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JACQUELYN A. SUÁREZ
Commissioner

NOTICE OF MEETING
Government Records Council
January 28, 2025

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, 2025, via Office Teams. Members of the public may attend the meeting by utilizing the following call-in information:

Telephone Number: 1-856-338-7074

Conference ID: 126 639 081#

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. remotely.

I. Public Session:

Call to Order

Pledge of Allegiance

Meeting Notice

Roll Call

II. Executive Director's Report

III. Closed Session

- Rotimi Owoh (o/b/o African American Data & Research Institute) v. North Bergen Police Department (Hudson) (2021-304) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

IV. Approval of Minutes of Previous Meetings:

December 10, 2024, Open Session Meeting Minutes

V. 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):

1. David Weiner v. County of Essex (2023-96) (SR Recusal)
 - **Cannot be adjudicated due to lack of quorum.**
2. David Weiner v. County of Essex (2024-218) (SR Recusal)
 - **Cannot be adjudicated due to lack of quorum.**

B. Administrative Disposition Adjudications with no Recusals (Consent Agenda):

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Fanwood Police Department (Union) (2022-135)
 - All Responsive Records Provided in a Timely Manner.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cranford Police Department (Union) (2022-142)
 - All Responsive Records Provided in a Timely Manner.
3. Khaya Peluso v. School District of the Chathams (Morris) (2024-248)
 - Not a Valid OPRA Request.

C. Administrative Disposition Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):

1. Joseph Kempe v. Bridgewater-Raritan Regional School District (Somerset) (2022-534)
 - Complaint Voluntarily Withdrawn.
2. Madeline Paneto-Gonzalez v. Community Charter School of Paterson (Passaic) (2024-120)
 - Complaint Voluntarily Withdrawn.
3. Steven J. Kossup, Esq. (o/b/o Nuno Gomes) v. City of Newark (Essex) (2024-149)
 - Complaint Settled in Mediation.
4. Joshua D. Hitchner v. Mantua Township Police Department (Gloucester) (2024-246)
 - Complaint Voluntarily Withdrawn.
5. Yosef S. Stein v. Jackson Township (Ocean) (2024-255)
 - Complaint Voluntarily Withdrawn.
6. The Marshall Project v. NJ Department of Corrections (2024-256)
 - Complaint Voluntarily Withdrawn.
7. Olivia Liu v. NJ Transit (2024-271)
 - Complaint Voluntarily Withdrawn.
8. Peter Briskin, Esq. (o/b/o Jose Nemocon) v. Newark Police Department (Essex) (2024-274)
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Consent Agenda Administrative Order

An “Administrative order” means an order issued by the Council requiring the records custodian or the complainant to perform a specific action in furtherance of the adjudication of a pending denial of access complaint or taking other actions deemed appropriate to

adjudicate a complaint in an expedited manner. The Executive Director's recommended reason for the Administrative Order is under each complaint below.

A. Administrative Orders with Recusals (Consent Agenda): None

B. Administrative Orders with No Recusals (Consent Agenda): None

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:

1. Perrault Jean-Paul v. City of Jersey City (Hudson) (2022-317) **(SR Recusal)**
 - **Cannot be adjudicated due to lack of quorum.**
2. Maria Diamonte v. Rutgers University (2022-355) **(RC & SR Recusals)**
 - **Cannot be adjudicated due to lack of quorum.**
3. Maria Diamonte v. Rutgers University (2022-388) **(RC & SR Recusals)**
 - **Cannot be adjudicated due to lack of quorum.**
4. Maria Diamonte v. Rutgers University (2022-398) **(RC & SR Recusals)**
 - **Cannot be adjudicated due to lack of quorum.**
5. Scott Madlinger v. City of Jersey City (Hudson) (2022-525) **(SR Recusal)**
 - **Cannot be adjudicated due to lack of quorum.**
6. John Paff v. Township of Edison (Middlesex) (2023-168) **(SR Recusal)**
 - **Cannot be adjudicated due to lack of quorum.**

B. Individual Complaint Adjudications with no Recusals:

1. Robert C. Scutro v. City of Linden (Union) (2019-180)
 - The Administrative Law Judge's Initial Decision has been adopted by operation of law. N.J.S.A. 52:14B-10. Thus, this matter is closed as a Final Decision
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. North Bergen Police Department (Hudson) (2021-304)
 - This complaint should be tabled for additional review.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Pine Beach Police Department (Ocean) (2021-334)
 - The Custodian did not fully comply with the Council's February 27, 2024 Interim Order.
 - The Custodian is being provided a final opportunity to comply with conclusion No. 2 of the February 27, 2024, Interim Order.
 - The prevailing party analysis is deferred.
4. Joseph M. Latham, II v. Gloucester Township (Camden) (2022-43)
 - A portion of the Complainant's OPRA request item No. 5 was invalid as a blanket request for a class of various documents. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent

v. Twp. of Stafford Police Dep't, Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005); Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2008); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008).

