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26-ORD-312

July 15, 2026

In re: Hannah Ainsley/Louisville Metro Police Department

Summary: The Louisville Metro Police Department (“the Department”) violated the Open Records Act (“the Act”) when it initially failed to perform an adequate search to locate all records responsive to a request. However, the Department did not violate the Act when it denied a request for body-worn camera footage under KRS 61.168(4), or when it construed an ambiguous request in good faith.

Open Records Decision

On April 28, 2026, Hannah Ainsley (“the Appellant”) submitted a request to the Department for “records related to the reported active shooter response at Baptist Health Louisville (formerly Baptist Hospital East) on February 18, 2026.” Specifically, the Appellant requested “CAD records, dispatch logs, incident logs, event histories, timestamps, unit assignments, and call notes related to the incident”; “[r]adio traffic recordings, radio transcripts, dispatch audio, and communications logs related to the response”; “[b]ody-worn camera footage from responding officers”; “[i]n-car dash camera footage from responding vehicles”; “[i]ncident reports, supplemental reports, investigative summaries, and after-action reviews”; “[r]ecords identifying responding officers, supervisors, and units assigned or dispatched”; “[m]utual aid or interagency communications with other responding agencies, including communications between [the] Department and St. Matthews Police Department”; “[a]ny records indicating the disposition of the call, including whether the report was substantiated, unfounded, mistaken, or otherwise resolved”; and “[a]ny emails, text messages on agency devices, or other official communications discussing the incident on February 18, 2026, or immediately thereafter.”

The Department issued two responses on May 4, 2026. First, the Department stated it “does not have any incident, supplement or investigative or after-action reports” because the St. Matthews Police Department was the investigating agency and the Department was only “on scene to assist.” The Department also stated it did “not have any email or text message communication for this request.” Regarding body

camera footage, the Department stated the video “is exempt from disclosure per KRS 61.168” because it “does not show Use of Force (KRS 61.168(5)(a)); does not show an arrest (KRS 61.168(5)(b)) and does not show the Subject of a Formal Complaint (KRS 61.168(5)(c)),” but “does depict inside a medical facility (KRS 61.168(4)(b)) and shows CJIS confidential data (KRS 61.168(4)(k)). Therefore, the video is exempt from disclosure to anyone other than a person directly involved or a legal representative of the involved person.”

In its second response on May 4, 2025, the Department stated “additional time [was] need to gather all information” under KRS 61.872(5) because “[t]he records contain a mixture of exempt and nonexempt information” and the dash camera footage “is approximately 8 hours in length.”¹ The Department gave July 17, 2026, as the date when all “non-exempt, responsive records” would be available. Beginning on May 7, 2026, the Department released records to the Appellant on a rolling basis. On June 12, 2026, the Department notified the Appellant the request had “been fulfilled.” This appeal followed.

The Appellant makes three arguments on appeal. First, she claims the Department failed to locate some of the footage and radio traffic related to the incident, based on the fact that CAD records showed 32 officers responded to the scene but the Appellant received only ten dash camera recordings and “no radio traffic recording from any of the four primary patrol channels nor the TAC channel that was eventually established.” Once a public agency states affirmatively that it has provided all responsive records, the burden shifts to the requester to make a *prima facie* case that additional records exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). A requester must provide some evidence to make a *prima facie* case that additional records exist, such as the existence of a statute or regulation requiring the creation of the requested records, or other factual support for the existence of the records. *See, e.g.*, 21-ORD-177; 11-ORD-074. If the requester is able to make a *prima facie* case that the records do or should exist, then the public agency may “be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341).

Here, the Department states it conducted an additional search after this appeal was initiated and “discovered 37 additional dash cam video and 8 body camera videos,” as well as “[t]wo TAC recordings” that it did not find previously. The Department explains it initially “conducted an automated search for incident labels” entered by officers, which did not locate all responsive records because “two separate incident numbers were created for [the Department’s] response to the ‘active aggressor,’ due to there being two different hospitals in the St. Matthews area.” After

¹ The Appellant has not challenged the Department’s invocation of KRS 61.872(5).

receiving the appeal, the Department states, it “conducted a manual search for all video uploaded during a custom window of time on the date of the incident and reviewed each video for responsiveness,” resulting in the discovery of more responsive records.

