



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS  
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Governor

DR. DALE G. CALDWELL  
Lieutenant Governor

JACQUELYN A. SUÁREZ  
Commissioner

### INTERIM ORDER

#### January 27, 2026 Government Records Council Meeting

Steve Clegg  
Complainant

Complaint No. 2025-82

v.

City of Trenton (Mercer)  
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 provide 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(g). Moreover, the Custodian’s failure to respond additionally 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 based on unwarranted and unreasonable extensions. N.J.S.A. 47:1A-5(g). Therefore, the Custodian’s failure to respond in writing to the Complainant’s OPRA request, either granting or denying access within the statutorily mandated seven (7) business days or a reasonably necessary extension thereof, results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g) and Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014).
3. The Custodian may have unlawfully denied access to the requested “Condensed Vendor Activity Report from date ranges June 26, 2024 – January 6, 2025”, and “Detailed Vendor Activity Report from date range October 23, 2024 – January 6, 2025.” Thus, the Custodian must either locate and disclose the responsive reports, identify any records exempt from disclosure including the legal basis therefor, or certify if no responsive reports 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 deliver<sup>1</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>2</sup> to the Executive Director.<sup>3</sup>**

5. 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 27<sup>th</sup> 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: January 29, 2026**

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<sup>1</sup> 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.

<sup>2</sup> "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."

<sup>3</sup> 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  
January 27, 2026 Council Meeting**

**Steve Clegg<sup>1</sup>  
Complainant**

**GRC Complaint No. 2025-82**

v.

**City of Trenton (Mercer)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies of “2 reports from Jan 1, 2024 to current date:

1. Condensed Vendor Activity Report
2. Detailed Vendor Activity Report”

**Custodian of Record:** Brandon Garcia

**Request Received by Custodian:** January 6, 2025

**Response Made by Custodian:** January 15, 2025

**GRC Complaint Received:** April 10, 2025

**Background<sup>3</sup>**

**Request and Response:**

On January 6, 2025, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On January 15, 2025, the Custodian responded in writing extending the response time frame by seven (7) business days. On January 27, 2025, February 4, 2025, and February 13, 2025, the Custodian extended the response time frame each time for seven (7) business days. On February 24, 2025, the Custodian responded in writing disclosing a record, and the Complainant responded on the same day stating that same was not the records sought. The Custodian responded confirming that the record provided was not the record requested but told the Complainant that his request “fails to identify a vendor for [the Custodian] to supply the records requested.” The Complainant clarified that he was looking for reports from all vendors.

On February 25, 2025, the Custodian acknowledged the Complainant’s clarification and extended the time frame for a response for an additional seven (7) business days. The Complainant

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> No legal representation listed on record.

<sup>3</sup> 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.

responded disputing the extension because the request was not “revised” and the requested reports “require just *minutes* to create.” (Emphasis in original). The Complainant stated that he would only allow until February 27, 2025, for disclosure before filing a complaint. The Custodian responded advising that he did not think the records could be produced by February 27, 2025, because the OPRA request was unclear until that day.

On March 5, 2025, the Custodian disclosed to the Complainant a Condensed Vendor Activity Report from date ranges January 1, 2023 – June 25, 2024, and a Detailed Vendor Activity Report from date ranges January 1, 2023 – October 22, 2024. On the same day, the Complainant responded advising that “once again” the records disclosed were not responsive to his OPRA request. The Complainant reiterated the time periods included in his OPRA request and stated that 1) the condensed report was from June 2024, and that 2) the detailed report was generated in October 2024. The Complainant maintained that the records sought were easy to produce and questioned why the Custodian would conduct a search for outdated reports.

