



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
February 26, 2020

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 1:30 p.m., Tuesday, January 28, 2020, at the Department of Community Affairs ("DCA") offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 1:30 p.m. in Room 129 of the DCA.

I. Public Session:

Call to Order
Pledge of Allegiance
Meeting Notice
Roll Call

II. 2020 Officer Elections

III. Executive Director's Report

IV. Closed Session

- Gavin C. Rozzi v. Township of Lacey (Ocean) (2017-167) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Thomas S. Chichester v. Cinnaminson Township (Burlington) (2018-74) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Russell Smith v. Moorestown Township (Burlington) (2018-138) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

V. Approval of Minutes of Previous Meetings:

January 7, 2020 Open Session Meeting Minutes
January 7, 2020 Closed Session Meeting Minutes



VI. New Business – Cases Scheduled for Consent Agenda Administrative Complaint Disposition Adjudication *

An “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’s recommendation of dismissal based on jurisdictional, procedural or other defects of the complaint. The Executive Director’s recommended reason for the Administrative Disposition is under each complaint below.

- A. Administrative Disposition Adjudications with Recusals (Consent Agenda): None**
- B. Administrative Disposition Adjudications with no Recusals (Consent Agenda): None**
- C. Administrative Disposition Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):**

January 28, 2020

1. Sidhendra Rath v. Township of Edison (Middlesex) (2018-152)
 - Complaint Voluntarily Withdrawn.
2. Sidhendra Rath v. Township of Edison (Middlesex) (2018-161)
 - Complaint Voluntarily Withdrawn.
3. Sidhendra Rath v. Township of Edison (Middlesex) (2018-162)
 - Complaint Voluntarily Withdrawn.
4. Sidhendra Rath v. Township of Edison (Middlesex) (2018-181)
 - Complaint Voluntarily Withdrawn.
5. Sidhendra Rath v. Township of Edison (Middlesex) (2018-182)
 - Complaint Voluntarily Withdrawn.
6. David Weiner v. County of Essex (2019-158)
 - Complaint Settled in Mediation.
7. Karen T. Baldwin v. Borough of Clementon (Camden) (2019-176)
 - Complaint Settled in Mediation.
8. Tasha DeGeorge v. Montague Township School District (Sussex) (2019-199)
 - Complaint Settled in Mediation.
9. Luis F. Rodriguez v. Kean University (2019-224)
 - Complaint Voluntarily Withdrawn.
10. James McGinnis v. Hainesport Township School District (Burlington) (2019-228)
 - Complaint Voluntarily Withdrawn.
11. James McGinnis v. Shamong Township School District (Burlington) (2019-231)
 - Complaint Voluntarily Withdrawn.
12. Joan Banez v. City of Garfield (Bergen) (2019-246)
 - Complaint Voluntarily Withdrawn.
13. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2020-9)
 - Complaint Voluntarily Withdrawn.

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1. Samantha Richard v. Spring Lake Heights Board of Education (Monmouth) (2018-94)
 - Complaint Voluntarily Withdrawn.

2. Luis F. Rodriguez v. Kean University (2018-111)
 - Complaint Voluntarily Withdrawn.
3. Sidhendra Rath v. Township of Edison (Middlesex) (2018-133)
 - Complaint Voluntarily Withdrawn.
4. Sidhendra Rath v. Township of Edison (Middlesex) (2018-134)
 - Complaint Voluntarily Withdrawn.
5. Sidhendra Rath v. Township of Edison (Middlesex) (2018-135)
 - Complaint Voluntarily Withdrawn.
6. Sidhendra Rath v. Township of Edison (Middlesex) (2018-154)
 - Complaint Voluntarily Withdrawn.
7. Sidhendra Rath v. Township of Edison (Middlesex) (2018-165)
 - Complaint Voluntarily Withdrawn.
8. Sidhendra Rath v. Township of Edison (Middlesex) (2018-179)
 - Complaint Voluntarily Withdrawn.
9. Sidhendra Rath v. Township of Edison (Middlesex) (2018-180)
 - Complaint Voluntarily Withdrawn.
10. Sidhendra Rath v. Township of Edison (Middlesex) (2018-183)
 - Complaint Voluntarily Withdrawn.
11. Deborah Murray-Breslow v. Bernards Township Board of Education (Somerset) (2018-212)
 - Complaint Voluntarily Withdrawn.
12. Karen T. Baldwin v. Rowan University (2019-178)
 - Complaint Settled in Mediation.
13. David Weiner v. Township of Ocean (Monmouth) (2019-195)
 - Complaint Settled in Mediation.
14. Rafael Tactuk v. Borough of Prospect Park (Passaic) (2019-222)
 - Complaint Voluntarily Withdrawn.
15. James McGinnis v. Rancocas Valley Regional High School (Burlington) (2019-232)
 - Complaint Voluntarily Withdrawn.
16. David Weiner v. Bergen County Sheriff's Office (2019-241)
 - Complaint Settled in Mediation.
17. Jennifer Zaff v. Middlesex County Prosecutor's Office (2019-248)
 - Complaint Voluntarily Withdrawn.
18. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of North Bergen (Hudson) (2019-257)
 - Complaint Voluntarily Withdrawn.
19. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Lower Township Police Department (Cape May) (2019-258)
 - Complaint Voluntarily Withdrawn.
20. Margaret V. Kramme v. Borough of Glassboro (Gloucester) (2020-27)
 - Complaint Voluntarily Withdrawn.

