



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

April 28, 2026 Government Records Council Meeting

Kevin Kearns
Complainant

Complaint No. 2023-197

v.

Township of Pemberton (Burlington)
Custodian of Record

At the April 28, 2026, public meeting, the Government Records Council (“Council”) considered the April 21, 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 has borne her burden of proof that a special service charge is warranted and reasonable. See N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-5(c); Courier Post v. Lenape Reg'l High Sch. Dist., 360 N.J. Super. 191, 199 (Law Div. 2002); Rivera v. Rutgers, The State Univ. of N.J., GRC Complaint No. 2009-311 (Interim Order dated May 29, 2012). See also Kearns v. Glassboro Police Dep't (Gloucester), GRC Complaint No. 2023-173 (February 2025). Specifically, Thus, the Custodian shall review, redact (if applicable), and disclose to the Complainant the responsive records upon remittance of the proposed special service charge of \$182.88.
2. **The Complainant shall comply with conclusion No. 1 above within ten (10) business days from receipt of this Order by delivering to the Custodian (a) payment of the special service charge or (b) a statement declining to purchase the records. The Complainant's failure to take any action within said time frame shall be construed the same as (b) above and the Custodian shall no longer be required to disclose the records pursuant to N.J.S.A. 47:1A-5 and Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006). Should the Complainant remit payment, the Custodian shall provide access to the responsive records within twenty (20) business days following receipt of said payment.**
3. **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).**

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 28th Day of April 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: April 30, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
April 28, 2026 Council Meeting**

**Kevin Kearns¹
Complainant**

GRC Complaint No. 2023-197

v.

**Township of Pemberton (Burlington)²
Custodial Agency**

Records Relevant to Complaint: Copies of body-worn camera (“BWC”) footage from all officers responding to “domestic call involving an intoxicated man” that “led to a Use of Force” on March 23, 2022.

Custodian of Record: Amy P. Cosnoski
Request Received by Custodian: July 18, 2023
Response Made by Custodian: July 31, 2023
GRC Complaint Received: August 22, 2023

Background³

Request and Response:

On July 17, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On July 31, 2023, Ms. Sunshine Dashiell responded in writing on behalf of the Custodian extending the response time frame through August 14, 2023.

On August 2, 2023, Ms. Dashiell responded in writing advising that the underlying incident involved multiple officers and hours of resulting footage. Ms. Dashiell stated that this footage would need to be reviewed, redacted, and copied in accordance with the Attorney General’s (“AG”) Guidelines but that it would take approximately six (6) hours. Ms. Dashiell asked the Complainant if he wished to narrow his OPRA request to a specific officer. Ms. Dashiell stated that, if not, the Township of Pemberton (“Township”) would impose a special service charge of \$182.88 due to the extraordinary expenditure of time and effort to respond to the request and the substantial disruption to operations that would result. Ms. Dashiell noted that seeking a specific officer’s footage would not incur a cost, and asked the Complainant how he wished to proceed.

¹ No legal representation listed on record.

² Represented by Patrick F. Varga, Esq., of Dasti, Murphy, McGuckin, Ulaky & Connors (Forked River, NJ).

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.

Later on August 2, 2023, the Complainant objected to the proposed special service charge. The Complainant argued that N.J.S.A. 47:1A-5(c) contained no language allowing the Township to assess a special service charge and that BWC footage is not “printed matter.” The Complainant contended that the charge was an attempt to withhold access, and that offering only a “limited view of the incident” at no cost is “not acceptable.” The Complainant asked Ms. Dashiell to reconsider the issue and advise if the Township intended to impose the charge. On August 21, 2023, Ms. Dashiell advised that, under N.J.S.A. 47:1A-5(d), the Township was permitted to assess a special service charge for “extensive use of technology or for labor costs” associated therewith. Ms. Dashiell advised that the Township did not have specific employee for conducting frame-by-frame redactions and would need to remove an employee from their normal responsibilities to complete the OPRA request. Ms. Dashiell noted that the lowest paid employee trained on the BWC system earns \$30.38 an hour, for which an estimated six (6) hours would result in the proposed fee of \$182.88. Ms Dashiell thus asserted that the fee was warranted and asked the Complainant how he would like to proceed.

