



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

22-ORD-253

November 28, 2022

In re: Jennifer Morris/McCracken County Sheriff's Office

Summary: The McCracken County Sheriff's Office ("Sheriff's Office") did not violate the Open Records Act ("the Act") when it did not provide the subject of a body-worn camera recording with a copy of the recording.

Open Records Decision

On October 11, 2022, Jennifer Morris ("Appellant") sent a request to the Sheriff's Office for a copy of "body cam footage" from an incident in which officers responded to her home. She stated she needed the footage "for [her] attorneys." In a timely response, the Sheriff's Office denied the request under KRS 61.168(5)(d), stating she could view the footage "an unlimited number of times" at the Sheriff's Office, but could not obtain a copy of it. The Sheriff's Office added that "any attorney retained by [the Appellant] would be authorized to obtain a copy upon compliance with the requirement set forth in KRS 61.169." This appeal followed.

Under KRS 61.168(2), "the disclosure of body-worn camera recordings shall be governed by the [Act]" *unless* KRS 61.168 states otherwise. Under KRS 61.168(5)(d), if the footage "[i]s requested by a person . . . that is directly involved in the incident contained in the body-worn camera recording, it shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, but *the public agency shall not be required to make a copy of the recording* except as provided in KRS 61.169." KRS 61.168(5)(d) (emphasis added). Furthermore, "[t]he requesting parties shall not be limited in the number of times they may view the recording[.]" *Id.* Here, the Sheriff's Office has offered to let the Appellant view the footage "an unlimited number of times." Having complied with KRS 61.168(5)(d), the Sheriff's Office is not required to provide a copy of the body-worn camera footage. *See, e.g., 22-ORD-178.*

KRS 61.169 allows the involved party's attorney to obtain a copy of the recording after meeting certain conditions, including the attorney's acknowledgment "that as an officer of the court, he or she may be subject to professional discipline or other legal liability for a breach of an affidavit executed under this section." KRS 61.169(1)(d)6. This condition, according to its own terms, can be fulfilled only by an attorney who personally makes the request. Therefore, the Appellant's assertion that she needs the footage "for [her] attorneys" does not entitle her to obtain a copy of the recording under KRS 61.169. Accordingly, the Sheriff's Office did not violate the Act when it denied the Appellant's request for a copy of the footage.

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 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

s/ James M. Herrick
James M. Herrick
Assistant Attorney General

#408

Distributed to:

Ms. Jennifer Morris
Sam Clymer, Esq.
Sheriff Ryan Norman
Ms. Jana King