VII. New Business – Cases Scheduled for Individual Complaint Adjudication

The Executive Director's recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

January 28, 2020

1. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-58) **(SR Recusal)**
 - The Council should accept the ALJ's Initial Decision finding that the Custodian performed an adequate search, that no knowing and willful violation occurred, and that the Complainant is not a prevailing party entitled to a fee award.

2. Steven Levinson v. Sussex County (2017-154) **(SR Recusal)**
 - The Custodian's failure to immediately respond to the portion of the Complainant's OPRA request seeking "immediate access" items resulted in a violation of OPRA. N.J.S.A. 47:1A-5(e). Further, the Custodian's failure to respond to the non-immediate access portion of the OPRA request within seven (7) business days after receiving clarification resulted in a "deemed" denial. N.J.S.A. 47:1A-5(i). However, the GRC declines to order disclosure of item Nos. 1, 2, 3, 4, 5, 6A, 7A and 10 because the Custodian provided responsive records to the Complainant between August 4, and August 23, 2017.
 - The Custodian's failure to respond to each OPRA request item individually resulted in an insufficient response. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008). Further, the Custodian may have unlawfully denied access to OPRA request item Nos. 8, 9A, and 9B. N.J.S.A. 47:1A-6. Thus, the current Custodian must perform a search and disclose any records responsive to those items or certify if none exist. Further, the current Custodian shall disclose records responsive to OPRA request item Nos. 6B, 7B, 9C, and 11 upon the Complainant's payment of the outstanding special service charge balance.
 - The knowing and willful analysis is deferred.

3. Krzysztof Golas v. Essex County Department of Corrections (2018-12) **(SR Recusal)**
 - The current Custodian complied with the Council's January 7, 2020 Interim Order.
 - There is no knowing and willful violation.

4. Stacie Percella v. City of Bayonne (Hudson) (2018-20) **(SR Recusal)**
 - The current Custodian complied with the Council's November 12, 2019 Interim Order.
 - There is no knowing and willful violation.

5. Colleen Wilson v. NJ Transit (2018-48) **(SR Recusal)**
 - The Council shall dismiss this complaint because the Complainant withdrew same in writing via e-mail on January 6, 2020.

6. Abdul-Rahim Muslim v. Essex County Prosecutor's Office (2018-59) (**SR Recusal**)

- The portion of the Complainant's request seeking "all Open Public Records" is invalid. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005).
- The portion of the Complainant's request seeking DNA samples is invalid. Miller v. N.J. Dep't of Corr., GRC Complaint No. 2009-226 (October 2010); Ayinde v. Passaic Cnty. Prosecutor's Office, GRC Complaint No. 2018-52 (December 2019).
- The Custodian lawfully denied access to the portions of the Complainant's OPRA request seeking 911 emergency calls, polygraph examination reports, ballistic reports, gunshot trace evidence reports, and forensic reports under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017).
- The Custodian unlawfully denied access to the requested arrest reports and warrants. N.J.S.A. 47:1A-6. The Custodian must disclose these records to the Complainant, with redactions where applicable.
- The Custodian lawfully denied access to the requested autopsy report, which is of the Complainant's victim. N.J.S.A. 47:1A-2.2; Boretzky v. Middlesex Cnty. Examiner's Office, GRC Complaint No. 2016-219 (January 2018).
- The Custodian lawfully denied access to the requested crime scene photo(s), photo arrays, and fingerprint cards under Executive Order No. 69 (Gov. Whitman, 1997). N.J.S.A. 47:1A-9(a); Leak v. Union Cnty. Prosecutor's Office, GRC Complaint No. 2007-148 (Interim Order dated February 25, 2009); Lynn v. Middlesex Cnty. Prosecutor's Office, GRC Complaint No. 2015-186 (January 2017).
- The Custodian lawfully denied access to the requested EMT reports under EO 69. N.J.S.A. 47:1A-9(a); Bart v. City of Passaic (Passaic), GRC Complaint No. 2007-162 (April 2008).
- The knowing and willful analysis is deferred.