- The Custodian lawfully denied access to the requested security camera footage, which is exempt under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; Gilleran v. Twp. of Bloomfield, 227 N.J. 159 (2016).
- The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "shift reports/schedules" dated February 8, 2021, because she certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
- The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking body-worn camera footage because all records were disclosed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
- The Custodian lawfully denied access to the requested "police reports" and "notes," which are exempt 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 may have unlawfully denied access to the portion of the Complainant's OPRA request No. 5 seeking warrant affidavits and probable cause statements. N.J.S.A. 47:1A-6; Simmons v. Mercado, 247 N.J. 24 (2021). The Custodian shall locate and disclose those records that exist, provide a specific lawful basis for any denial, or certify if no records exist.

5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Riverdale Police Department (Morris) (2022-100)

- The Custodian's response was insufficient because he failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
- The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "agreements" because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012). The Custodian shall thus locate and provide such records.
- 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. Rotimi Owoh, Esq. (o/b/o African American Research Institute) v. Hackettstown Police Department (Warren) (2022-129)

- The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking "agreements" because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.

- The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes, GRC 2011-64. The Custodian shall thus locate and provide such records.
 - 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. Rotimi Owoh, Esq., (o/b/o African American Data & Research) v. Ocean City Police Department (Cape May) (2022-136)
- The Custodian's response was insufficient because she failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
 - The Custodian performed an insufficient search to locate records responsive to the portion of the request seeking "agreements." N.J.S.A. 47:1A-6; Schneble v. N.J. Dep't of Env'tl. Prot., GRC Complaint No. 2007-220 (April 2008). However, the GRC declines to order disclosure because the Custodian did so on January 2, 2024.
 - The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking disclosable personnel information because all records were disclosed. Voorhees, GRC 2022-12.
 - 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.
8. Leonard Thor v. Marlboro Township Public Schools (Monmouth) (2022-508)
- The Custodian lawfully denied access to the requested video surveillance footage, which is exempt under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; Gilleran, 227 N.J. 159; Street v. N. Arlington Sch. Dist. (Bergen), GRC Complaint No. 2017-103, *et seq.* (June 2019).
9. Edward J. Minall, Jr. v. Township of Scotch Plains (Union) (2022-539)
- The Custodian lawfully denied access to the requested construction drawings, which are exempt under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-9(a); Executive Order No. 21 (Gov. McGreevey, 2002); Mincer v. Hamilton Twp. Mun. Util. Auth. (Atlantic), GRC Complaint No. 2021-43 (July 2022).
10. Monica A. Smith v. Linden Public Library (Union) (2022-557)
- The Custodian's failure to timely respond 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 lawfully denied access to the requested minutes because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
11. Anonymous v. William Paterson University (2022-577)
- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Additionally, the Custodian

failed to respond to a portion of the OPRA request immediately, thereby violating N.J.S.A. 47:1A-5(e). However, the GRC declines to order disclosure because the Custodian did so as part of the Statement of Information (“SOI”).

12. Scott Madlinger v. Lacey Township Police Department (Ocean) (2022-636)

- The Custodian’s failure to timely respond within the extended time frame resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Kohn v. Twp. of Livingston Lib. (Essex), GRC Complaint No. 2007-124 (March 2008).
- The Custodian’s response was insufficient because she failed to address each OPRA request item individually and failed to address the Complainant’s preferred method of delivery. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
- The Custodian lawfully denied access to OPRA request item Nos. 1 and 3 because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The records responsive to OPRA request item Nos. 2 and 4 shall be disclosed to the Complainant via e-mail.
- The Custodian lawfully denied access to OPRA request item Nos. 5 and 7 under the “inter-agency or intra-agency advisory, consultative, or deliberative material” exemption because the responsive records were in draft form. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Libertarians for Transparent Gov’t v. Gov’t Records Council, 453 N.J. Super. 83 (App. Div. 2018).
- The knowing and willful analysis is deferred.

13. Isidro Cruz v. Borough of Roselle Park (Union) (2023-149)

- The Custodian’s response was insufficient because he failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
- The Custodian lawfully denied access to the OPRA request because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The Complainant is not a prevailing party.

14. Anthony Salters v. City of Orange Township (Essex) (2024-200)

- The Custodian’s failure to submit an SOI resulted in a violation of N.J.A.C. 5:105-2.4.
- The Complainant’s request item Nos. 1 through 3 were invalid because they asked questions rather than seeking specific government records. MAG, 375 N.J. Super. 534; Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012).
- The Custodian lawfully denied access to the remainder of the OPRA request because judicial notice confirms and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.

15. John Paff v. Township of Hillside (Union) (2024-234)

- The Custodian’s failure to submit an SOI resulted in a violation of N.J.A.C. 5:105-2.4.
- The Custodian’s failure to timely respond within the extended time frame resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Kohn, 2007-124.

- The Custodian may have unlawfully denied access to the subject OPRA request and must either locate and disclose those records that exist, provide a specific lawful basis for any denial, or certify if no records exist.
- The knowing and willful and prevailing party analyses are deferred.

VIII. Court Decisions of GRC Complaints on Appeal:

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

- Sudhakar v. N.J. State Police, 2024 N.J. Super. Unpub. LEXIS 3109 (App. Div. 2024)
- Fuster v. Twp. of Chatham, 2025 N.J. LEXIS 14 (2025)

X. Complaints Adjudicated in U.S. District Court:

XI. 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 shall be limited to **five (5) minutes** per the GRC's By-Laws. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.*

XII. 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.