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25-ORD-280

September 26, 2025

In re: Natalie Jeffries/Louisville Metro Government

**Summary:** The Louisville Metro Government (“Metro”) did not violate the Open Records Act (“the Act”) when it denied, under KRS 189A.100, a request for video recordings of a field sobriety test intended to be used in a civil trial.

***Open Records Decision***

Natalie Jeffries (“Appellant”), on behalf of her law firm’s client, submitted a request for certain investigative records related to a traffic accident that occurred on January 24, 2025. Relevant to this appeal, the Appellant requested “body cam and police dash cam video” related to the accident. The Appellant notified Metro that her law firm is representing a person involved in the accident. In response, Metro denied the Appellant’s request for video records under KRS 189A.100 because the “video contains the performance of a field sobriety test” and is therefore exempt from inspection. This appeal followed.

KRS 189A.100 establishes the procedure law enforcement officers are to use when administering field sobriety tests to suspects during investigations of alleged driving under the influence of alcohol (DUI). Officers are permitted to record the suspect while administering these tests. KRS 189A.100(2)(a). However, such footage “shall be used for official purposes only.” KRS 189A.100(2)(b)5. The statute provides only three “official purposes” for which the footage may be used: (a) viewing “in court”; (b) viewing “by the prosecution and defense in preparation for a trial”; and (c) viewing “for purposes of administrative reviews and official administrative proceedings.” *Id.* Otherwise, the recordings are to be considered “confidential records.” *Id.*<sup>1</sup> The Act

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<sup>1</sup> The unauthorized release of such video footage is a misdemeanor criminal offense. KRS 189A.100(2)(b)7.

exempts from inspection any records that are confidential under state statute. KRS 61.878(1)(l).

When interpreting statutes, Kentucky courts “presume that the General Assembly intended for the statute to be construed as a whole, for all of its parts to have meaning, and for it to harmonize with related statutes.” *Shawnee Telecom Res., Inc. v. Brown*, 354 S.W.3d 542, 551 (Ky. 2011) (internal citations omitted). Although KRS 189A.100(2)(b)5. states that viewing the footage “in court” is an official purpose for which the footage may be used, when viewing the statute as a whole, it is clear that viewing “in court” means during a hearing or trial in the criminal DUI case. The statute repeatedly uses the terms “defendant” and “Commonwealth,” and specifically states that an official use of such video includes viewing “by the *prosecution and defense* in preparation for a trial.” KRS 189A.100(2)(b)5.b. (emphasis added). Thus, only the prosecution and defense may view the footage *outside* of court in preparation for a criminal trial in a DUI case.

Other than a criminal case, the only permissible use of such footage is “for purposes of administrative reviews and official administrative proceedings.” Thus, the General Assembly has considered proceedings other than criminal proceedings and has permitted the use of such footage during “administrative proceedings.” However, the General Assembly did not expressly include civil proceedings among the “official purposes” for which the footage may be used, despite its recognition of both criminal and administrative proceedings.

For her part, the Appellant correctly notes that KRS 189A.100(2)(b)6. requires that the footage be destroyed, by order of the sentencing court, upon the “later” of several potential events, including “the conclusion of any civil case *arising* from events depicted on the videotape” (emphasis added). This indicates that such footage could be used in *some* civil proceeding, otherwise there is no need to preserve the footage until the conclusion of a “civil proceeding.” However, the civil proceeding must “arise” from the “events depicted on the video.” The Office has previously stated that this indicates “that such footage could be used in a civil action for false arrest, malicious prosecution, or some other alleged tort committed by the officer against the defendant that is captured on the video.” 22-ORD-072 n.2.<sup>2</sup>

Here, the Appellant explains that her client is a defendant in a civil action arising from a traffic incident. The police report provided by the Appellant states that

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<sup>2</sup> Notably, KRS 189A.100(2)(b)5. only permits the prosecution and defense to view the recording in preparation for a trial. It is unclear how an attorney involved in a related civil case could play the video “in court,” KRS 189A.100(2)(b)5.a., without having first viewed the footage in preparation for a civil trial.

officers were dispatched to the accident scene, where they performed a field sobriety test on, and then arrested, the Appellant's client. Further, as the Appellant's client is the defendant in the civil action, he or she is not a plaintiff who is alleging a tort committed by an officer. Thus, it appears that the civil proceeding at issue did not arise from the administration of the field sobriety test, but rather, arose from the traffic accident that preceded the field sobriety test. The Office has previously found that the use of such footage as evidence in a civil trial is not an "official purpose" under KRS 189A.100(2)(b)5. *See, e.g.*, 22-ORD-072; 19-ORD-102. Accordingly, Metro did not violate the Act when it denied inspection of body-worn camera footage depicting the pursuit, stop, or administration of sobriety tests to a person suspected of DUI.

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](mailto:OAGAppeals@ky.gov).

**Russell Coleman  
Attorney General**

/s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
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Distributed to:

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