



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

21-ORD-235

December 1, 2021

In re: Rodney Newcomb/Lincoln County Sheriff's Department

Summary: The Lincoln County Sheriff's Department (the "Department") violated the Open Records Act ("Act") when it did not issue a timely response to a request for records and when it failed to cite to any exception that authorized it to withhold the requested records.

Open Records Decision

On October 6, 2021, Rodney Newcomb ("Appellant") submitted a request to the Department for records containing five subparts and relating to an incident that led to his arrest on a specific date. On October 20, 2021, having received no response from the Department, this appeal followed.

Under KRS 61.880(1), a public agency must respond to a request made under the Act within five (5) business days of receipt of the request. Here, the Department did not respond within five business days, and thus violated the Act.

The Department also violated the Act when it failed to identify an exception authorizing it to withhold the requested records. Under KRS 61.880(1), "[a]n agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld." After the appeal was initiated, the Department issued its response and denied the Appellant's entire request because "[t]hese records [and] items are evidence in a criminal case involving the person making the

request.” However, the Department did not cite to any specific exception that authorizes it withhold the records or provide any explanation in support of its denial. Thus, the Department violated the Act.

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 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.

Daniel Cameron
Attorney General

/s/Matthew Ray
Matthew Ray
Assistant Attorney General

#344

Distributed to:

Rodney Newcomb, #114798
Curt Folger