



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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24-ORD-256

December 3, 2024

In re: Jared Bennett/Louisville Metro Police Department

**Summary:** The Louisville Metro Police Department (the “Department”) subverted the intent of the Open Records Act (“the Act”) when it did not respond to a request within five business days, and when it failed to properly invoke KRS 61.872(5) to delay access to records by failing to state the earliest date on which responsive records would be available or give a detailed explanation for the cause of the delay.

### *Open Records Decision*

On March 20, 2024, Jared Bennett (“Appellant”) submitted four requests to the Department for “investigative files” and “investigative timelines and task lists” related to “closed homicide cases” from the years 2014 to 2016 and 2020 to the present. On March 29, 2024, the Department responded to each request indicating it was granting the requests but also stating additional time was needed to fulfill the requests because of the large number of responsive records.<sup>1</sup> On June 6, 2024, the Appellant requested an update on the status of his requests, and the Department stated it was “locating files in archives” and would “reach back out to let [the Appellant] know how many files [are located] and how long review/redaction will take” On August 27, 2024, the Appellant again requested an update on the status of his requests, and the Department stated “it would reach out” to a specific division “for an update.” On October 30, 2024, having received no further response from the Department, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed

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<sup>1</sup> The Department also requested the Appellant clarify what records were responsive to his request for “investigative timelines and tasks lists.”

explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Here, the Appellant submitted his request electronically on March 20, 2024, but the Department did not respond until March 29, 2024, seven business days later. Therefore, the Department failed to respond timely to the Appellant’s request.

Under KRS 61.880(4), a person may petition the Attorney General to review an agency’s action if the “person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.” Here, the Department’s responses indicated a delay was necessary, but the Department failed to invoke KRS 61.872(5), state the earliest date on which the records would be made available, or provide a detailed explanation for the delay. On appeal, the Department now explains that 268 closed homicide investigative files are implicated by the request, which range in size from “100 pages to multiple binders of documents.” However, the Department still has not stated the earliest date on which the records would be available for inspection. Accordingly, the Department subverted the Act, within the meaning of KRS 61.880(4), when it failed to comply with KRS 61.872(5) by failing to notify the Appellant of the earliest date on which records will be available.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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](mailto:OAGAppeals@ky.gov).

**Russell Coleman**  
**Attorney General**

/s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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