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DEPARTMENT OF COMMUNITY AFFAIRS
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JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

June 24, 2025 Government Records Council Meeting

Hector Geronimo
Complainant

v.

NJ State Police
Custodian of Record

Complaint No. 2023-264

At the June 24, 2025, public meeting, the Government Records Council (“Council”) considered the June 17, 2025, 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 the responsive body-worn camera footage is exempt from disclosure under N.J.S.A. 40A:14-118.5(l)(1) because it was subject to the 180-day minimum retention period requirement. Further, the Complainant has failed to provide evidence that he is an accepted party capable of reviewing the footage notwithstanding its limited retention period. Thus, the Custodian lawfully denied access to the footage. N.J.S.A. 47:1A-6.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the
Government Records Council
On The 24th Day of June 2025

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: June 26, 2025



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
June 24, 2025 Council Meeting**

**Hector Geronimo¹
Complainant**

GRC Complaint No. 2023-264

v.

**N.J. State Police²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of body-worn camera (BWC) . . . from Trooper Kayati on September 9, 2023 between 7:30pm and 8:30pm.³

Custodian of Record: Lt. Kristina Pados

Request Received by Custodian: September 17, 2023

Response Made by Custodian: September 26, 2023

GRC Complaint Received: November 2, 2023

Background⁴

Request and Response:

On September 17, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On September 26, 2023, Sergeant Matthew Dye responded in writing on behalf of the Custodian extending the response time frame through October 17, 2023. On October 8, 2023, the Complainant e-mailed Sgt. Dye expressing concern that he had not yet received the responsive BWC footage and that it should be securely stored. The Complainant also sought a status update on disclosure and noted that he wanted to obtain the records via pickup or, in the alternative, via certified mail.

On October 17, 2023, Sgt. Dye responded on behalf of the Custodian denying access to the BWC footage because it was not subject to the three (3) year retention period pursuant to N.J.S.A. 40A:14-118.5(j)(1)-(3). On October 19, 2023, the Complainant e-mailed the Custodian objecting to the BWC footage denial. The Complainant contended that N.J.S.A. 40A:14-118.5 set retention periods and had no bearing on the disclosability of BWC footage. The Complainant demanded that same be disclosed to him within the next seven (7) days.

¹ No legal representation listed on record.

² Represented by Deputy Attorney General Daniel W. Knox.

³ The Complainant sought additional records that are not at issue in this complaint.

⁴ 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.

Denial of Access Complaint:

On November 2, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant contended that the New Jersey State Police (“NJSP”) unlawfully denied him access to the requested BWC footage. The Complainant argued that N.J.S.A. 40A:14-118.5(j)(1)-(3) establishes the minimum retention periods for BWC footage. The Complainant contended that the provisions set forth 180-day and three (3) year minimum retention periods and are irrelevant to OPRA. The Complainant asserted that just because the responsive BWC footage is not subject to the three (3) year retention period “does not make it exempt from public access and disclosure under OPRA or any executive order.”

Statement of Information:

On December 11, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on October 17, 2023. The Custodian certified that NJSP located the responsive BWC footage. The Custodian certified that after an extension, Sgt. Dye responded in writing on her behalf on October 19, 2023, denying the responsive BWC footage under N.J.S.A. 40A:14-118.5(j)(1)-(3).

The Custodian contended that no unlawful denial of access occurred here. The Custodian argued that, under N.J.S.A. 40A:14-118.5(l)(1), BWC footage not subject to the three (3) year retention period or the conditional retention requirements set forth in section (j) of that statute, is exempt from disclosure under OPRA. The Custodian noted that those conditional requirements in N.J.S.A. 40A:14-118.5(j) include certain specific situations, that is, where a law enforcement officer who is the subject of the footage requests longer retention, or where a citizen subject or any parent or guardian of a minor requests longer retention. The Custodian further contended that N.J.S.A. 40A:14-118.5 is applicable to OPRA under N.J.S.A. 47:1A-9(a).

The Custodian contended that here, the BWC footage involving a motor vehicle accident is subject to the 180-day retention period and there is no evidence to suggest the responsive footage should be subject to the three (3) year retention period. The Custodian certified that she confirmed that:

1. The BWC footage did not involve an encounter about which a complaint was registered by the subject.
2. The Complainant is not a law enforcement officer depicted in the BWC footage, or otherwise involved therein.
3. The Complainant was not involved in the motor vehicle accident.
4. The Complainant, while sharing a last name with an individual involved in the accident, did not provide any information indicating he was the parent/guardian of any minor subject in the BWC footage, or next of kin or designee to a decedent who is the subject of the recording.

The Custodian contended that the Complainant failed to show that the BWC footage met any conditions set forth in N.J.S.A. 40A:14-118.5(j) that would trigger the extended retention

period. The Custodian thus argued that, contrary to the Complainant’s dismissal of the exemption, a plain reading of N.J.S.A. 40A:14-118.5 supports NJSP’s denial of the BWC footage.