7. Jerusha J. Schulze v. City of Newark (Essex) (2018-177) (**SR Recusal**)

- The Council must conduct an *in camera* review of the responsive July 21, 2015 executive session recording to determine the validity of the Custodian's assertion that same was exempt under OPRA as attorney-client privileged and personnel information. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; Paff v. N.J. Dep't of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
- The knowing and willful and prevailing party analyses are deferred.

8. Robert Braun (dba Bob Braun's Ledger) v. NJ Department of Education (2018-210) (**SC Recusal**)

- The Custodian lawfully denied access to the Complainant's four (4) OPRA request items because no records existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

February 26, 2020

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Edison (Middlesex) (2018-64) **(SR Recusal)**
 - The Custodian lawfully denied access to the Complainant's OPRA request because no records existed. Pusterhofer, GRC 2005-49.
 - The Complainant is not a prevailing party.
2. Kevin Lee v. NJ Office of the State Comptroller (2017-206) **(SR Recusal)**
 - **The Council shall revote to correct the record from the Council's November 12, 2019 meeting to reflect that Mr. Ritardi was recused from this complaint.**
 - The Council's November 12, 2019 decision remains in effect, notwithstanding the procedural issue.

B. Individual Complaint Adjudications with no Recusals:

January 28, 2020

1. Luis F. Rodriguez v. Kean University (2016-86)
 - The Custodian complied with the Council's March 26, 2019 Interim Order.
 - The Custodian proved that a special service charge was warranted in this complaint; however, the estimated fee is not reasonable. Rivera v. Borough of Fort Lee Police Dep't (Bergen), GRC Complaint No. 2009-285 (Interim Order dated May 24, 2011). Thus, the Custodian may only charge \$1,328.46 to review, redact, and disclose the responsive payroll account statements. N.J.S.A. 47:1A-5(c).
 - The knowing and willful and prevailing party analyses are deferred.
2. Jesse Wolosky v. Township of Jefferson (Morris) (2017-61)
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
3. Gavin C. Rozzi v. Township of Lacey (Ocean) (2017-167)
 - The Custodian complied with the Council's July 30, 2019 Interim Order.
 - The *In Camera* Examination revealed that the Custodian lawfully redacted the responsive correspondence.
 - There is no knowing and willful violation.
4. Mark Demitroff v. Buena Vista Township (Atlantic) (2017-169)
 - The Custodian complied with the Council's November 12, 2019 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

5. Karen Brown, Esq. (o/b/o Joyce W. Harley) v. Essex County College (2017-227)
 - The current Custodian complied with the Council’s November 12, 2019 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant’s Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

6. Steven Wronko v. Township of South Brunswick (Middlesex) (2017-237)
 - The Custodian complied with the Council’s November 12, 2019 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant’s Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

7. Wenke Taule v. Borough of Ringwood (Passaic) (2018-9)
 - The Council shall allow the Custodian a final opportunity to submit a complete 14-point analysis, inclusive of a total charge, estimated time to review and redact potentially responsive records, and clarification on whether the charge will include time spent locating records.
 - The knowing and willful analysis is deferred.

8. Gregory Gibbs v. Atlantic County Prosecutor’s Office (2018-14)
 - The current Custodian complied with the Council’s January 7, 2020 Interim Order.
 - There is no knowing and willful violation.

9. Ryan Cruz v. Township of Hillside (Union) (2018-17)
 - The current Custodian failed to comply with the Council’s November 12, 2019 Interim Order.
 - The Council shall provide the current Custodian a final opportunity to provide proper compliance. Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2014-218, *et seq.* (Interim Order dated April 26, 2016)
 - The knowing and willful analysis is deferred.

