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25-ORD-071

March 20, 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 inspection of a video depicting the death of a person under KRS 61.878(1)(q).

***Open Records Decision***

Jeffrey Gegler (“the Appellant”) submitted a request seeking “all surveillance footage provided to the KSP” by a particular medical facility “from the incident on November 6, 2024 that resulted in the death of [a] patient.” In response, KSP denied the request under KRS 61.878(1)(h). This appeal followed.

On appeal, KSP now asserts the records are also exempt under both KRS 61.878(1)(h) and KRS 61.878(1)(q). The latter exempts from inspection “photographs or videos that depict the death, killing, rape, or sexual assault of a person.” KSP explains that the responsive surveillance footage “captures the killing of an individual” and is, therefore, exempt. Indeed, the Appellant specifically requested footage “from the incident . . . that resulted in the death of [a] patient.” Accordingly, KSP did not violate the Act when it withheld surveillance footage depicting the death of a person under KRS 61.878(1)(q).<sup>1</sup>

To rebut this conclusion, the Appellant states that KRS 61.878(1)(q) is applicable “[e]xcept as provided by KRS 61.168,” and he directs the Office to KRS 61.168(5)(a). But KRS 61.168 governs the disclosure of “body-worn camera recordings,” which are defined as “a video or audio recording, or both, that is made by a *body-worn camera* during the course of a public safety officer’s official duties.” KRS 61.168(1)(b) (emphasis added). Here, the Appellant requested “surveillance

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<sup>1</sup> Because the surveillance footage is exempt under KRS 61.878(1)(q), the Office need not address KSP’s alternative arguments under KRS 61.878(1)(h).

footage” provided to KSP by a medical facility. Thus, the footage is not a “body-worn camera recording[ ],” and its production is not governed by KRS 61.168.<sup>2</sup>

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.

**Russell Coleman**  
**Attorney General**

/s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

#075

Distributed to:

Jeffrey Gegler

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<sup>2</sup> Moreover, KRS 61.168(5)(a) provides that when 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 provisions of” the Act. Here, the Act, in KRS 61.878(1)(q), makes the surveillance footage exempt.