



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-054

February 27, 2025

In re: Jeffrey Gegler/Kentucky State Police

Summary: The Kentucky State Police (“KSP”) did not violate the Open Records Act (“the Act”) when it denied a request for a copy of body-worn camera footage that depicts the interior of a hospital facility and footage of a deceased body, and which does not fall under any exceptions in KRS 61.168(5).

Open Records Decision

Jeffrey Gegler (“Appellant”) submitted a request to KSP for seven categories of records¹ related to “the incident at LifeSkills Adult Crisis Stabilization on the morning of November 6, 2024.” KSP stated it would need additional time to process the Appellant’s request² but it would “send the aforementioned records to [the Appellant] upon completion of the review process.”³ Now, the Appellant challenges KSP’s non-provision of body-worn camera footage.

¹ Specifically, the Appellant sought “All body cam and dashcam video footage”; “911 audio”; “Police radio logs”; “Dispatch Audio”; “Phone logs and text messages by KSP officers”; “All investigative reports”; and “All prior use of force reports” for the officers involved in the incident during their employment with KSP.

² The Appellant’s request and KSP’s response were previously the subject of 25-ORD-028, in which the Appellant challenged KSP’s delayed response to his request. That decision did not address the adequacy of KSP’s production of records because it was initiated prior to KSP providing any responsive records.

³ KSP asserts the Appellant did not provide the Office with a copy of its final response, as is required by KRS 61.880(2) (requiring a complaining party to provide the Attorney General with “a written request to the public agency and the public agency’s written denial, if any”). However, while describing its “final response,” KSP attached a copy of its response to the Appellant’s first appeal and paraphrased the text of that response. That response cannot be considered KSP’s written denial because it was addressed to the Office, not the Appellant. Regardless, the Office is satisfied that the Appellant may appeal the non-production of certain records under KRS 61.880(2) by providing his original request and KSP’s original response.

Under KRS 61.168(4)(b) and (g), “a public agency may elect not to disclose body-worn camera recordings containing video or audio footage that . . . [i]ncludes the areas inside of a medical facility, counseling, or therapeutic program office where a patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment” or “[i]ncludes the body of a deceased individual.” Here, KSP explains the requested footage “reveals the interior of a hospital facility and footage of a deceased body.”

Notwithstanding KRS 61.168(4)(b) and (g), if the footage “[d]epicts an encounter between a public safety officer where there is a use of force, the disclosure of the record shall be governed solely by” the Act. KRS 61.168(5)(a).⁴ The Appellant asserts that a “citizen was shot and killed,” which makes KRS 61.168(5)(a) applicable.

However, KSP states the footage does “not meet any of the criteria for release established in KRS 61.168(5).” The Appellant is correct that KRS 61.168(5)(a) would apply if the requested footage shows an officer-involved shooting. But here, because KSP has clearly stated the footage does “not meet any of the criteria for release established in KRS 61.168(5),” it follows that the withheld footage does not depict such a “show of force.” Accordingly, KSP did not violate the Act when it denied a request for a body-worn camera recording that “reveals the interior of a hospital facility and footage of a deceased body,” and which does not fall under any of the exceptions in KRS 61.168(5).

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

⁴ KRS 61.168(5) also provides that body camera footage shall be subject to the Act in three other circumstances. See KRS 61.168(5)(b)–(d). Neither the Appellant nor KSP asserts that any of these three circumstances applies to the footage at issue here.

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/s/ Zachary M. Zimmerer
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Distributed to:

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