

New Jersey Appellate Division Rules in Favor of Releasing Use of Force Reports Involving Juvenile Subjects of Force, Citing Lyndhurst in Support of Decision

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Pashman Stein Walder Hayden partner CJ Griffin received a successful result in a decision from the New Jersey Appellate Division in Digital First Media d/b/a The Trentonian v. Ewing Township. Griffin argued the matter on May 22, 2019 and on November 21, 2019. The decision was issued on February 19, 2020.

In March 2018, Griffin filed an Open Public Records Act (OPRA) lawsuit on behalf of the Trentonian newspaper, seeking to compel the production of Use Of Force Reports (UFRs) relating to the alleged use of force by Ewing police officers against a sixteen-year-old suspect. Ewing Township had denied access on the basis that the records “pertained to a juvenile charged as a delinquent,” and were therefore available only by application to the Family Part pursuant to N.J.S.A. 2A:4A-60. Finding that the rule and statute preserving a juvenile’s anonymity barred disclosure under OPRA, the Law Division judge dismissed the complaint on July 18, 2018.

The Appellate Division today reversed that dismissal, concluding that when police employ force against minors, redaction of his or her name on the UFR satisfies both the public’s right to access important information regarding police conduct and a juvenile’s right to privacy.

In response to the decision, Griffin stated, “Law enforcement officers have the authority to use force against individuals when it is justified, but with that great power comes a corresponding need for transparency. When police use force against children, the public’s need and desire for transparency is even greater. Today’s decision ensures that the public has access to all Use of Force Reports, not just those involving adults.”

Several amici curiae supported the Trentonian's argument that redacted UFRs do not pertain to juveniles, but rather to police officers and their conduct, including the American Civil Liberties Union of New Jersey, the Reporters Committee for Freedom of the Press and 22 other Media Organizations, and the Attorney General of New Jersey. Amici agreed that public access to UFRs relating to the use of force against juveniles will better serve the public by providing a measure of clarity and oversight in this important arena.

In its ruling today accepting the Trentonian's arguments, the court cited the Supreme Court's unanimous decision in North Jersey Media Group v. Twp. of Lyndhurst, 229 N.J. 541 (2017), a landmark case that granted access via OPRA and common law to police records relating to a high-speed police chase and the fatal use of force on a black, male suspect, documents that the State had for more than two years refused to release.

Lyndhurst, which also was litigated by Griffin and Pashman Stein partner Sam Samaro, set a precedent about public access to Use of Force Reports, dash cam footage, and the identity of officers who use force. The case received national attention, as reporters applauded the affirmation of government transparency as a fundamental principle that trumps a police agency's interest in keeping videos and reports secret.

As to the Lyndhurst decision, Griffin has said, "In New Jersey, police officers are required to complete Use of Force Reports any time they use any amount of force against a suspect, whether it is twisting someone's arm, using leg or wrist strikes, or using deadly force, which is any time a weapon is fired. The State sought to shield Use of Force Reports from the public permanently and keep the public from learning the identities of officers who use deadly force against citizens. Thankfully the Supreme Court made that information public."

Griffin added today, "We continue to litigate for information on police conduct, for access to body camera footage and other information about police-involved shootings and uses of force."

Michael S. Stein, chair and managing partner of Pashman Stein, said, "Today's decision is a testament to the significance of the Lyndhurst case and to the need for meaningful access to law enforcement records. At Pashman Stein, we are committed to taking on these high impact public interest cases, and to use advocacy to advance civil rights and government transparency."

John Berry, Editor of the Trentonian, said, "This seems like a battle we shouldn't have had to fight, but I'm glad the courts eventually agreed that the public should have access to public records. Hopefully this decision will help all publications get access to records that will help us increase accountability and transparency. That's always our main concern when reporting on police or elected officials, the juvenile's arrest was of secondary importance to making sure the public knows what government agencies are up to. Luckily we have great lawyers like CJ Griffin and the team at Pashman Stein and Bruce Rosen and the Reporters Committee for Freedom of the Press out there defending the access to information that makes it possible for us to do our jobs and inform the public."

Press Coverage:

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