Denial of Access Complaint:

On August 22, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant disputed the proposed special service charge as an unlawful denial of access contending that the Custodian provided no evidence to suggest that his request is extraordinary in nature. The Complainant asserted that the GRC should require the Custodian to complete a 14-point analysis.

The Complainant also argued that Ms. Dashiell’s citation to N.J.S.A. 47:1A-5(d) does not apply here because he is not asking the Township to convert BWC footage to a different medium. The Complainant argued that the charge was an attempt to “stifle” his access and that the public “should never have to pay hundreds of dollars” to obtain government records. The Complainant also took issue with the Township’s position that BWC footage from one officer is not extraordinary and questioned the legitimacy of that position by suggesting he could submit individual OPRA requests for each officer’s footage. The Complainant thus contended that the proposed charge is unlawful under OPRA.

Statement of Information:

On September 28, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that the receipt date of the Complainant’s OPRA request was of no moment here because the only issue was the proposed special service charge. The Custodian certified that, following a brief extension of time, Ms Dashiell responded in writing on August 2, 2023, proposing a special service charge of \$182.88 to review and produce over six (6) hours of video from four (4) police officers. The Custodian stated that the Complainant objected to the proposed charge and filed this complaint.

The Custodian argued that both N.J.S.A. 47:1A-5(c) and (d) supports the Township’s special service charge. The Custodian certified that her responses to the 14-point analysis are as follows:

1. What records are requested?

Response: Over six (6) hours of BWC footage from four (4) officers.

2. Give a general nature description and number of the government records requested.

Response: See above, noting that videos are approximately two hours each in total length.

3. What is the period of time over which the records extend?

Response: Less than one (1) day.

4. Are some or all of the records sought archived or in storage?

Response: No.

5. What is the size of the agency (total number of employees)?

Response: The Township Police Department is comprised of fifty-two (52) employees including officers and clerical staff.

6. What is the number of employees available to accommodate the records request?

Response: Seven (7) employees are available to accommodate the request: one (1) Detective for redaction and the Custodian to compile and prepare the written response.

7. To what extent do the requested records have to be redacted?

Response: The BWC footage needs to be reviewed and redacted to remove depictions of the victim's home interiors, statements, captures of personal information, police computer monitors, and internal layout of the Police Department, all of which is exempt under N.J.S.A. 47:1A-1, N.J.S.A. 47:1A-1.1, and the AG's Guidelines.

8. What is the level of personnel, hourly rate and number of hours, if any, required for a government employee to locate, retrieve, and assemble the records for copying?

Response: Kelly Cantwell will be required to spend six (6) hours at a cost of \$30.48 per hour to review all footage frame by frame to redact (by blurring and muting, where necessary) privileged portions of video, which on average takes three (3) hours for every hour of video. Additional collaboration with a Police Department Sergeant (\$58.28 per hour), the Custodian and administrative staff is also required, but the Township did not include any of those calculations.

9. What is the level of personnel, hourly rate, and number of hours, if any, required for a government employee to monitor the inspection or examination of the records requested?

Response: See No. 8 above.

10. What is the level of personnel, hourly rate, and number of hours, if any, required for a government employee to return records to their original storage place?

Response: See No. 8 above.

11. What is the reason that the agency employed, or intends to employ, the particular level of personnel to accommodate the records request?

Response: Ms. Cantwell is the lowest paid employee trained in both using the required computer redaction software and recognizing redactable material.

12. Who (name and job title) in the agency will perform the work associated with the records request and that person's hourly rate?

Response: Ms. Cantwell at \$30.48 per hour (after subtracting fringe benefits).

13. What is the availability of information technology and copying capabilities?

Response: None.

14. Give a detailed estimate categorizing the hours needed to identify, copy or prepare for inspection, produce, and return the requested documents.

Response: It would take less than an hour to identify the records (not included in the charge). Ms. Cantwell would need six (6) hours to review all videos and perform the necessary redactions. An additional two (2) to four (4) hours are needed for the Sergeant to review the redacted record (not included in the charge). Thus, the total amount of time needed to complete the OPRA request is eight (8) to ten (10) hours.

Analysis

Special Service Charge

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.

