



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

24-ORD-258

December 5, 2024

In re: Eric Anthony/Louisville Metro Police Department

Summary: The Louisville Metro Police Department (“the Department”) violated the Open Records Act (“the Act”) when it failed to respond to a request for records within five business days.

Open Records Decision

On or about September 26, 2024, Eric Anthony (“the Appellant”) submitted a request for a copy of the Department’s “entire Case File” pertaining to him. The Appellant initiated this appeal on October 30, 2024, claiming he had received no response from the Department.

Within five business days after receiving a request to inspect records, a public agency must decide whether to grant or deny the request and notify the requester of its decision. KRS 61.880(1). A person wishing to appeal to the Attorney General under the Act must submit “a copy of the written request and a copy of the written response denying inspection,” if the agency provided a written response. KRS 61.880(2)(a). However, the Office is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received an agency’s response to a request. *See* 21-ORD-233 (agency claimed it issued a response but the requester claimed he did not receive it); *see also* 22-ORD-125 (agency claimed it did not receive the request); 22-ORD-100 (same); 22-ORD-051 (same); 21-ORD-163 (same).

Here, the Department claims it received the Appellant’s request on October 1, 2024, and issued a response on October 21, 2024. However, the Department has not provided a copy of that response. While the Office cannot determine whether the Appellant received a response to his request, it is undisputed that the Department failed to respond within five business days. Thus, the Department violated the Act.¹

¹ The Department claims it provided some records to the Appellant on October 21, 2024, and advised him, “pursuant to KRS 61.872(5), of a date certain” by which it would provide additional records. Under KRS 61.872(5), if a “public record is in active use, in storage or not otherwise available,” the five-day period to provide the record may be extended if “a detailed explanation of the cause is given for further

A party aggrieved by this decision may appeal it by initiating an 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.

Russell Coleman

Attorney General

/s/ James M. Herrick

James M. Herrick

Assistant Attorney General

#448

Distributed to:

Eric Lee Anthony, #247770

Natalie S. Johnson, Esq.

Alice Lyon, Esq.

Nicole Pang, Esq.

Annale R. Taylor, Esq.

delay and the place, time, and earliest date on which the public record will be available for inspection.” Here, because the Appellant did not submit a copy of the Department’s response with his appeal, the issue of whether the response complied with KRS 61.872(5) is not ripe for determination.