Analysis

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.

OPRA provides that:

The provisions of [OPRA] shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to [OPRA]; *any other statute*; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor . . . any federal law; federal regulation; or federal order.

[N.J.S.A. 47:1A-9(a) (emphasis added).]

New Jersey’s BWC Law (“BWCL”) provides that BWC footage “shall be retained for not less than 180 days from the date it was recorded, which minimum time frame for retention shall be applicable to all contracts for retention of body worn camera recordings executed by or on behalf of a law enforcement agency.” N.J.S.A. 40A:14-118.5(j). However, this section also includes several instances where BWC footage “shall be subject to . . . additional retention periods.” Id. These instances, which extend the retention period to a minimum of three (3) years, include encounters where a recorded subject registers a complaint, footage which has been voluntarily requested to be retained for the extended period, or when it pertains to a criminal investigation or related civil proceeding. Id. at (1)-(3). The BWCL also provides that “to effectuate subparagraphs (e), (f), and (g) of paragraph (2) of subsection j. of this section, the member of the public, parent or legal guardian, or next of kin or designee shall be permitted to review the body worn camera recording in accordance with [OPRA] to determine whether to request a three-year retention period.” N.J.S.A. 40A:14-118.5(k).

The BWCL provides for a clear disclosure standard connected to the above retention periods as follows:

Notwithstanding that a criminal investigatory record does not constitute a government record under [OPRA] *only the following body worn camera recordings shall be exempt from public inspection*:

- (1) *body worn camera recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection j. of this section.*
- (2) body worn camera recordings subject to a minimum three-year retention period solely and exclusively pursuant to paragraph (1) of subsection j. of this section if the subject of the body worn camera recording making the complaint requests the body worn camera recording not be made available to the public;
- (3) body worn camera recordings subject to a minimum three-year retention period solely and exclusively pursuant to subparagraph (a), (b), (c), or (d) of paragraph (2) of subsection j. of this section; and
- (4) body worn camera recordings subject to a minimum three-year retention period solely and exclusively pursuant to subparagraph (e), (f), or (g) of paragraph (2) of subsection j. of this section if a member, parent or legal guardian, or next of kin or designee requests the body worn camera recording not be made available to the public.

[N.J.S.A. 40A:14-118.5(l) (emphasis added).]

Here, the Complainant sought access to BWC from September 9, 2023, and was denied access under N.J.S.A. 40A:14-118.5(j)(1)-(3). This complaint followed, wherein the Complainant contended that these provisions did not apply to his OPRA request. The Complainant further contended that the retention period for BWC footage “does not make it exempt from public access and disclosure under OPRA or any executive order.” In the SOI, the Custodian maintained that the NJSP lawfully denied access to the responsive BWC footage under N.J.S.A. 40A:14-118.5(l) rather than the originally cited provision. The Custodian noted that the footage sought related to a motor vehicle accident. The Custodian certified that she confirmed that the footage did not meet any of the extended retention criteria and that the Complainant did not meet the requirements of N.J.S.A. 40A:14-118.5(j) and (k).

Upon review, a plain reading of the BWCL provides that any BWC recordings subject to the 180-day minimum retention period are not subject to disclosure. N.J.S.A. 40A:14-118.5(l)(1). Such an exemption is recognizable under OPRA through N.J.S.A. 47:1A-9(a). Applying this standard to the footage sought here, the GRC is persuaded that no unlawful denial of access occurred. Contrary to the Complainant’s assertion that retention periods did not affect disclosure, the BWCL expressly ties same to disclosure as a threshold consideration. As for the record at issue, the Custodian has certified that the footage was subject to the 180-day retention period. Further, the Custodian certified that the Complainant did not meet any of the conditions by which the mandatory minimum retention period would be extended to three (3) years. N.J.S.A. 40A:14-118.5(j). Finally, the Complainant has failed to show that he is one of the parties outlined in N.J.S.A. 40A:14-118.5(k) capable of reviewing the responsive footage. Based on the forgoing, the GRC discerns no evidence to disturb the Custodian’s denial here.

Accordingly, the responsive BWC footage is exempt from disclosure under N.J.S.A. 40A:14-118.5(l)(1) because it was subject to the 180-day minimum retention period requirement. Further, the Complainant has failed to provide evidence that he is an accepted party capable of

reviewing the footage notwithstanding its limited retention period. Thus, the Custodian lawfully denied access to the footage. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the responsive body-worn camera footage is exempt from disclosure under N.J.S.A. 40A:14-118.5(l)(1) because it was subject to the 180-day minimum retention period requirement. Further, the Complainant has failed to provide evidence that he is an accepted party capable of reviewing the footage notwithstanding its limited retention period. Thus, the Custodian lawfully denied access to the footage. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso
Executive Director

June 17, 2025