10. Harry Dunleavy v. High Point Regional High School (Sussex) (2018-22)
 - The Complainant’s request for reconsideration should be denied.

11. Joyce Blay v. Township of Lakewood (Ocean) (2018-30)
 - The Custodian’s failure to timely respond to the Complainant’s OPRA request resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
 - The Custodian failed to conduct a sufficient search. Schneble v. N.J. Dep’t of Env’tl. Protection, GRC Complaint No. 2007-22 (April 2008); Scheeler, Jr. v. Woodbine Bd. of Educ. (Cape May), GRC Complaint No. 2014-59 (Interim Order dated January 30, 2015).

- The Custodian lawfully denied access to OPRA request item No. 3 because no records exist. Pusterhofer, GRC 2005-49.
 - There is no knowing and willful violation.
12. Wendy Su Ivanicki v. Borough of Wallington (Bergen) (2018-35)
- The current Custodian did not comply fully with the Council's November 12, 2019 Interim Order.
 - There is no knowing and willful violation.
13. Harry De La Roche v. NJ Department of Corrections (2018-45)
- The Custodian lawfully denied access to the Complainant's OPRA request under Executive Order No. 26 (Gov. McGreevey, 2002). N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); Farra'D v. N.J. Dep't of Corr., GRC Complaint No. 2010-47 (October 2011).
14. David Scott Carew v. City of Woodbury (Gloucester) (2018-47)
- The Custodian's failure to provide a specific lawful basis for denying access resulted in an insufficient response. D'Appolonio v. Borough of Deal (Monmouth), GRC Complaint No. 2008-62 (September 2009).
 - The Complainant did not initially waive his confidentiality rights under N.J.S.A. 47:1A-10. Thus, the Custodian did not unlawfully deny access to the responsive personnel records. McGee v. Twp. of East Amwell (Hunterdon), GRC Complaint No. 2007-305 (March 2011). However, the Custodian shall disclose the responsive personnel records because the Complainant definitively waived said right in an April 26, 2018 e-mail.
 - The Council must conduct an *in camera* review of redacted and withheld records to determine the validity of the Custodian's assertion that the withheld material was exempt from disclosure under OPRA as advisory, consultative, or deliberative material and/or attorney-client privilege information. N.J.S.A. 47:1A-1.1; Paff, 379 N.J. Super. 346.
 - The knowing and willful analysis is deferred.
15. Sean Patrick Vandy v. NJ Department of Law and Public Safety, Division of Criminal Justice (2018-68)
- The Custodian bore his burden of proof that he timely responded to the Complainant. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
16. Aakash Dalal v. Bergen County Prosecutor's Office (2018-72)
- This complaint should be referred to the Office of Administrative Law ("OAL") for a determination on the Complainant's objection to representation and appropriate action as applicable. N.J.A.C. 5:105-1 *et seq.*; N.J.A.C. 1:1-5.3.
 - The OAL should also determine the access issue, as well as the knowing and willful issue if an unlawful denial of access occurred.
17. Scott Madlinger v. Hazlet Township (Monmouth) (2018-73)
- The Custodian's failure to provide a specific lawful basis for the arrest report redactions resulted in an insufficient response. Paff v. Borough of Lavallette, GRC Complaint No. 2007-209 (Interim Order dated June 25, 2008).

