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MEMORANDUM

TO: Assignment Judges **Directive #21-17**

FROM: Glenn A. Grant, Acting Administrative Director 

RE: Common Law Right of Access Requests for Dashcam Recordings of Fatal Police Shootings

DATE: July 11, 2017

The Supreme Court, in North Jersey Media Group, Inc. v. Township of Lyndhurst, _____ N.J. _____ (Docket No. A-35-15)(July 11, 2017), found that appellant North Jersey Media Group was entitled under common law to disclosure of dashcam video recordings of a fatal police shooting.

This memorandum sets forth best practices for handling common law right of access requests for dashcam video recordings in fatal police shootings. It is generally understood that Assignment Judges will be responsible for handling these matters.

Assignment Judges should treat common law right of access requests for dashcam video recordings in the case of a fatal police shooting as expeditiously as the court would address a sensitive OPRA filing. OPRA provides that a requestor who believes he or she has been unlawfully denied access to a public record may institute a proceeding challenging the denial in Superior Court; furthermore, "any such proceeding shall proceed in a summary or expedited manner." N.J.S.A. 47:1A-6.

Rule 4:67 provides for summary actions in the Superior Court. More specifically, Rule 4:67-1(b) provides that a summary action may be instituted before the Superior Court, other than a matrimonial action or one in which unliquidated monetary damages are sought, where "it appears to the court, on motion made pursuant to R. 1:6-3 and on notice to the other parties to the action not in default, that it is likely that the matter may be completely disposed of in a summary manner." Rule 4:67-2(b) provides that:

[a]ctions referred to in R. 4:67-1(b) shall be commenced, and proceedings taken therein, as in other actions, except as herein provided. The notice of motion to proceed summarily shall be supported by affidavits made pursuant to R. 1:6-6 and, if addressed to the defendant, may be served with the summons and complaint;

but it shall not be returnable until after the expiration of the time within which the defendant is required to answer the complaint. If the court is satisfied that the matter may be completely disposed of on the record (which may be supplemented by interrogatories, depositions and demands for admissions) or on minimal testimony in open court, it shall, by order, fix a short date for the trial of the action, which shall proceed in accordance with R. 4:67-5, insofar as applicable.

Thus, judges should handle actions involving access requests under the common law for dashcam video recordings in cases of fatal police shootings as summary proceedings under Rule 4:67. It is a best practice that the decisions as to these requests will be accomplished in a timeframe comparable to the timeframe set out in OPRA, absent exceptional circumstances.

Thank you.

G.A.G.

c: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
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Melaney S. Payne, Special Assistant
Ann Marie Fleury, Special Assistant