



COMMONWEALTH OF KENTUCKY  
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**21-ORD-190**

October 13, 2021

In re: Art Anderson/Kentucky State Police

**Summary:** The Kentucky State Police (“KSP”) did not violate the Open Records Act (“the Act”) when it did not respond to a request for records that it did not receive.

***Open Records Decision***

On August 19, 2021, Art Anderson (“Appellant”) asked KSP for a copy of the “officer’s report dated on or about [the] 14<sup>th</sup> day of August 2021” regarding a specific reference number.<sup>1</sup> On September 20, 2021, having received no response from KSP, this appeal followed.

Under KRS 61.880(1), when a public agency receives a request under the Act it “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” However, on appeal, KSP claims that its response was not untimely because it cannot find a record of ever receiving the Appellant’s request. This Office has historically found that it is unable to resolve factual disputes between a requester and a public agency about whether an agency has received a request to inspect records. *See*, 21-ORD-163. Under these facts, this Office is unable to find that KSP received the Appellant’s request yet failed to timely respond. Accordingly, this Office cannot find that KSP violated of the Act.<sup>2</sup>

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<sup>1</sup> The Appellant’s original request is dated August 16, 2021, but the Appellant states it was mailed on August 19, 2021.

<sup>2</sup> After the appeal was initiated KSP conducted a search for responsive records using the specific reference number the Appellant provided. However, KSP claims it was unable to locate any responsive records using this reference number. KSP did find a “potentially

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 proceedings.

**Daniel Cameron**  
**Attorney General**

/s/Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

Art Anderson  
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responsive . . . report” that “relates to a call made by Appellant[]” and provided a copy of it to the Appellant after it reviewed and made necessary redactions.