- The Custodian lawfully denied access to OPRA request item No. 3 under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc., 229 N.J. 541.
 - The Custodian lawfully redacted the arrest report narratives under the criminal investigatory exemption. Cheatham v. Borough of Fanwood Police Dep't, GRC Complaint No. 2013-262 (March 2014).
 - The Custodian unlawfully redacted the arrestees' occupations contained on the responsive arrest reports. N.J.S.A. 47:1A-3(b). However, the GRC declines to order disclosure because the Custodian disclosed this information to the Complainant on June 4, 2018.
 - The Custodian lawfully denied access to the Complainant's OPRA request item No. 2 seeking complaints because none existed. Pusterhofer, GRC 2005-49.
 - There is no knowing and willful violation.
18. Lyle David Nance v. NJ Department of Corrections (2018-100)
- The Custodian lawfully denied access to the Complainant's OPRA request because no records existed. Pusterhofer, GRC 2005-49.
19. Stephen Henry v. NJ Department of Corrections (2018-106)
- The Custodian lawfully denied access to the Complainant's OPRA request under EO 26. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); Farra'D, GRC 2010-47.
20. Luis F. Rodriguez v. Kean University (2018-112)
- The Custodian's extensions were warranted and substantiated. Ciccarone v. N.J. Dep't of Treasury, GRC Complaint No. 2013-280 (Interim Order, dated July 29, 2014).
 - The Custodian may have unlawfully denied access to records responsive to the Complainant's OPRA request. N.J.S.A. 47:1A-6. Thus, the Custodian must search for responsive records and 1) disclose them; 2) provide a lawful basis for denial, or 3) certify that no records exist. The Custodian need not disclose records for 2014 and 2015 because the Complainant was in possession of them at the time of the OPRA request. Bart v. Paterson Hous. Auth., 403 N.J. Super. 609 (App. Div. 2008).
 - The knowing and willful analysis is deferred.
21. Robert G. Dix v. NJ Department of Corrections (2018-132)
- The Custodian lawfully denied access to the Complainant's OPRA request under the emergency and security exemptions. N.J.S.A. 47:1A-1.1. Reid v. N.J. Dep't of Corr., GRC Complaint No. 2013-165 (January 2014).
22. Russell Smith v. Moorestown Township (Burlington) (2018-138)
- The Custodian complied with the Council's January 7, 2020 Interim Order.
 - The *In Camera* Examination revealed that the text messages did not fall within the attorney-client privilege exemption, but were exempt as ACD. N.J.S.A. 47:1A-6; Educ. Law Ctr. v. N.J. Dep't of Educ., 198 N.J. 274 (2009).

23. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Neptune City Police Department (Monmouth) (2018-153)
- The Custodian’s failure to complete a Statement of Information (“SOI”) resulted in a violation of N.J.A.C. 5:105-2.4(a).
 - The Custodian unlawfully denied access to the responsive records. N.J.S.A. 47:1A-6. However, the GRC declines to order disclosure of the responsive records because the Complainant received them on September 10, 2018.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant’s Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
24. Alfred Savio v. West Cape May Board of Education (Cape May) (2018-256)
- The Custodian violated OPRA by requiring the Complainant to submit his OPRA request on the agency’s official form. N.J.S.A. 47:1A-5(g); Renna v. Cnty. of Union, 407 N.J. Super. 230 (App. Div. 2009).
 - The Custodian’s failure to immediately respond to the Complainant’s October 4, 2018 OPRA request resulted in a violation of OPRA. N.J.S.A. 47:1A-5(e).
 - The Custodian did not unlawfully deny access to any of the records responsive to the Complainant’s October 4, 2018 OPRA request because he provided all that existed. N.J.S.A. 47:1A-6.
 - In referring the Complainant to the Board of Education’s website to obtain minutes responsive to the Complainant’s October 10, 2018 OPRA request, the Custodian did not unreasonably deny access. Rodriguez v. Kean Univ., GRC Complaint No. 2013-69 (March 2014).
 - The Custodian lawfully denied access to unapproved, draft executive session minutes between May 1 and October 10, 2018. N.J.S.A. 47:1A-1.1; Parave-Fogg v. Lower Alloways Creek Twp., GRC Complaint No. 2006-51 (August 2006).
 - The Custodian lawfully denied access to the requested May 2018 regular session minutes because none existed. Pusterhofer, GRC 2005-49.
 - The Custodian did not unlawfully deny access to responsive regular session minutes that existed wherein the Complainant disputed the content. Katinsky v. River Vale Twp., GRC Complaint No. 2003-68 (November 2003). Further, the GRC has no authority to address alleged violations of the Open Public Meetings Act. N.J.S.A. 47:1A-7(b).
 - This complaint should be referred to the OAL for a determination as to whether the Custodian knowingly and willfully violated OPRA.
25. Scott Madlinger v. Township of Toms River (Ocean) (2018-285)
- The Complainant’s request was invalid because it failed to seek identifiable records. MAG, 375 N.J. Super. 534. Thus, no unlawful denial of access occurred. N.J.S.A. 47:1A-6.

February 26, 2020

1. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2014-137)

2. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2014-138) **Consolidated**

- This consolidated complaint shall be referred to the OAL for a fact-finding hearing to resolve multiple issues. Once the OAL has resolved those issues, it shall determine whether an unlawful denial of access occurred.
- For efficacy, and if necessary, the OAL shall also address the knowing and willful and prevailing party analyses.

3. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2014-266)

4. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2014-267) **Consolidated**

- This consolidated complaint shall be referred to the OAL for a fact-finding hearing to resolve multiple issues. Once the OAL has resolved those issues, it shall determine whether an unlawful denial of access occurred.
- For efficacy, and if necessary, the OAL shall also address the knowing and willful and prevailing party analyses.

5. Shamsiddin Abdur Raheem v. NJ Department of Corrections (2016-204)

- The Custodian unlawfully denied access to the Complainant's May 2, 2016 OPRA request item No. 1 as invalid. MAG, 375 N.J. Super. 534. However, the GRC declines to order disclosure because it is addressing the issue in Abdur-Raheem, GRC 2016-283.
- The Custodian's delay in responding to the Complainant's April 18, 2016 OPRA request item No. 1 seeking video footage resulted in the record no longer being available. Zayas v. City of Trenton Police Dep't (Mercer), GRC Complaint No. 2008-31 (July 2008). Nonetheless, said footage would have been exempt from access. Gilleran v. Bloomfield, 227 N.J. 159 (2016).
- The Custodian lawfully denied access to the remainder of the Complainant's OPRA requests seeking logbooks, G25 forms, and an Involuntary Protective Custody report under OPRA and DOC's regulations.
- There is no knowing and willful violation.

6. Shamsiddin Abdur-Raheem v. NJ Department of Corrections (2016-283)

- The Custodian proved that the proposed special service charge of \$7,699.56 comprising 173.65 hours of labor to address the Complainant's OPRA requests was warranted and reasonable. The Custodian shall disclose the records upon receipt of payment or advise the GRC if the Complainant declined to pay the charge.
- The GRC must conduct an *in camera* review of the barber Internal Management Procedures to determine the validity of the Custodian's assertion that same was exempt under security and surveillance exemptions present in OPRA. N.J.S.A. 47:1A-1.1; Paff, 379 N.J. Super. 346.
- The knowing and willful analysis is deferred.

7. Edwin Sheppard v. Cape May County (2017-179)

- The Complainant's request for reconsideration is denied.

- This complaint should be referred to the OAL consistent with Sheppard v. Cape May Cnty., GRC Complaint No. 2016-195 (Interim Order dated May 21, 2019), and Sheppard v. Cape May Cnty., GRC Complaint No. 2019-3 (Interim Order dated April 30, 2019).
8. Joyce Blay v. Township of Lakewood (Ocean) (2018-29)
- The GRC must conduct an *in camera* review of the withheld agenda attachments to determine the validity of the Custodian's assertion that same were exempt under the deliberative process privilege. N.J.S.A. 47:1A-1.1; Paff, 379 N.J. Super. 346.
 - The Custodian lawfully denied access to the Complainant's OPRA request item No. 2 because no records existed. Pusterhofer, GRC 2005-49.
 - The knowing and willful analysis is deferred.
9. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. South Brunswick Township (Middlesex) (2018-63)
- The Custodian's failure to address the Complainant's preferred method of delivery resulted in an insufficient response. N.J.S.A. 47:1A-5(g); See Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).
 - The Custodian's failure to provide responsive records to the Complainant in the medium requested was a violation of OPRA. N.J.S.A. 47:1A-5(d). However, the Council should decline to order disclosure because the Complainant received the records via U.S. mail.
 - The Custodian failed to bear her burden of proof that the proposed special service charge was warranted or reasonable. N.J.S.A. 47:1A-5(c). The Custodian shall refund the Complainant \$295.84. Coulter v. Twp. of Bridgewater (Somerset), GRC Complaint No. 2008-220 (Interim Order dated November 18, 2009).
 - The knowing and willful and prevailing party analyses are deferred.
10. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Helmetta (Middlesex) (2018-65)
- The Custodian's failure to timely respond to the Complainant's OPRA request resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). However, the Council should decline to order disclosure because the Custodian did so on April 11 and 18, 2018.
 - There is no knowing and willful violation.
 - The Complainant is not a prevailing party.
11. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Highland Park (Middlesex) (2018-66)
- The Custodian did not unlawfully deny access to the Complainant's OPRA request because she did not receive it. N.J.S.A. 47:1A-6.
 - The Complainant is not a prevailing party.
12. Luis F. Rodriguez v. Kean University (2018-69)
- The Custodian timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

