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23-ORD-260

October 2, 2023

In re: WAVE-TV/Louisville Metro Police Department

Summary: The Louisville Metro Police Department (“the Department”) did not violate the Open Records Act (“the Act”) when it withheld from inspection juvenile law enforcement records that are confidential under KRS 610.320(3).

Open Records Decision

On July 18, 2023, WAVE-TV (“Appellant”) requested “copies of body camera video from officers responding to calls for service at 908 W Broadway (L & N building) from July 1 2022 through the present day.” On July 27, 2023, after some initial discussion with the Department, the Appellant narrowed the request to footage of “any interactions between [the Department] and children who were staying at the LN [*sic*] building as temporary housing, as well as staff supervising those children that was captured on body camera.” The Department identified two records responsive to the request, but in both cases, “the juvenile was taken into custody.” For that reason, the Department denied inspection of the “videos related to both incidents” under KRS 610.320(3), which is incorporated into the Act by KRS 61.878(1)(l). In response to the Appellant’s suggestion that the Department could redact the footage and produce only the portion that “does not show the juvenile,” the Department stated “the whole video is exempted by the Juvenile Statute.” This appeal followed.

Under KRS 610.320(3), “[a]ll law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public,” with limited exceptions not applicable here. This provision “operates as an absolute prohibition on the release of law enforcement records” regarding juvenile offenders. 10-ORD-066 (quoting 98-ORD-185; 95-ORD-22). Here, the Appellant argues that, “just because an officer responds and takes a child into custody,” it does not follow “that the child is immediately transferred into the juvenile

justice system.” However, the Department confirms that in both cases these records “do involve juvenile defendants who were charged with crimes and taken into custody.” Therefore, the release of the records is prohibited by KRS 610.320(3).

The Appellant claims the Department “could redact the child’s identity in order to protect their identity, but still allow the public to see what the officer(s) viewed the two times they were called to this building.” However, the confidentiality of the records under KRS 610.320(3) is not limited to personal identifying information of the juvenile offenders, but *entirely* excludes from inspection “records regarding children who have not reached their eighteenth birthday.” Therefore, “protected information cannot simply be redacted in accordance with KRS 61.878(4) as would otherwise be required.” 10-ORD-066; *see also* 14-ORD-067. Thus, the Department did not violate the Act when it denied the Appellant’s request.

A party aggrieved by this decision may appeal it by initiating an 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 emailed to OAGAppeals@ky.gov.

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s/ James M. Herrick
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