

New Jersey State Association of Chiefs of Police Argument Prevails Before the New Jersey Supreme Court

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To protect citizens throughout this State, New Jersey police departments are regularly turning to video recordings from surveillance cameras, dashboard cameras, and body cameras to help investigate criminal activity. The intent behind using these video recordings is clear -- the more available footage police can capture, the easier it will be to investigate and prove crimes. No longer are investigators forced to rely on word of mouth. Instead, they can simply view video recordings to get an accurate depiction of what occurred.

Recently an issue arose on whether anyone in the public can obtain copy of every video recording captured by a police camera. Naturally, once a video is released, the police are unable to prevent it from being placed online or passed along on social media. Thus, the issue involves competing interests. On the one hand, increased public access could lead to greater governmental transparency. However, unfettered release of police videos could hinder a police department's criminal investigation or damage an individual's reputation. It is not hard to imagine why the victim of domestic violence would not want police body camera footage released that shows the inside of the victim's home or bruises on the victim's body.

The New Jersey Supreme Court reviewed these competing interests when it heard oral arguments in *Paff v. Ocean County Prosecutor's Association*. The main issue for the Court to decide was whether one of the exceptions under the Open Public Records Act ("OPRA") applied. [Vito A. Gagliardi, Jr.](#) argued the case on behalf of amicus curiae the New Jersey State Association of Chiefs of Police. Mr. Gagliardi argued that the records could not be released under OPRA's criminal records exception because there is no law that required the records be created. Instead, the records only should be released when the party looking to obtain the records can show a specific interest in the records (such as the victim in a domestic violence case requesting the recordings to obtain a restraining order).

The Supreme Court agreed in its August 13, 2018 decision, finding that the police video recordings fall within OPRA's criminal records exception. The case is likely to have significant statewide ramifications.

As a result, every recording generated by a police officer's body camera or dashboard camera will not be publically released. Instead, an individual looking to obtain a copy will need to show an interest in the subject matter of the recording.