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JACQUELYN A. SUÁREZ
Commissioner

INTERIM ORDER

June 24, 2025 Government Records Council Meeting

Daniel Opdyke
Complainant

Complaint No. 2025-76

v.

City of Trenton
Department of Health & Human Services (Mercer)
Custodian of Record

At the June 24, 2025, public meeting, the Government Records Council (“Council”) considered the June 17, 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 provide a completed Statement of Information to the GRC, despite more than one request, is a violation of N.J.A.C. 5:105-2.4(g). 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).
2. 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 respond in writing to the 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).
3. The Custodian may have unlawfully denied access to the Complainant’s OPRA request item No. 1 seeking disclosable personnel information of the individual(s) who served as the director or equivalent administrator of the Trenton Animal Shelter between January 1, 2024 and July 1, 2024. N.J.S.A. 47:1A-6; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012). The Custodian shall identify, locate and produce the requested personnel information. N.J.S.A. 47:1A-10. If no responsive information can be located, the Custodian shall certify to same.

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**
5. The Complainant's OPRA request item No. 2 seeking "[a]ny official documentation or records confirming their appointment, term of service, or relevant employment details during this time period," is invalid because it failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep't., 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007), 180 (App. Div. 2007); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian may have lawfully denied access to this request item. N.J.S.A. 47:1A-6.
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 24th Day of June 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: June 26, 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
June 24, 2025 Council Meeting**

**Daniel Opdyke¹
Complainant**

GRC Complaint No. 2025-76

v.

**City of Trenton,
Department of Health & Human Services (Mercer)²
Custodial Agency**

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

1. “The name, title, and contact information of the individual who served as the director or equivalent administrator of the Trenton Animal Shelter between January 1, 2024 and July 1, 2024.
2. Any official documentation or records confirming their appointment, term of service. Or relevant employment details during this time.”

Custodian of Record: Brandon Garcia

Request Received by Custodian: December 20, 2024

Response Made by Custodian: January 3, 2025

GRC Complaint Received: April 7, 2025

Background³

Request and Response:

On December 20, 2024, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On January 3, 2025, the eighth (8th) business day after receipt of the OPRA request, the Custodian responded in writing extending the response timeframe for seven (7) business days. On January 14, 2025, January 24, 2025, February 4, 2025, February 13, 2025, February 25, 2025, March 6, 2025, and March 17, 2025, the Custodian responded in writing, each time extending the response time frame seven (7) business days.

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.

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On March 19, 2025, the Complainant e-mailed the Custodian requesting an explanation for the ongoing delay and a date certain for a response. The Complainant advised the Custodian of his intent to file a Denial of Access Complaint with the Government Records Council (“GRC”) if the Custodian did not respond within five (5) business days.

On March 26, 2025 and April 4, 2025, the Custodian responded in writing, each time extending the response timeframe for seven (7) business days.

Denial of Access Complaint:

On April 7, 2025, the Complainant filed a Denial of Access Complaint with the GRC. The Complainant asserted that since submitting the subject OPRA request, the Custodian sought multiple extensions and ultimately failed to respond to his OPRA request. The Complainant stated that the Custodian did not respond to his request within the statutorily mandated and extended timeframes. The Complainant further stated that the Custodian did not provide a valid justification for the ongoing delays, a date certain to disclose the requested records, or any communication suggesting that the responsive records were too voluminous or complex.

The Complainant requested that the Council investigate the City of Trenton’s (“City”) response and declare it a denial of access under OPRA. The Complainant further requested that the Council compel immediate disclosure of the requested records and award any remedies available under the law to include prevailing party attorney’s fees.⁴

Statement of Information:

On April 21, 2025, the GRC requested a completed Statement of Information (“SOI”) from the Custodian. On May 6, 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 a SOI could lead to an adjudication based solely on the Complainant’s submission. N.J.A.C. 5:105-2.4(f).

Analysis

Failure to Submit SOI

In furtherance of the GRC’s obligation to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to government records[,]” pursuant to N.J.S.A. 47:1A-7(b), it requires a custodian to submit a completed SOI.

The New Jersey Administrative Code provides:

Custodians shall submit a completed and signed SOI for each complaint to the Council's staff and the complainant not later than 10 business days from the date of receipt of the SOI form from the Council's staff. Custodians must sign the SOI . . .

⁴ The GRC notes that attorney’s fees are not at issue here because the Complainant is not represented by legal counsel. See e.g., Feld v. City of Orange Twp., 2019 N.J. Super. Unpub. LEXIS 903 (App. Div. 2019) Daniel Opdyke v. City of Trenton Department of Health and Human Services (Mercer), 2025-76 – Findings and Recommendations of the Executive Director

. 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).]

In Alterman, Esq. v. Sussex Cnty. Sheriff's Office, GRC Complaint No. 2013-353 (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 a SOI request to the Custodian on April 21, 2025. On May 6, 2025, after the expiration of the ten (10) business day deadline, the GRC sent the Custodian a "No Defense" letter providing him an additional three (3) business days to submit the requested SOI. 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). To date, the GRC has not received a completed SOI, or other response, from the Custodian.

Accordingly, the Custodian's failure to provide a completed SOI to the GRC, despite more than one request, is a violation of N.J.A.C. 5:105-2.4(g). 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).

