



COMMONWEALTH OF KENTUCKY  
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**21-ORD-207**

November 2, 2021

In re: Michael Murphy/Gallatin County Sheriff's Office

**Summary:** The Gallatin County Sheriff's Office ("the Sheriff's Office") subverted the intent of the Open Records Act ("the Act") within the meaning of KRS 61.880(4) when it placed improper conditions on access to records.

***Open Records Decision***

On September 15, 2021, Michael Murphy ("Appellant") requested inspection of records of the Sheriff's Office "pertaining to all enforcement action, open or closed cases or court filing for any property owner within the limits of the city of Glencoe, from January to September of 2021." The Sheriff's Office advised the Appellant that the records were available for inspection at his convenience. According to the Appellant, he arrived at the Sheriff's Office during its regular office hours to inspect the records, but he was informed that "the records were not available unless the sheriff was there." This appeal followed.

Under KRS 61.880(4), a person may petition the Attorney General to review an agency's action, short of denial of inspection, if the "person feels the intent of [the Act] is being subverted[.]" A public agency may subvert the intent of the Act by placing preconditions on access to public records in excess of those provided by law. Under KRS 61.872(3)(a), "[a] resident of the Commonwealth may inspect . . . public records [d]uring the regular office hours of the public agency[.]" This Office has previously found that when a public official "requires as a precondition to the right of inspection the presence of [a specific] employee of his office, and that employee is not available to oversee the review of documents during all regular office hours, he has in effect restricted access to

public records in contravention of KRS 61.872(3)(a),” thus subverting the intent of the Act. *See, e.g.*, 93-ORD-48; 15-ORD-182.

Here, the Sheriff’s Office improperly conditioned the Appellant’s right to inspect public records upon the Sheriff being personally present. The Sheriff’s Office admits that the Appellant “appeared and was not given access to the information,” but describes the incident as a “miscommunication.” Regardless of the characterization, however, the Sheriff’s Office placed an improper limit on the Appellant’s access to public records. Thus, the Sheriff’s Office subverted the intent of the Act within the meaning of KRS 61.880(4).

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.

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

/s/ James M. Herrick

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Assistant Attorney General

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Distributed to:

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