



COMMONWEALTH OF KENTUCKY
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20-ORD-108

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In re: Timothy Lewis/Bureau of Alcohol, Tobacco, Firearms and Explosives – Louisville Field Office

Summary: Bureau of Alcohol, Tobacco, Firearms and Explosives' ("ATF") Louisville Field Office is a federal agency to which the Freedom of Information Act ("FOIA") applies, not a "public agency" under KRS 61.870(1) to which the Open Records Act ("Act") applies.

Open Records Decision

Appellant initiated this appeal on June 25, 2020, challenging the inaction of ATF upon receipt of his June 3, 2020, request for "the identity and owner of a firearm: Smith and Wesson M & P 40 cal. Serial # DYE0595 Pro Series." However, the ATF is not a "public agency" within the meaning of KRS 61.870(1).

The Kentucky Open Records Act only applies to state and local agencies. See KRS 61.870(1). A federal agency, such as ATF, is not a "public agency" as defined by KRS 61.870(1). The Attorney General's Office has long recognized that FOIA governs those records in the custody or control of a federal agency. See, e.g., 96-ORD-118, p. 1; 06-ORD-108 (Lake Cumberland Corps of Engineers, a federal agency, is not subject to the Kentucky Open Records Act); 14-ORD-201. Because the ATF is a federal agency to which the Kentucky Open Records Act does not apply, this Office must dismiss this appeal.¹

¹ Appellant may wish to review the information available on the ATF website at <https://www.atf.gov/resource-center/freedom-information-act-foia> to gain a better understanding of how to proceed in submitting a request under FOIA.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. 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 proceeding.

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/s/ Michelle D. Harrison

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Distributed to:

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