BLUE PAPER
Kentucky League of Cities
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LAW ENFORCEMENT SAFETY ARTICLE

LAW ENFORCEMENT GUIDANCE FOR OPEN RECORDS REQUESTS OF BODY-WORN CAMERA RECORDINGS

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From major agencies to single officer departments, body-worn camera systems have become more prevalent in law enforcement. They have a proven value for police agencies and citizens. The Kentucky League of Cities (KLC) drafted and adopted a model policy for law enforcement agencies to address early concerns regarding which systems to use and when to initiate recordings. More recently, law enforcement agencies across the Commonwealth have grappled with concerns regarding the preservation and release of body-worn camera recordings.

Previously, the Kentucky Open Records Act did not specifically address body-worn camera recordings. Cities were required to devote resources to the time-consuming process of redacting personal identifiers (i.e., social security numbers, dates of birth, etc.) or other statutorily exempt information. Additionally, because of the lack of specific statutory language, cities were experiencing difficulty in protecting other private information (recordings of private residences, HIPAA protected information, etc.). Lastly, without uniform requirements, an agency's reputation could be significantly impacted by its procedure of recording, preserving or releasing video from body-worn camera systems.

The KLC gained broad support for its initiative to create KRS 61.168 and KRS 61.169, which now govern disclosure of body-worn camera recordings. The new statutes balance continued transparency of law enforcement agencies with citizens' right to privacy and the burden on cities in complying with the requests. The new law also provides uniform guidance for law enforcement agencies across the Commonwealth.

Under the new law, body-worn camera recordings that depict an officer's use of force; an incident that leads to the detention or arrest of an individual; or an incident that is the subject of a formal complaint shall be disclosed according to the Open Records Act (KRS 61.870 to 61.884). Additionally, provisions are made for individuals involved and their attorneys to view recordings under KRS 61.168(5)(d) and KRS 61.169. However, unless a request meets the above criteria, a public agency may elect not to redact exempt material from recordings and may elect to not disclose body-worn camera recordings containing any of the fourteen (14) scenarios listed in KRS 61.168(4).

Included in this article is a flow chart which walks through the statute to help police departments determine what may or may not be disclosed under the new statute.

The retention of body-worn camera video recordings shall be governed by KRS 171.410 to 171.740 (State Archives and Records), and the administrative regulations promulgated by the Kentucky Department of Libraries and Archives, KRS 61.168(3).

KLC has also drafted a form Affidavit In Support of Limited Release of Body-Worn Camera Recordings for cities to use when releasing recordings to attorneys in accordance with KRS 61.168(5)(d) and 61.169. The Affidavit and attached flow chart are available for download on KLC's website or contact KLC Municipal Law and Training for a copy and additional guidance.

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Questions?
Please contact us or visit klc.org for more information.

KLC Insurance Services
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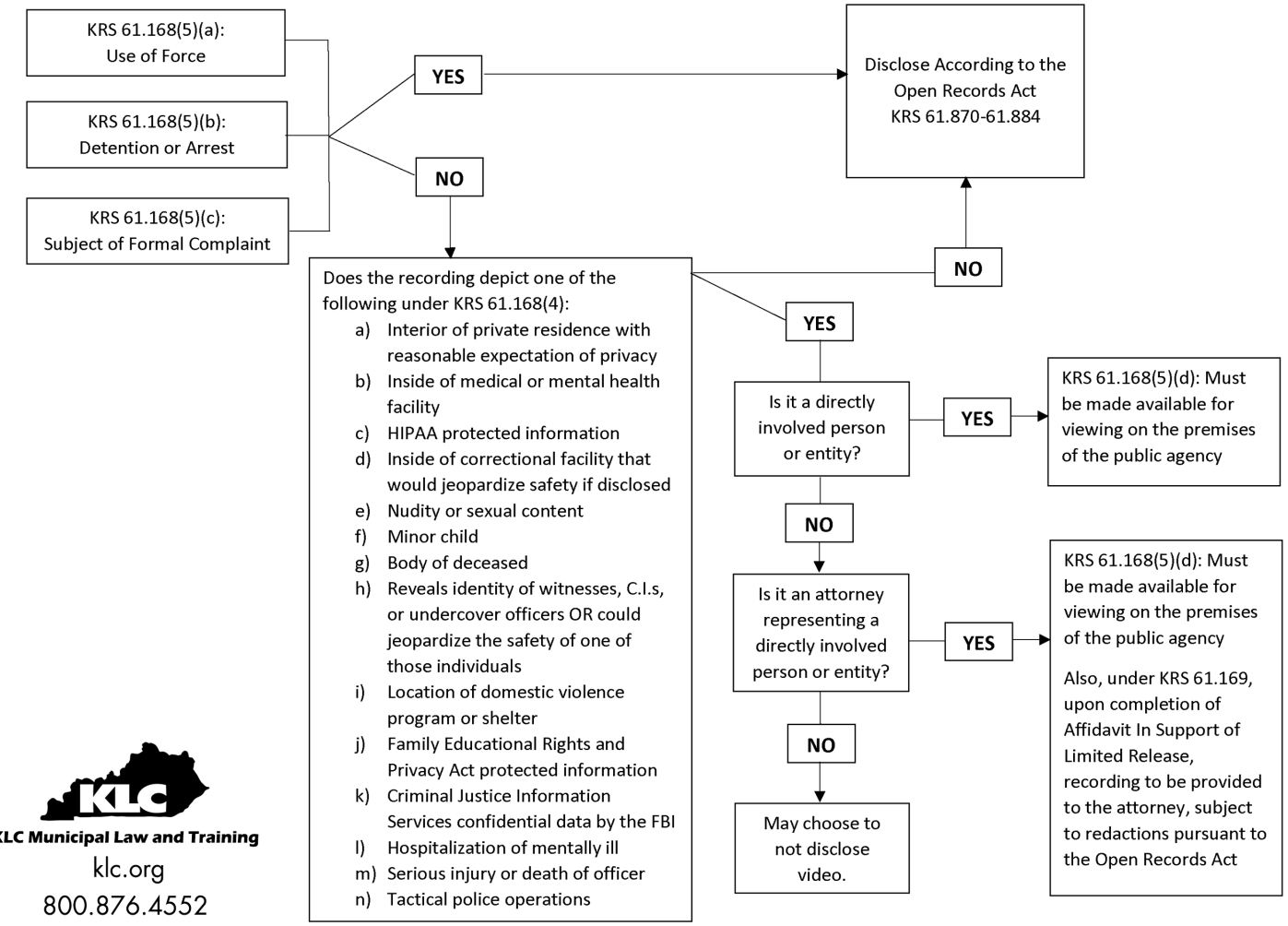
BODY-WORN CAMERA OPEN RECORDS REQUESTS

Does the recording depict:



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