- Kean University Alumni Association is not a “public agency” under OPRA; thus, the Custodian lawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-1.1; Fair Share Hous. Ctr., Inc. v. New Jersey State League of Municipalities, 207 N.J. 489 (2011); Sussex Commons Assocs., LLC v. Rutgers, the State Univ., 210 N.J. 531 (2012).
13. Thomas S. Chichester v. Cinnaminson Township (Burlington) (2018-74)
- The Custodian did not comply fully with the Council’s January 7, 2020 Interim Order.
 - The Custodian must comply with the Council’s *In Camera* Examination findings.
 - The knowing and willful analysis is deferred.
14. Dr. Darren James v. NJ Department of Health, Medicinal Marijuana Program (2018-82)
- The Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer, GRC 2005-49.
15. Jason McKinnon v. NJ Department of Law & Public Safety, Division of Criminal Justice (2018-92)
- The Custodian lawfully denied access to the Complainant’s OPRA request item No. 1 because no records existed. Pusterhofer, GRC 2005-49.
 - The Custodian lawfully denied access to the records responsive to the Complainant’s OPRA request item No. 2 under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc., 229 N.J. 541.
16. Simone Edwards v. Wayne Township Public Schools (Passaic) (2018-99)
- The Custodian’s failure to complete a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
 - The Custodian’s extensions were warranted and substantiated. Ciccarone, GRC 2013-280.
 - The Custodian shall provide to the GRC a 14-point analysis so that it may determine whether the proposed special service charge was warranted and reasonable.
 - The knowing and willful and prevailing party analyses are deferred.
17. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2018-103)
- The Custodian unlawfully redacted names, addresses and dates of birth contained in the responsive summonses. N.J.S.A. 47:1A-6; Merino v. Borough of Ho-Ho-Kus (Bergen), GRC Complaint No. 2003-110 (Interim Order dated June 29, 2004).
 - There is no knowing and willful violation.
18. Roger Scott Helm v. NJ Department of Corrections (2018-114)
- The Custodian lawfully denied access to the Complainant’s April 9, 2018 OPRA request under DOC regulations. N.J.S.A. 47:1A-9(a); Werner v. N.J. Dep’t of Corr., GRC Complaint No. 2011-153 (September 2012); Edwards v. N.J. Dep’t of Corr., GRC Complaint No. 2014-08 (September 2014).

19. Sean P. Sullivan v. NJ Department of Treasury (2018-119)
 - The Custodian and Complainant complied with the Council’s January 7, 2020 Interim Order.
 - There is no knowing and willful violation.
20. Michael Hootstein v. NJ Institute of Technology (2018-203)
 - The Custodian lawfully denied access to the responsive e-mails because they were personal communications and not “government records” as defined under OPRA. N.J.S.A. 47:1A-1.1; Carter v. Franklin Fire Dist. No. 1, 2018 N.J. Super. Unpub. LEXIS 2189 (App. Div. 2018).
21. Patrick Trainor v. NJ Office of the Governor (2018-269)
 - The Custodian lawfully denied access the Complainant records responsive to his October 30, 2018 OPRA requests because they were the same records disclosed to the Complainant hours later in response to an October 15, 2018 OPRA request.
 - The Complainant’s OPRA requests seeking “all forms of communication” lacking a date or range of dates are invalid. Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010).

VIII. Court Decisions of GRC Complaints on Appeal: None.

IX. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:

- Lawyers Comm. for 9/11 Inquiry v. N.J. State Police, 2020 N.J. Super. Unpub. LEXIS 39 (App. Div. 2020)
- Richard Rivera, LLC v. Twp. of Bloomfield, 2020 N.J. Super. Unpub. LEXIS 55 (App. Div. 2020)
- Freeswick v. Wayne Twp. Bd. of Educ., 2020 N.J. Super. Unpub. LEXIS 79 (App. Div. 2020)
- Frega v. Convertini, 2020 N.J. Super. Unpub. LEXIS 168 (App. Div. 2020)

X. Public Comment:

The public comment period is limited to providing an opportunity for speakers to present suggestions, views and comments relevant to the Council’s functions and responsibilities. In the interest of time, speakers may be limited to **five (5) minutes**. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.*

XI. Adjournment

*Neither attorneys nor other representatives of the parties are required to attend this meeting nor will they be permitted to make oral or written comment during the adjudication.