#### Denial of Access Complaint:

On April 10, 2025, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he submitted an OPRA request on January 6, 2025. The Complainant stated that the Custodian extended the time frame for seven (7) business days on four (4) occasions: January 15, 2025; January 27, 2025; February 4, 2025; and February 14, 2025. The Complainant stated that, on February 24, 2025, the Custodian provided the Complainant with a copy of a “Budget Account status/Transaction Audit Trail” report that was not responsive to his OPRA request. The Complainant stated that he notified the Custodian of the error that same day, which the Custodian confirmed and on which the Custodian sought clarification. The Complainant stated that he clarified the OPRA request and the Custodian took an extension, which he disputed. The Complainant stated that, notwithstanding his dispute, the Custodian finally responded on March 5, 2025, disclosing a “Condensed Vendor Report” generated in June 2024, and a “Detailed Vendor Activity Report” generated in October 2024. The Complainant stated that he notified the Custodian that “neither report could possibly cover the time period requested” and asked for the Custodian to reopen the request.

The Complainant argued that there was no reason that Custodian would take almost ten (10) weeks to produce reports they could have easily created through Edmunds. The Complainant noted that he submitted the exact same request to two (2) municipalities around the same time as the subject OPRA request and received responsive records within hours and days of those submissions. The Complainant asserted that the Custodian’s actions here of extending the response time frame weeks only to produce nonresponsive records “indicates a level of intentional obstruction.”

#### Statement of Information:

On April 21, 2025, the GRC sent a request to file the Statement of Information (“SOI”) to the Custodian. The GRC did not receive a response to this request. On May 15, 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 to date.

### 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 . . . 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 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 April 21, 2025, to which the Custodian did not reply. On May 15, 2025, the GRC sent the Custodian a “No Defense” letter providing an additional three (3) business days to the submit the requested SOI. The GRC never received an SOI from the Custodian.

Accordingly, the Custodian’s failure to provide an SOI to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(g). Moreover, the Custodian’s failure to respond additionally 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).

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 addresses this complaint based solely on the completed submissions presently before it. N.J.S.A. 47:1A-5(i).

#### Timeliness

OPRA provides that a custodian may request an extension of time to respond to the complainant’s OPRA request, but the custodian must provide a specific date by which he/she will

respond. Should the custodian fail to respond by that specific date, “access shall be deemed denied.” N.J.S.A. 47:1A-5(i).

In Werner v. N.J. Civil Serv. Comm’n, GRC Complaint No. 2011-151 (December 2012), the Council addressed whether the custodian lawfully sought an extension of time to respond to the complainant’s OPRA request. The Council concluded that, because the custodian requested an extension of time in writing within the statutorily mandated seven (7) business days and provided an anticipated date by which the requested records would be made available, the custodian properly requested the extension pursuant to OPRA. See also Rivera v. City of Plainfield Police Dep’t (Union), GRC Complaint No. 2009-317 (May 2011); Criscione v. Town of Guttenberg (Hudson), GRC Complaint No. 2010-68 (November 2010); Starkey v. N.J. Dep’t of Transp., GRC Complaint Nos. 2007-315, 2007-316 and 2007-317 (February 2009).

Although extensions are rooted in well-settled case law, the Council need not find valid every request for an extension containing a clear deadline. In Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014), the Council found that the custodian could not lawfully exploit the process by repeatedly rolling over an extension once obtained. In reaching the conclusion that the continuous extensions resulted in a “deemed” denial of access, the Council looked to what was “reasonably necessary”.

Here, the Custodian sought multiple extensions for the Complainant’s OPRA request as follows:

<b>Date of Request for Extension</b>	<b>New Deadline for Response</b>	<b>Reason for Extension</b>
January 15, 2025	January 27, 2025	N/A
January 27, 2025	February 5, 2025	N/A
February 4, 2025	February 11, 2025	N/A
February 13, 2025	February 25, 2025	N/A
February 25, 2025	March 6, 2025	After providing the wrong records, the Custodian requested 7 business days to gather the correct records.

The Custodian extended the response time on five (5) occasions prior to the filing of this complaint for a total of thirty-five (35) business days.

