



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**21-ORD-016**

February 3, 2021

In re: Terry Goodspeed/Louisville Metro Police Department

*Summary:* The Louisville Metro Police Department (“Department”) violated the Open Records Act (“the Act”) when it failed to identify the appropriate exception authorizing it to deny a request for records. However, the Department carried its burden on appeal to demonstrate that the requested records are exempt under KRS 17.150(2).

*Open Records Decision*

On October 29, 2020, Terry Goodspeed (“Appellant”) requested from the Department a copy of any video or audio footage obtained from officer-worn body cameras or dashboard cameras related to a specific motor vehicle accident investigation that occurred on October 15, 2020, just two weeks before the request.

When a public agency denies a request to inspect records, the Act requires the agency to “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1). Here, the Department issued a timely response and denied the request under KRS 189A.100. But on appeal, the Department admits that it should not have relied on KRS 189A.100 to deny inspection. Instead, the Department claims that the requested video footage is evidence to be used in a criminal case in which the related prosecution has not yet concluded. For that reason, the Department now claims that the footage is exempt under KRS 17.150(2) and KRS 61.878(1)(h). Because the Department’s initial

response failed to identify the applicable statutory exception, and because the Department also failed to explain how the exception applied to deny inspection, the Department violated the Act.

That said, the Department was justified in denying the request under KRS 17.150(2). Under that provision, “[i]ntelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made.” KRS 17.150(2). This Office has observed that “[i]nvestigative reports are nearly always withheld from public inspection to protect sources of information and techniques of investigations and also to prevent premature disclosure of the contents to the targets of investigation, which could thwart law enforcement efforts.” OAG 83-123, p. 2 (citations omitted). This Office has also determined that the “investigative reports” include audio and video recordings such as “dash-cam video recordings.” *See, e.g.*, 20-ORD-104; 07-ORD-095; 04-ORD-234.

Here, the Department explains that the individual depicted in the footage was arrested on multiple charges. A preliminary hearing in the related criminal case is scheduled to occur on February 3, 2021. Thus, the prosecution is ongoing and KRS 17.150(2) permits the Department to deny inspection of the footage until such prosecution has completed.<sup>1</sup>

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings.

Daniel Cameron  
Attorney General

/s/Marc Manley  
Marc Manley  
Assistant Attorney General

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<sup>1</sup> Because the Department has properly relied on KRS 17.150(2) to deny the request, this Office does not consider whether KRS 61.878(1)(h) also applies to deny inspection. *See* 20-ORD-104.

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Distributed to:

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