A public agency has the duty “to make a good faith effort to conduct a search using methods which can reasonably be expected to produce the records requested.” 95-ORD-96 (quoting *Cerveny v. Central Intelligence Agency*, 607 F.2d 339, 353 (D.C. Cir. 1979)). Moreover, an agency “should not be able to rely on any inefficiency in its own internal record keeping system to thwart an otherwise proper open records request.” *Commonwealth v. Chestnut*, 250 S.W.3d 655, 666 (Ky. 2008). Here, the Department initially conducted an automatic search that failed to locate a significant number of responsive records that were later uncovered by a manual search.² The fact that a subsequent search by the agency resulted in additional responsive records “establishes that its initial search was inadequate.” 24-ORD-195; *see also* 21-ORD-178; 20-ORD-013. Therefore, the Department violated the Act when it initially failed to locate audio and video recordings responsive to the Appellant’s request.

Next, the Appellant argues the Department should have provided redacted copies of body camera footage instead of withholding certain recordings in their entirety under KRS 61.168. In general, under the Act, “[i]f any public record contains material which is not excepted under [KRS 61.878], the public agency shall separate the excepted and make the nonexcepted material available for examination.” KRS 61.878(4). However, under KRS 61.168(4), with some exceptions, “a public agency may elect not to disclose body-worn camera recordings containing” certain types of footage *without* the duty to redact under KRS 61.878(4). Among these are footage that “[i]ncludes the areas inside of a medical facility [where] a patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment” under KRS 61.168(4)(b) and footage that “[w]ould result in the disclosure of nonpublic or confidential data classified as Criminal Justice Information Services [“CJIS”] data by the Federal Bureau of Investigation” under KRS 61.168(4)(k). *See, e.g.*, 26-ORD-072.

Here, the Department explains that the withheld body camera footage included “video taken inside of Norton and Baptist Hospitals” as well as confidential CJIS data.³ This information is sufficient to exempt those videos from disclosure in their entirety under KRS 61.168(4)(b) and KRS 61.168(4)(k).

² Further, as the Appellant has shown, the existence of additional recordings could easily have been inferred from notations in the records initially provided.

³ The Appellant does not dispute the Department’s assertions about the content of the videos. She merely argues that the videos should be redacted and partially provided.

Under KRS 61.168(5)(d), any footage subject to KRS 61.168(4) may be “view[ed] on the premises of the public agency” if it is “requested by a person or other entity or the personal representative of a person or entity that is directly involved in the incident contained in the body-worn camera recording.” Here, however, the Appellant does not claim her request qualifies under KRS 61.168(5)(d). Accordingly, the Department did not violate the Act when it withheld the requested footage in its entirety.

Finally, the Appellant claims the Department should have provided “a Blue Team [report] in relation to the Show of Force.” On appeal, the Department explains that a “Blue Team” report, or “Use of Force” document, “is not considered an ‘after-action’ review or after incident report,” and therefore, it did not understand the Appellant’s request to seek such a document.⁴ The Appellant, however, states she intended for her request to include reports of that nature and did not know they were classified differently. Nevertheless, a public agency does not violate the Act when, in good faith, it interprets an ambiguous request “differently from the subjective intent of the requester.” 22-ORD-184; *see also* 20-ORD-153; 99-ORD-199. Therefore, the Department did not violate the Act when it did not construe the Appellant’s request as including a “Blue Team” report.

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.

Russell Coleman
Attorney General

/s/ James M. Herrick
James M. Herrick
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⁴ The Department advises that such a document exists, but only as a preliminary draft, and therefore it would have denied a request for that record under KRS 61.878(1)(i). In response, the Appellant states she “do[es] not dispute” that preliminary drafts “may be exempt from disclosure.”

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Distributed to:

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