To determine if the extended time for a response is reasonable, the GRC must first consider the complexity of the request as measured by the number of items requested, the ease in identifying and retrieving requested records, and the nature and extent of any necessary redactions. Ciccarone, GRC 2013-280. The GRC must next consider the amount of time the custodian already had to respond to the request. Id. Finally, the GRC must consider any extenuating circumstances that could hinder the custodian’s ability to respond effectively to the request.<sup>4</sup> Id.

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<sup>4</sup> “Extenuating circumstances” could include, but not necessarily be limited to, retrieval of records that are in storage or archived (especially if located at a remote storage facility), conversion of records to another medium to  
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Here, the Complainant sought two (2) types of reports from January 1, 2024 to January 6, 2025. The Custodian extended the response time four (4) times before providing records to the Complainant. However, the records provided did not satisfy the OPRA request. It is unreasonable to extend the time frame for a response four (4) times just to produce records that do not satisfy the OPRA request. Ciccarone, GRC 2013-280. Without an SOI, it is difficult to discern the potential complexity of the request; however, the GRC is unpersuaded that the response required an additional thirty-five (35) business days just for the records produced to be unsatisfactory.

Thus, based on the evidence of record, the GRC finds that extending the response time for the OPRA request to the extent demonstrated in the instant matter was excessive and contrary to OPRA's mandate to "promptly comply" with a records request and to grant or deny access "as soon as possible." N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). The GRC finds it unreasonable for the Custodian to take thirty-five (35) business days to produce incomplete records.

Accordingly, the Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request based on unwarranted and unreasonable extensions. N.J.S.A. 47:1A-5(g). Therefore, the Custodian's failure to respond in writing to the Complainant's OPRA request, either granting or denying access within the statutorily mandated seven (7) business days or a reasonably necessary extension thereof, results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g) and Ciccarone, GRC 2013-280.

### **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.

Here, the Complainant sought two (2) types of reports from January 1, 2024, to the request date of January 6, 2025. After multiple extensions and the disclosure of records alleged to be non-responsive to the request, the Custodian provided records that only partially met the time frame requested by the Complainant. The Custodian did not provide an SOI; for that reason, there is no certification to attest whether a record encompassing the time frame identified in the OPRA request existed or could be produced through electronic databases or systems.

Accordingly, the Custodian may have unlawfully denied access to the requested "Condensed Vendor Activity Report from date ranges June 26, 2024 – January 6, 2025", and "Detailed Vendor Activity Report from date range October 23, 2024 – January 6, 2025." Thus, the Custodian must either locate and disclose the responsive reports, identify any records exempt from disclosure including the legal basis therefor, or certify if no responsive reports exist.

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accommodate the requestor, emergency closure of the custodial agency, or the custodial agency's need to reallocate resources to a higher priority due to *force majeure*.

## **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, results in a violation of N.J.A.C. 5:105-2.4(g). Moreover, the Custodian's failure to respond additionally 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 based on unwarranted and unreasonable extensions. N.J.S.A. 47:1A-5(g). Therefore, the Custodian's failure to respond in writing to the Complainant's OPRA request, either granting or denying access within the statutorily mandated seven (7) business days or a reasonably necessary extension thereof, results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g) and Ciccarone v. N.J. Dep't of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014).
3. The Custodian may have unlawfully denied access to the requested "Condensed Vendor Activity Report from date ranges June 26, 2024 – January 6, 2025", and "Detailed Vendor Activity Report from date range October 23, 2024 – January 6, 2025." Thus, the Custodian must either locate and disclose the responsive reports, identify any records exempt from disclosure including the legal basis therefor, or certify if no responsive reports 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 deliver<sup>5</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>6</sup> to the Executive Director.<sup>7</sup>**

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<sup>5</sup> 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.

<sup>6</sup> "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."

<sup>7</sup> 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

5. 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: Brenda B. Alves  
Staff Attorney

January 20, 2026

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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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