



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN  
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE  
SUITE 200  
FRANKFORT, KY 40601  
(502) 696-5300

26-ORD-076

March 2, 2026

In re: William Newcomb/Lexington Police Department

**Summary:** The Lexington Police Department (“the Department”) violated the Open Records Act (“the Act”) when it denied under KRS 61.878(1)(a) a request for 90 minutes of traffic camera video captured at two specific locations.

***Open Records Decision***

William Newcomb (“the Appellant”) submitted a request to the Department for “every document related to” the traffic camera recordings at two specified intersections in Lexington from 8:00 to 9:30 a.m. on November 7, 2025. In a timely response, the Department denied the request on two grounds. First, the Department claimed it could not “ascertain the nature and scope” of the Appellant’s request because he had asked “for ‘any and all records’” (a term not used by the Appellant) “which contain a name, a term or a phrase,” and therefore the request imposed an “unreasonable burden” under KRS 61.872(6). Second, the Department stated, “in order for traffic camera footage to be released[,] the footage must be traced to an existing police or other government agency incident,” and because the Department could not “link [the Appellant] to a documented incident coinciding with the requested video,” he was “not entitled to the traffic camera video pursuant to KRS 61.878(1)(a).” This appeal followed.

On appeal, the Appellant clarified that his request is only for the “two specific video recordings” he identified. Given this clarification, “the agency cannot claim it is impossible to determine the scope of the request.” 23-ORD-006. Therefore, the Department’s argument under KRS 61.872(6) is no longer relevant.

Under the Act, “free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.” KRS 61.871. Accordingly, in an open

records appeal, “[t]he burden of proof in sustaining the action shall rest with the agency.” KRS 61.880(2)(c).

Here, the Department withheld the traffic camera footage under KRS 61.878(1)(a), which exempts from disclosure “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” “To determine whether an agency may apply this exception requires a ‘comparative weighing of the antagonistic interests’ between an *identified privacy interest* and the public interest in disclosure.” 20-ORD-166 (emphasis added) (quoting *Ky. Bd. of Exam’rs of Psychologists v. Courier-Journal & Louisville Times Co.*, 826 S.W.2d 324, 327 (Ky. 1992)). The burden rests with the public agency to “identify whose personal privacy interest [is] at stake.” 20-ORD-043.

Instead of identifying a personal privacy interest, however, the Department argues that “the average individual does not suspect that any citizen of Kentucky may request records from the government over a specified period of time, capturing the exact location of their vehicle and theoretically tracking them as they travel.” In 26-ORD-051, the Office found that the Department had improperly denied a request for one minute of video from a particular license plate reader camera because the request was limited by geographic information and temporal scope, “not by who [was] captured in” the footage, and the Department had not identified “a specific privacy interest implicated by [the] specific video.”<sup>1</sup> Accordingly, the Office rejected the Department’s argument under KRS 61.878(1)(a) based on “a general assertion that a person’s location at a given time is personal and should not be disclosed.” *Id.* Here, likewise, the Department has not met its burden of proof that an identified privacy interest outweighs the public interest in disclosure<sup>2</sup> of public records. Therefore, the Department violated 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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<sup>1</sup> The Office distinguished a request of that nature from a request for all images of a specific license plate captured over a period of time, which implicated the privacy interest of a specific individual and “would allow a requester to comprehensively document all the private individual’s movements for an extended period.” 26-ORD-051.

<sup>2</sup> Although “the degree to which the disclosure” of footage unrelated to a law enforcement action “actually serves that interest is minimal,” 26-ORD-051, it is the Department’s burden to show that a stronger personal privacy interest outweighs the public interest.

**Russell Coleman**  
Attorney General

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

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Distributed to:

William E. Newcomb III  
William D. Razor, Esq.  
Michael Cravens, Esq.  
Evan P. Thompson, Esq.