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25-ORD-185

July 18, 2025

In re: Madison Nantz/City of London.

Summary: The City of London. ("the City") did not violate the Open Records Act ("the Act") when it withheld the name of a police officer on administrative leave under KRS 61.878(1)(a).

Open Records Decision

Madison Nantz, on behalf of the *Sentinel-Echo* ("Appellant"), submitted a request for records "regarding which employees with the London Police Department have been placed on administrative leave since" December 1.[1] Relying on KRS 61.878(1)(h), (i), and (a), the City denied the request because "(1) the records are part of a preliminary investigation, and (2) the individuals involved are entitled to a reasonable expectation of privacy, particularly given the sensitive nature of the matter."[2] Explaining the privacy interests involved, the City stated that "revealing identities or detailed allegations before the conclusion of the investigation could negatively impact the well-being of those involved. This includes mental and emotional health, professional standing, and personal safety." This appeal followed.

Under KRS 61.878(1)(a), a public agency may withhold "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." To determine whether a public record may be redacted or withheld under KRS 61.878(1)(a), the Office must weigh the public's right to know that a public agency is properly executing its functions against the "countervailing public interest in personal privacy" when the records in dispute

[1] The Appellant did not identify the year in which she sought responsive records. The City interpreted her requests as seeking records since December 1, 2024, and the Appellant has not objected to that interpretation.

[2] The Appellant's original response cited KRS 61.878(2), which concerns the applicability of KRS 61.878(1) to certain statistical information. On appeal, the City cites instead to KRS 61.878(1)(a).

contain information that touches upon the "most intimate and personal features of private lives." *Ky. Bd. of Exam'rs of Psychologists v. Courier–Journal & Louisville Times Co.*, 826 S.W.2d 324, 328 (Ky. 1992). This balancing test requires a "comparative weighing of the antagonistic interests. Necessarily, the circumstances of a particular case will affect the balance. . . . [T]he question of whether an invasion of privacy is 'clearly unwarranted' is intrinsically situational, and can only be determined within a specific context." *Id.* at 327–28. In reviewing an agency's denial of an open records request based on the personal privacy exemption, the courts and this Office balance the public's right to know what is happening within government against the personal privacy interest at stake in the record. *See Zink v. Commonwealth, Dep't of Workers' Claims*, 902 S.W.2d 825, 828 (Ky. App. 1994).

The Appellant explains that she seeks the identity of a City police officer who was involved in a shooting and thereafter placed on administrative leave. Regarding the public interest, the Appellant argues that "the public has a right to know when public employees—especially the law enforcement officers serving them—are placed on leave."

Regarding the privacy interests at issue here, the City explains that "the simple publication of his name by the newspaper subjects the police officer to public scrutiny, public discussion on social media, public discussion at City Council meetings, more marches and more threats of physical violence" prior to the completion of the investigation into the shooting. The City further explains that the Officer is "under the care of physicians as a result of the officer-involved shooting."

Instructive here is *Lexington H-L Services, Inc. v. Lexington–Fayette Urban County Government*, 297 S.W.3d 579 (Ky. App. 2009). There, the Court of Appeals considered the agency's redaction of a rape suspect's name from a record. *Id.* at 584. First, the court stated that disclosure of the uncharged suspect's name "would certainly constitute an invasion of personal privacy and would most likely subject the suspect to a certain amount of public scorn, ridicule, and possibly harassment." *Id.* The court weighed that privacy interest against the requester's interest in monitoring police conduct. *Id.* at 585. However, the court also noted that it was not clear how disclosure of the suspect's identity would further that interest because the requester had received 900 pages of investigative documents. *Id.* In so noting, the court expressed doubt about the requester's position that "disclosure of the rape suspect's identity would generally promote the public interest of monitoring police conduct," stating that "the policy of disclosure is purposed to subserve the public interest, not to satisfy the public's curiosity." *Id.* at 585 n.7 (quoting *Ky. Bd. of Exam'rs of*

Psychologists v. Courier–Journal & Louisville Times Co., 826 S.W.2d 324, 328 (Ky. 1992)).

Turning back to the circumstances of this appeal, the City is correct that disclosure of the officer's identity would likely subject him to "public scorn, ridicule, and possibly harassment." Here, the officer has not been charged with wrongdoing. Rather, the City explains that the officer is currently on leave because "[i]t is the practice of the London Police Department . . . to place officers involved in shootings on administrative leave." Therefore, this case is distinguishable from *Palmer v. Driggers*, 60 S.W.3d 591 (Ky. App. 2001), because the police officer in that case had been officially charged with misconduct.[3] Here, the officer is only the subject of an unfinished investigation.[4] Moreover, the Appellant's stated belief that it is entitled to know when public employees are placed on leave looks more like a request intended to "satisfy the public's curiosity." *Ky. Bd. of Exam'rs*, 826 S.W.2d at 328.

Thus, because the investigation into the shooting remains incomplete, and because the officer has not been charged with any wrongdoing, the Office concludes that the City did not violate the Act when it declined to produce records identifying the officer it had placed on administrative leave.[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.

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[3] In that case, the Court of Appeals found that KRS 61.878(1)(a) did not warrant withholding certain records related to an investigation because the "public has a legitimate interest in knowing the underlying basis for a disciplinary charge against a police officer *who has been charged* with misconduct." *Palmer*, 60 S.W.3d at 599 (emphasis added).

[4] The Office has previously found that the privacy interests weighed in favor of nondisclosure of uncharged police officer subjects where the investigation resulted in the conclusion that "no evidence was found to support the allegations." 20-ORD-026 (finding "disclosure of the suspects' identities is not necessary for an adequate appraisal of the investigation"). Here, because the investigation is not complete, the circumstances of this appeal resemble those in 20-ORD-026.

[5] Because KRS 61.878(1)(a) is dispositive, the Office declines to address the City's invocation of KRS 61.878(1)(h) and (i).

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/s/ Zachary M. Zimmerer
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Distributed to:

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