



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

INTERIM ORDER

December 9, 2025 Government Records Council Meeting

Everett Falt
Complainant

Complaint No. 2025-196

v.

Borough of Carteret (Middlesex)
Custodian of Record

At the December 9, 2025, public meeting, the Government Records Council (“Council”) considered the December 2, 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 failure to submit a completed Statement of Information to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a). Moreover, the Custodian’s failure to respond obstructed the GRC in its efforts to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . .” N.J.S.A. 47:1A-7(b). Alterman, Esq. v. Sussex Cnty. Sheriff’s Office, GRC Complaint No. 2013-353 (September 2014). See also Kovacs v. Irvington Police Dep’t (Essex), GRC Complaint No. 2014-196 (January 2015); Howell v. Twp. of Greenwich (Warren), GRC Complaint No. 2015-249 (November 2016).
2. The Custodian’s purported July 15, 2025 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 address the portion of the Complainant’s OPRA request seeking individual e-mails.
3. The Custodian may have unlawfully denied access to the portion of the Complainant’s OPRA request seeking individual e-mails. N.J.S.A. 47:1A-6. Thus, the Custodian shall: 1) search for and disclose responsive records located to the Complainant; 2) provide a specific lawful basis for denying access to any of the responsive records including supporting documentation; or 3) certify if no responsive records to the subject OPRA request exist.
4. **The Custodian shall comply with conclusion No. 3 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 certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,² to the Executive Director.³

Interim Order Rendered by the
Government Records Council
On The 9th Day of December 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: December 11, 2025

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.

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
December 9, 2025 Council Meeting**

**Everett Falt¹
Complainant**

GRC Complaint No. 2025-196

v.

**Borough of Carteret (Middlesex)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of:

1. “An e-mail log (excel format) for the following e-mail addresses (clerkoffice@carteret.net, halladayj@carteret.net, pogorzelskic@carteret.net, oteroj@carteret.net) between 8:00 PM and 11:59 PM on election day. I would like e-mail logs to include the TO, FROM, DATE, SUBJECT, and ATTACHMENT fields. I would like a Vaughn Index if any records are being withheld.”
2. “I would also like the actual e-mails from the requested time period. 2025 Primary Day 6/10/2025, 2024 Primary Day 6/4/2024, General Election Day 11/5/2024, 2023 Primary Day 6/4/2023, General Election Day 11/7/2023, 2022 Primary Day 6/7/2022, General Election Day 11/8/2022.”

Custodian of Record: Carmela Pogorzelski

Request Received by Custodian: Unknown.

Response Made by Custodian: July 15, 2025

GRC Complaint Received: July 24, 2025

Background³

Request and Response:

On July 6, 2025, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On July 15, 2025, the Custodian allegedly responded in writing⁴ disclosing the requested e-mail log. On the same day, the

¹ No legal representation listed on record.

² No legal representation listed on record.

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.

⁴ The Complainant did not include the Custodian’s written response in his Denial of Access Complaint.

Complainant e-mailed the Custodian asking when he would receive “the balance of the records and/or a Vaughn Index.”⁵

Denial of Access Complaint:

On July 24, 2025, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant affirmed that he was provided with the requested e-mail log on July 15, 2025. The Complainant stated that he replied to the Custodian on the same day stating he was not provided with the requested Vaughn Index or the actual e-mails sought and inquired when the Custodian expected to send the remaining records. The Complainant asserted that, although the Custodian’s response advised him to expect the records the following day, he has not received either responsive e-mails or the Vaughn Index as of the filing of this complaint.

Statement of Information:

On July 28, 2025, the GRC sent the Custodian a request to file the Statement of Information (“SOI”). On August 12, 2025, the GRC sent a “No Defense” letter to the Custodian requesting a completed SOI within three (3) business days of receipt. The GRC noted that the Custodian’s 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). The GRC has not received an SOI from the Custodian to date.

Analysis

Failure to Submit SOI

OPRA provides that “Custodians shall submit a completed and signed statement of information (SOI) form to the Council and the complainant simultaneously that details the custodians' position for each complaint filed with the Council[.]” N.J.A.C. 5:105-2.4(a).

OPRA also provides that:

Custodians shall submit a completed and signed SOI for each complaint to the Council's staff and the complainant not later than five business days from the date of receipt of the SOI form from the Council's staff Failure to comply with this time period may result in the complaint being adjudicated based solely on the submissions of the complainant.

[N.J.A.C. 5:105-2.4(g).]

Furthermore, OPRA provides that “[a] custodian’s failure to submit a completed and signed SOI . . . may result in the Council issuing a decision in favor of the complainant.” N.J.A.C. 5:105-2.4(g). In Alterman, Esq. v. Sussex Cnty. Sheriff’s Office, GRC Complaint No. 2013-353

⁵ A Vaughn Index, originated by Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973) (cert. denied, 415 U.S. 977, 94 S. Ct. 1564, 39 L. Ed. 2d 873 (1974)), is a specific type of document index that custodian must submit as part of a Statement of Information to the GRC.

