newton Police Dep't (Sussex), GRC Complaint No. 2013-90 (October 2013); Gartner v. Borough of Middlesex (Middlesex), GRC Complaint No. 2014-203 (Interim Order dated February 24, 2015). Thus, the Custodian lawfully denied access to the subject OPRA request.

Prepared By: Jennifer C. Howell
Staff Attorney

July 22, 2025