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26-ORD-476

October 26, 2026

In re: Racheal Colter/Kentucky State Police

Summary: The Kentucky State Police ("KSP") did not violate the Open Records Act ("the Act") when it denied a request for video recordings of a field sobriety test under KRS 189A.100.

Open Records Decision

Racheal Colter ("the Appellant") submitted a request for footage of her pursuit, traffic stop, and arrest by KSP on March 24, 2026. In a timely response, KSP denied the request under KRS 189A.100(2), "incorporated into [the] Act by KRS 61.878(1)(k), [which] makes visual and audible recordings of traffic stops and field sobriety tests for a suspected violation of KRS 189A.010 exempt" from disclosure. This appeal followed.

KRS 189A.100 establishes the procedure law enforcement officers must use when administering field sobriety tests to suspects during investigations of suspected driving under the influence of alcohol or other substances (DUI). Officers are permitted to record the suspect during the pursuit, during the traffic stop, and while administering the field sobriety 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.*[1] The Office has previously held that such recordings are entirely confidential, and that a law enforcement agency is not authorized to release any portion of such videos. *See, e.g.*, 93-ORD-133; 10-ORD-088; 19-ORD-102; 21-ORD-102; 23-ORD-025; 25-ORD-070. The Act exempts from inspection any records that are confidential under state statute. KRS 61.878(1)(l).

[1] The unauthorized release of such video footage is a misdemeanor criminal offense. KRS 189A.100(2)(b)7.

The Appellant, who was the subject of the field sobriety test, argues that the footage is not exempt because she was charged only with "drug possession and drug paraphernalia," not with DUI. However, KRS 189A.100 does not require DUI charges to be filed for the footage to be confidential. Rather, KRS 189A.100(2)(a) authorizes law enforcement agencies to record the "pursuit of a violator or suspected violator," the "traffic stop," and either the administration of the field sobriety test or the suspect's refusal to submit to such test. That footage "shall be used for official purposes only." KRS 189A.100(2)(b)5. Indeed, the Office has previously held that KRS 189A.100 does not require any charges to be brought before the confidentiality provision applies. *See* 25-ORD-284. The Appellant does not assert she is requesting this video for an "official purpose," as defined in the statute. Thus, KSP did not violate the Act when it withheld this video under KRS 189A.100(2). *See, e.g.,* 25-ORD-309; 25-ORD-070.

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
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Distributed to:

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