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26-ORD-488

October 30, 2026

In re: WHAS 11 News/Pleasure Ridge Park Fire Protection District

Summary: The Pleasure Ridge Park Fire Protection District ("the District") did not violate the Open Records Act ("the Act") when it withheld investigative materials pertaining to an ongoing investigation under KRS 61.878(1)(i) and (j).

Open Records Decision

WHAS 11 News ("the Appellant") submitted a three-part request to the District for records relating to an ambulance crash that occurred on November 17, 2025. At issue in this appeal is the Appellant's request for "[a]ny internal investigative documents or records of discipline related to" the incident. In response, the District withheld records under KRS 61.878(1)(i) and (j), which it identified as "(1) the Preliminary Accident Details Worksheet (Form 203-05b) dated November 17, 2025; (2) the internal Personal Injury/Illness Investigation Reports prepared for the two District crew members involved in the crash; (3) the internal Vehicle Accident/Loss Investigation Report, including its safety-analysis assessments of cause and recommendations to prevent recurrence; and (4) the internal incident memoranda written by District personnel describing the response to the crash." The District characterized these records as "internal investigative notes, first-hand accounts, and the opinions and recommendations of District personnel[,] none of [which] has been adopted by the District or relied upon as the basis for any final agency action." It further noted that "[n]o final report has been issued, and no disciplinary determination, policy change, or other final action has incorporated or relied on these records." This appeal followed.

KRS 61.878(1)(i) exempts from inspection "[p]reliminary drafts, notes, [and] correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency." KRS 61.878(1)(j) exempts from disclosure "[p]reliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended." With regard to administrative investigative files, the Office has consistently held that "records

related to an ongoing investigation or disciplinary proceeding are preliminary and exempt from inspection under KRS 61.878(1)(i) and (j)." 23-ORD-009 (citing 21-ORD-169; 16-ORD-231; 14-ORD-234). Such records, including the initiating document, are exempt from disclosure before the agency has taken final action. *See, e.g.,* 24-ORD-201 (holding "[r]ecords that are part of an ongoing administrative investigation, including the initiating complaint, are exempt from public inspection under KRS 61.878(1)(i) and (j) until final action is taken on the matter"); *see also Univ. of Ky. v. Courier-Journal & Louisville Times Co.,* 830 S.W.2d 373, 378 (Ky. 1992) (holding "investigative materials that were once preliminary in nature lose their exempt status once they are adopted by the agency as part of its action"); *Ky. State Bd. of Medical Licensure v. Courier-Journal & Louisville Times Co.,* 663 S.W.2d 953, 956 (Ky. App. 1983) (holding "once final action is taken by the [agency], the initial complaints must be subject to public scrutiny"). Final agency action on an internal investigation may also take the form of a decision to take no action. *See, e.g., Palmer v. Driggers,* 60 S.W.3d 591, 600 (Ky. App. 2001) (finding an agency's acceptance of a police officer's resignation constituted "'final action' to a disciplinary proceeding" pending against him because the agency decided to take no action on the complaint). A public agency is not required to release records prior to final disposition of the investigation because "piecemeal disclosure along the path of the decision-making process is not mandatory." *Univ. of Louisville v. Sharp,* 416 S.W.3d 313, 315 (Ky. App. 2013).

Here, the District asserts the investigative notes, witness statements, and other documents it withheld are part of "an ongoing investigation" by senior District personnel "into the full facts and circumstances of the night in question," which must be completed before the District can "take any final agency action regarding the officers, procedures, and property at issue." Regarding the internal report and incident memoranda, the District states these documents "were prepared by subordinate officers who have no independent authority to issue a binding decision [and] serve merely as a fact-finder for the convenience of the Chief and the Deputy Chief of the District" (internal quotations omitted). The District provides an affidavit from the Deputy Fire Chief in support of these statements. Thus, it appears that the withheld records were produced as part of an ongoing investigation, and the District has not taken any final action, including a decision to take no action. Accordingly, the District did not violate the Act when it partially 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.

Russell Coleman
Attorney General

/s/ James M. Herrick
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Distributed to:

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