Whenever a records custodian asserts that fulfilling an OPRA records request requires an

“extraordinary” expenditure of time and effort, a special service charge may be warranted pursuant to N.J.S.A. 47:1A-5(c). In this regard, OPRA provides that:

Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an *extraordinary expenditure of time and effort to accommodate the request*, the public agency may charge, in addition to the actual cost of duplicating the record, a *special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies . . .*

[Id. (emphasis added).]

The determination of what constitutes an “extraordinary expenditure of time and effort” under OPRA must be made on a case-by-case basis and requires an analysis of a variety of factors. These factors were discussed in Courier Post v. Lenape Reg’l High Sch. Dist., 360 N.J. Super. 191, 199 (Law Div. 2002). There, the plaintiff publisher filed an OPRA request with the defendant school district, seeking to inspect invoices and itemized attorney bills submitted by four law firms over a period of six and a half years. Id. at 193. Lenape assessed a special service charge due to the “extraordinary burden” placed upon the school district in responding to the request. Id.

Based upon the volume of documents requested and the amount of time estimated to locate and assemble them, the court found the assessment of a special service charge for the custodian’s time was reasonable and consistent with N.J.S.A. 47:1A-5(c). Id. at 202. The court noted that it was necessary to examine the following factors in order to determine whether a records request involves an “extraordinary expenditure of time and effort to accommodate” pursuant to OPRA: (1) the volume of government records involved; (2) the period of time over which the records were received by the governmental unit; (3) whether some or all of the records sought are archived; (4) the amount of time required for a government employee to locate, retrieve and assemble the documents for inspection or copying; (5) the amount of time, if any, required to be expended by government employees to monitor the inspection or examination; and (6) the amount of time required to return the documents to their original storage place. Id. at 199.

The court determined that, in the context of OPRA, the term “extraordinary” will vary among agencies depending on the size of the agency, the number of employees available to accommodate document requests, the availability of information technology, copying capabilities, the nature, size and number of documents sought, as well as other relevant variables. Id. at 202. “[W]hat may appear to be extraordinary to one school district might be routine to another.” Id.

In Rivera v. Rutgers, The State Univ. of N.J., GRC Complaint No. 2009-311 (Interim Order dated May 29, 2012), the complainant sought in part motor vehicle recording (“MVR”) footage from the Rutgers University Police Department (“RUPD”). The custodian certified that there was one (1) out of the seventy-five (75) employees qualified to fulfill the complainant’s OPRA request. The employee certified that he spent approximately twelve (12) hours fulfilling the entire request, but RUPD charged only for the two (2) hours spent locating and copying the requested MVR footage on his work computer. The employee also certified that, while creating a copy of the

footage, he was unable to perform any other work on his computer. The Council held that the special service charge was warranted due to the disruption to the employee's regular duties and the fact that the RUPD did not charge the entire time expended to fulfill the request.

Although decided during the pendency of this complaint, in Kearns v. Glassboro Police Dep't (Gloucester), GRC Complaint No. 2023-173 (February 2025), the Council recently reviewed a similar request for video footage. There, the custodian assessed a special service charge of \$359.98 comprised of hourly rates from two (2) individuals: 5.5 hours at a rate of \$59.67 to review the footage and 1 hour at a rate of \$31.79 conduct administrative tasks associated with the request. The Council relied on Rivera, GRC 2009-311 in holding that the special service charge was warranted. However, the Council found that the charge should be reduced by \$31.79 because the additional hour for administrative work was unreasonable. The Council thus held that the complainant remit \$328.19 to obtain the responsive footage.

In complaints where the GRC is tasked with addressing a special service charge dispute, it must decide first whether the charge was warranted. If the GRC reaches a conclusion that the charge was warranted, then it must address whether the fee was reasonable. See, e.g., Rivera, GRC 2009-311; Palkowitz v. Borough of Hasbrouck Heights (Bergen), GRC Complaint No. 2014-302 (Interim Order dated May 26, 2015).

Here, the Custodian provided in her SOI a 14-point analysis that reflects the GRC's analytical framework outlined in Courier Post, 360 N.J. Super. 199, regarding the proper assessment of a special service charge. The Complainant's OPRA request sought BWC from a domestic call. The Custodian certified that the responsive footage totaled over six (6) hours from four (4) officers. The Custodian argued that the proposed charge of \$182.88 represents six (6) hours of time for Ms. Cantwell to review and redact the responsive records. The Custodian affirmed that two (2) to four (4) additional hours of work would be required but were not included in the total proposed charge. The Custodian certified that seven (7) of the fifty two (52) Police Department employees had the expertise necessary to comply with the request, and Ms. Cantwell was the lowest paid employee among them.

