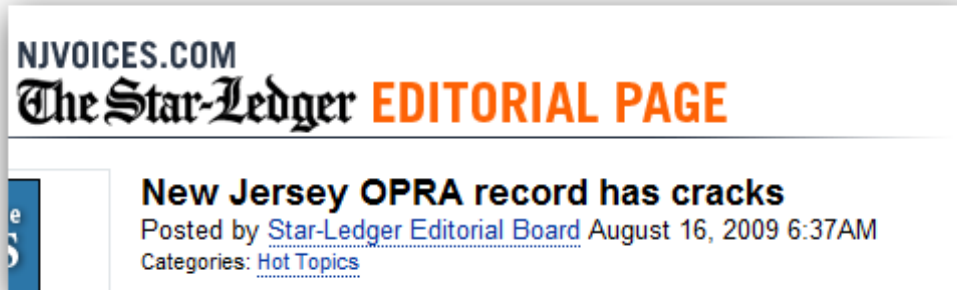


For the truth on the Department of Community Affairs
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There are 47 items on the agenda, and in a small meeting room in Trenton, on a Tuesday morning, the Government Records Council is slogging its way through the list of complaints from citizens who have been thwarted in their attempts to access public records.

An hour into the session, it's clear: New Jersey's Open Public Records Act is flawed.

Ruling after ruling by executive director Catherine Starghill goes against agencies that have denied -- wrongfully -- public access to their records. In the GRC's final orders, municipal clerks, board secretaries and other record custodians are found to be guilty of wide-ranging and unnecessary OPRA violations.

In some, the clerks are deemed merely "negligent." In others, they are found to be guilty of "willful" violations and "unreasonable" denials.

Some clerks have received requests for records from citizens and have totally ignored them. Others carelessly allowed deadlines to pass without responding. Several simply rejected requests out of hand, like an insurance company denying every initial claim.

Since its inception in 2002, the GRC has fielded 1,813 denial-of-access complaints, ruling on 1,503 of them, spokesman Chris Donnelly said. The GRC says it doesn't keep score, but observers -- like watchdog New Jersey Foundation for Open Government -- say many rulings are in the complainants' favor, proving the law is weak and confusing and that clerks are playing keep-away. But isn't one "willful" violation too many?

GRC rulings reveal that some clerks incorrectly withheld documents because they don't understand the law, can't be bothered to learn it, or look for any loophole to reject the requests, which they see as nuisances. In some cases, devious motives are alleged: Clerks intentionally stonewall for political reasons, critics say.

"Most of the time, they just want to keep people from getting the records in time for the next meeting

or the next election," says attorney Walter Luers, who has won OPRA lawsuits against several municipalities. "The people on the inside don't want the people on the outside to get the information. But basically, when you're John Q. Public, they try to screw with you."

Most of these citizens just wanted minutes to a meeting, financial disclosures, salary lists or another record they were entitled to -- but had to fight to get. In some rulings, citizens are getting access to records after a two-year battle -- documents they should have received within a week. Once a month the GRC tries to clean up the mess.

Less than a month ago, public officials were rounded up in one of the biggest corruption stings in the state's history. New Jersey reinforced its slimy reputation for doing the public's business in backrooms and backseats, with the alleged crooks brown-bagging bribes like they were kindergarten lunches. Now, at a time when the state needs open government more than ever, it's still shrouded in a culture of secrecy, even when it comes to something as basic as public records.

Information is power, and that's why public officials and bureaucrats always have fought against surrendering the information they possess, even when the law demands it. They balk. They drag their feet. They make up their own rules. And when all that doesn't work, they hire lawyers to get in the way. The state's OPRA law, passed in 2002, states that "government records shall be readily accessible for inspection, copying or examination by the citizens of this State, with certain exceptions, for the protection of the public interest, and any limitations on the right of access accorded . . . shall be construed in favor of the public's right of access."

But OPRA isn't flawed only at the point of request, it's also troubling at the GRC level. The panel is supposed to have five members. Currently, it has just three, and its inability to assemble a quorum has forced cancellation of two meetings this year, worsening the backlog and further delaying access to records. Gov. Jon Corzine must fill the two empty seats immediately.

Meanwhile, if the legislature wants to spend money wisely, it should commission a study of OPRA and the GRC: How many citizens are wrongfully denied access to records and why? How long does adjudication take, on average? And what does all of the ridiculous foot-dragging and unnecessary legal wrangling cost the taxpayers?

Lawmakers can make OPRA clearer, educate clerks and set stricter penalties for municipalities and agencies that wrongfully deny access to public records. (The irony: Taxpayers -- the same people denied access -- pay any fines and legal fees levied against their towns for OPRA violations.) Legislators can reduce the exorbitant fees charged for copying documents, too.

While OPRA has cracked the door to open government, someone should teach the most-reprimanded clerks something they don't seem to understand: They are custodians of the records, which -- with few sensitive exceptions -- belong to the people.

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