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). 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).

In the matter before the Council, the Complainant submitted his OPRA request on December 20, 2024. On January 3, 2025, the eighth (8th) business day after receipt of the subject OPRA request, and multiple times thereafter, the Custodian responded in writing extending the response timeframe for an additional seven (7) days. The evidence of record submitted by the Complainant supports these facts. Thus, the subject OPRA request was considered "deemed" denied at the time the Custodian sought his first extension.

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 respond in writing to the 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, GRC 2007-11.

Furthermore, the GRC does not reach the issue of whether the initial and subsequent extensions were reasonable because the Complainant’s OPRA request was already “deemed” denied at the time that the Custodian sought his first extension.

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.

Personnel Information

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010), the Council determined that “name, title, position, salary, payroll record and length of service” is information which is specifically considered to be a “government record” under N.J.S.A. 47:1A-10. Further, the Council has previously required that responding to an OPRA request for personnel information requires a custodian provide the most comprehensive records containing the responsive information. See Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012). See also Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008).

In the instant matter, the Complainant’s OPRA request item No. 1 sought “the name, title, and contact information of the individual who served as the director or equivalent administrator of the Trenton Animal Shelter between January 1, 2024 and July 1, 2024.” The Custodian did not respond to the Complainant’s request or submit a SOI. Notwithstanding, the GRC finds that in accordance with Danis, the requested information constitutes a “government record” under N.J.S.A. 47:1A-6. Thus, the Custodian was obligated to provide the most comprehensive records containing the responsive information and failed to do so. See also Valdes, GRC 2011-64.

Accordingly, the Custodian may have unlawfully denied access to the Complainant’s OPRA request item No. 1 seeking disclosable personnel information of the individual(s) who served as the director or equivalent administrator of the Trenton Animal Shelter between January 1, 2024 and July 1, 2024. N.J.S.A. 47:1A-6; Danis, GRC 2009-156; Valdes, GRC 2011-64. The Custodian shall identify, locate and produce the requested personnel information. N.J.S.A. 47:1A-10. If no responsive information can be located, the Custodian shall certify to same.

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);⁵ N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury (Hunterdon), 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).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or

⁵ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004). Daniel Opdyke v. City of Trenton Department of Health and Human Services (Mercer), 2025-76 – Findings and Recommendations of the Executive Director

records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. See also Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 et seq. (Final Decision dated April 25, 2012) at 12-13 (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request).

In Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015), the court held that plaintiff’s request was invalid because it required research. In reaching this conclusion, the court reasoned that:

The custodian in this case would have had to make a preliminary determination as to which travel records correlated to the governor and to his senior officials, past and present, over a span of years. The custodian would then have had to attempt to single out those which were third-party funded events. Next, he would have had to collect all documents corresponding to those events and search to ensure he had accumulated everything, including both paper and electronic correspondence. OPRA does not convert a custodian into a researcher.

[Id. at 237.]

Here, the Complainant’s OPRA request item No. 2 sought “[a]ny official documentation or records confirming their appointment, term of service, or relevant employment details during this time period.” The Custodian extended the time frame on multiple occasions and ultimately did not submit an SOI.

However, notwithstanding the Custodian’s failure to respond or submit an SOI, a plain reading of the Complainant’s OPRA request item No. 2 supports a finding that it fails to identify any specific government record under OPRA. As presented, this request item would compel the Custodian to make a subjective determination as to what constitutes “official documentation or records,” as well as which records qualify as responsive to the Complainant’s generic, overbroad request; actions that the Lagerkvist court said the custodian is not required to undertake.

Accordingly, the Complainant’s OPRA request item No. 2 seeking “[a]ny official documentation or records confirming their appointment, term of service, or relevant employment details during this time period,” is invalid because it failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. 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; Lagerkvist, 443 N.J. Super. at 237; Schuler, GRC 2007-151. Thus, the Custodian may have lawfully denied access to this request item. N.J.S.A. 47:1A-6.

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to provide a completed Statement of Information to the GRC, despite more than one request, is a violation of N.J.A.C. 5:105-2.4(g). 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).
2. 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 respond in writing to the 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).
3. The Custodian may have unlawfully denied access to the Complainant's OPRA request item No. 1 seeking disclosable personnel information of the individual(s) who served as the director or equivalent administrator of the Trenton Animal Shelter between January 1, 2024 and July 1, 2024. N.J.S.A. 47:1A-6; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012). The Custodian shall identify, locate and produce the requested personnel information. N.J.S.A. 47:1A-10. If no responsive information can be located, the Custodian shall certify to same.
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 deliver⁶**

⁶ 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.

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certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁷ to the Executive Director.⁸

5. The Complainant's OPRA request item No. 2 seeking "[a]ny official documentation or records confirming their appointment, term of service, or relevant employment details during this time period," is invalid because it failed to identify a specific record and would require the Custodian to perform research and make subjective determinations. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep't., 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007), 180 (App. Div. 2007); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); Schuler v. Borough of Bloomsbury (Hunterdon), GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian may have lawfully denied access to this request item. N.J.S.A. 47:1A-6.
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Jennifer C. Howell
Staff Attorney

June 17, 2025

⁷ "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."

⁸ 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.

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