

Government Records Council in Violation of OPMA?

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We have blogged before about a public agency's requirement under the Open Public Meetings Act (OPMA) to make its meeting minutes "promptly" available to the public. Our courts have held that minutes must be made available within two weeks after a public meeting or, at a minimum, at least 48-hours prior to the next meeting. Those who regularly file requests for meeting minutes, however, are well aware that overwhelmingly public agencies fail to meet this timeline. Indeed, many, if not most, public agencies are months behind on releasing minutes to the public.

One such agency is the Government Records Council (GRC). The GRC was created by the Legislature to assist in the administration of the Open Public Records Act (OPRA). The GRC offers advice to records custodians and requestors, mediates and adjudicates denial of access complaints, and provides training on OPRA to custodians and the public. You would think, then, that they would be a stellar example to other agencies on how to comply with New Jersey's transparency laws. Think again.

Our client, Harry Scheeler, just filed this complaint with the Mercer County Prosecutor's Office asking the prosecutor to investigate and find the GRC in violation of OPMA. Mr. Scheeler demonstrates how the GRC is often nearly 6 months behind in making their minutes available to the public. Their frequent excuse is that they are unable to have a quorum at their meetings to formally approve the minutes and thus the minutes are "drafts" that are exempt under OPRA. Case law, however, is clearly that "promptly available" means just that and being months behind on approving minutes is unacceptable.

If the GRC is having trouble forming a quorum to hold its meetings (which also causes significant delay in the adjudication of OPRA complaints), perhaps the Governor should remove the members for "good cause." These absent members are clearly causing the GRC to fall short of its statutory obligations under OPMA.