Based on the 14-point analysis and SOI provided by the Custodian, the GRC is persuaded that the facts here are like those in Kearns, GRC 2023-173. In Kearns, the agency's size was sixty five (65) and the employees capable of performing the necessary work was two (2), whereas here the agency size is fifty two (52) and the number of employees capable of performing the necessary work here is seven (7). Further, there is a similar number of recordings and hours estimated to review and disclose the records. Based on the forgoing, the GRC is persuaded that a special service charge is warranted here.

Now that the GRC has determined that a special service charge is warranted here, it must determine whether the total proposed charge of \$182.88 was reasonable. In Courier Post, 360 N.J. Super. at 204, the court held that it would be appropriate to calculate the hourly wage rates of the clerical and professional staff involved in satisfying a request and multiplying those figures by the total hours spent, assuming that the custodian can prove that the professional level of human resource was needed to fulfill the request. Thus, as part of the calculation of a special service

charge, a custodian must prove that same was based upon the lowest paid, qualified employee's hourly rate to perform the work required to respond to the subject OPRA request.

Here, the special service charge is based on Ms. Cantwell's time spent reviewing and redacting the responsive footage. The Custodian certified that Ms. Cantwell is the lowest paid employee capable of conducting the review and redactions of the footage. Further, the Custodian identified an additional two (2) to four (4) hours of work that are not included for a total charge estimated at \$116.56 to \$233.12. The Custodian affirmed that the total time needed to complete the OPRA request was eight (8) to ten (10) hours.

Upon review of the facts and certifications submitted, as well as prior decisions in Rivera, GRC 2009-311, and Kearns, GRC 2023-173, the GRC is persuaded that the proposed fee was reasonable. Specifically, the Custodian identified the lowest paid employee capable of performing the work necessary to disclose the responsive footage. Further, the Custodian identified additional time at higher rates that was not included in the total proposed special service charge. These factors taken together provide sufficient support that the charge is reasonable on the nature of the work necessary to produce the responsive recordings with redactions.

Accordingly, the Custodian has borne her burden of proof that a special service charge is warranted and reasonable. See N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-5(c); Courier Post, 360 N.J. Super. 191; Rivera, 2009-311. See also Kearns, GRC 2023-173. Specifically, Thus, the Custodian shall review, redact (if applicable), and disclose to the Complainant the responsive records upon remittance of the proposed special service charge of \$182.88.

In closing, because the GRC is finding that the charge is warranted here, it does not address the Complainant's assertion that N.J.S.A. 47:1A-5(c) does not contemplate the imposition of a special service charge for any records other than in "printed material." Further, the GRC does not address the Complainant's proposed hypothetical of whether several requests for individual videos would have resulted in a special service charge because that is not the scenario presented here.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian has borne her burden of proof that a special service charge is warranted and reasonable. See N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-5(c); Courier Post v. Lenape Reg'l High Sch. Dist., 360 N.J. Super. 191, 199 (Law Div. 2002); Rivera v. Rutgers, The State Univ. of N.J., GRC Complaint No. 2009-311 (Interim Order dated May 29, 2012). See also Kearns v. Glassboro Police Dep't (Gloucester), GRC Complaint No. 2023-173 (February 2025). Specifically, Thus, the Custodian shall review, redact (if applicable), and disclose to the Complainant the responsive records upon remittance of the proposed special service charge of \$182.88.
2. **The Complainant shall comply with conclusion No. 1 above within ten (10) business days from receipt of this Order by delivering to the Custodian (a) payment of the special service charge or (b) a statement declining to purchase the**

records. The Complainant's failure to take any action within said time frame shall be construed the same as (b) above and the Custodian shall no longer be required to disclose the records pursuant to N.J.S.A. 47:1A-5 and Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006). Should the Complainant remit payment, the Custodian shall provide access to the responsive records within twenty (20) business days following receipt of said payment.

3. 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).

Prepared By: Frank F. Caruso
Executive Director

April 21, 2026