(September 2014), the custodian failed to provide a completed SOI to the GRC within the allotted deadline. Thus, the Council noted the custodian's failure to adhere to N.J.A.C. 5:105-2.4(a). See also Kovacs v. Irvington Police Dep't (Essex), GRC Complaint No. 2014-196 (January 2015); Howell v. Twp. of Greenwich (Warren), GRC Complaint No. 2015-249 (November 2016).

In the instant matter, the GRC sent an SOI request to the Custodian on July 28, 2025. On August 12, 2025, after the expiration of the ten (10) business day deadline, the GRC sent the Custodian a "No Defense" letter providing her an additional three (3) business days to submit the requested SOI. The transmission also included a copy of the original SOI letter providing detailed instructions on how to properly submit an SOI. The GRC has not received an SOI from the Custodian.

Accordingly, the Custodian's failure to submit a completed SOI to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a). Moreover, the Custodian's failure to respond obstructed the GRC in its efforts to "receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . ." N.J.S.A. 47:1A-7(b). Alterman, Esq., GRC 2013-353. See also Kovacs, GRC 2014-196; Howell, GRC 2015-249.

As a result of the Custodian's failure to submit an SOI, pursuant to N.J.A.C. 5:105-2.4(g) the GRC proceeds to address this complaint based solely on the submissions presently before it.

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).

Upon review, the GRC is satisfied that the Custodian provided an insufficient response. Specifically, the Custodian's purported response on July 15, 2025, disclosed a responsive e-mail log. On the same day, the Complainant replied, indicating that the Custodian neither addressing the portion of his request for the actual e-mails detailed in the log nor providing a Vaughn Index⁶ providing a specific lawful basis for denial. The Custodian's purported response on the same day acknowledged that an additional disclosure was forthcoming the next day. However, the custodian did not respond again thereafter, leaving the portion of the request seeking individual e-mails unaddressed. This complaint followed. As the Custodian did not submit an SOI addressing the outstanding records, she did not indicate a specific basis for failing to provide the individual e-mails. Thus, the facts here indicate there was an insufficient response to the instant complaint.

⁶ The GRC notes that the Council previously held in Bellan-Boyer v. N.J. Dep't of Cmty. Affairs, Comm'rs Office, GRC Complaint No. 2007-114 (October 2007) that custodians are not required to include a specific Vaughn Index as part of their response.

Therefore, the Custodian's purported July 15, 2025 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 address the portion of the Complainant's OPRA request seeking individual e-mails.

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 the instant matter, the Complainant affirmed receipt of an e-mail log as requested, but stated the Custodian did not address the portion of the request for the actual e-mails. There is evidence in the record to support that the Custodian received the OPRA request based on the Complainant's assertions in the complaint and the disclosed e-mail log from the Borough. However, the Custodian did not sufficiently respond to all portions of the OPRA request or follow-up e-mails from the Complainant seeking the remainder of the records. As the Custodian did not submit an SOI, there is no explanation as to why a partial disclosure occurred. For these reasons, the GRC finds that the Custodian may have unlawfully denied access to the remainder of the requested records.

Accordingly, the Custodian may have unlawfully denied access to the portion of the Complainant's OPRA request seeking individual e-mails. N.J.S.A. 47:1A-6. Thus, the Custodian shall: 1) search for and disclose responsive records located to the Complainant; 2) provide a specific lawful basis for denying access to any of the responsive records including supporting documentation; or 3) certify if no responsive records to the subject OPRA request exist.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to submit a completed Statement of Information to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a). Moreover, the Custodian's failure to respond obstructed the GRC in its efforts to "receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . ." N.J.S.A. 47:1A-7(b). Alterman, Esq. v. Sussex Cnty. Sheriff's Office, GRC Complaint No. 2013-353 (September 2014). See also Kovacs v. Irvington Police Dep't (Essex), GRC Complaint No. 2014-196 (January 2015); Howell v. Twp. of Greenwich (Warren), GRC Complaint No. 2015-249 (November 2016).
2. The Custodian's purported July 15, 2025 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 address the portion of the Complainant's OPRA request seeking individual e-mails.

3. The Custodian may have unlawfully denied access to the portion of the Complainant's OPRA request seeking individual e-mails. N.J.S.A. 47:1A-6. Thus, the Custodian shall: 1) search for and disclose responsive records located to the Complainant; 2) provide a specific lawful basis for denying access to any of the responsive records including supporting documentation; or 3) certify if no responsive records to the subject OPRA request exist.
4. **The Custodian shall comply with conclusion No. 3 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 deliver⁷ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁸ to the Executive Director.⁹**

Prepared By: Maria M. Rossi
Staff Attorney

December 2, 2025

⁷ 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.

⁸ "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."

⁹ 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.