



NEW BRUNSWICK POLICE DEPARTMENT

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Captain Amish Shah

Public Information Officer

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July 28, 2025

Kimberly Kei Javier

Email: opra+request-78782-3d552d1f@requests.opramachine.com

Re: OPRA Request 25.07_719

Dear Requestor:

My office is in receipt of your OPRA request dated July 25, 2025, and received the same.

After further review your request for body-worn camera footage for (25NB00346) is exempt from disclosure under OPRA and pursuant to N.J.S.A. 40A:14-118.5.

Although, generally, BWC footage does not qualify as a “criminal investigatory record” exempt from disclosure under OPRA (see Jersey Media Grp., Inc. v. Twp. Of Lyndhurst, 229 N.J. 541, 565 (2017)), there are certain statutory exceptions that render the requested BWC records exempt from disclosure. See N.J.S.A. 40A:14-118.5(l), et seq. Specifically, N.J.S.A. 40A:14-118.5 (the “Body Worn Camera Statute”) provides, in pertinent part:

[n]otwithstanding that a criminal investigatory record does not constitute a government record under section 1 of P.L.1995, c. 23 (C.47:1A-1.1), only the following body worn camera recordings shall be exempt from public inspection: [...] 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.

N.J.S.A. 40A:14-118.5(l)(3).

Analysis of recent case law concerning the interaction between OPRA and the Body Worn Camera Statute’s inspection provision, cited above, was recently conducted by the Appellate Division in Fuster v. Twp. Of Chatham, 477 N.J. Super. 477 (App. Div. 2023). Specifically, the Fuster Court held that “the exemptions listed in N.J.S.A. 40A:14-118.5(l) are in addition to OPRA’s exemptions.” Id. At 491. . See also Borough of Spotswood, et al. v. Middlesex County Prosecutor’s office, MID-L-000563-24 (Law. Div. 2024) (The Spotswood Court recognized the Body Worn Camera Statute’s evidentiary exemption pursuant to N.J.S.A. 40A:14-118.5j (2) (a) and N.J.S.A. 10A:14-118.5j (2)(c)).

Kindly be advised, the New Brunswick Police Department is an agency that investigates criminal matters and is required to maintain certain evidence as a part of its investigative file that would inevitably be used in prosecutions. These BWC recordings are subject to the specific retention required under N.J.S.A. 40A:14-118.5(j) because the subject recordings have evidentiary value. Accordingly, pursuant to N.J.S.A. 40A:14-118.5(I), the requested records are currently exempt from disclosure as such records are subject to an additional retention period. See Fuster v. Twp. of Chatham, 477 N.J. Super 477, at 491 (holding that "the exemptions listed in N.J.S.A. 40A:14-118.5(l) are in addition to OPRA's exemptions).

Thank you for your interest in this matter and if my office can be of any further assistance, please do not hesitate to contact us.

Sincerely,

Captain Amish Shah

cc. Leslie Zeledon, City Clerk
Joseph Catanese, Asst. City Attorney