



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-017

January 22, 2025

In re: *Lexington Herald-Leader*/Hazard Police Department

Summary: The Hazard Police Department (“the Department”) did not violate the Open Records Act (“the Act”) when it did not respond to a request it did not receive.

Open Records Decision

On December 9, 2024, the *Lexington Herald-Leader* (“the Appellant”) submitted a request by email to the Department for “the names of all sworn officers[,] their hire date, salary and personnel records.” Having received no response by December 18, 2024, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency must respond to a request to inspect public records within five business days after receiving it. On appeal, the Department claims it never received the Appellant’s request. A further investigation by the City of Hazard has revealed that all the Department’s open records emails were still being automatically forwarded to a former officer who had neglected, upon leaving the Department, to redirect the emails to the current records custodian. The Department states the City of Hazard “is undertaking changes to correct the problem” and further advises it is currently working with the Appellant to fulfill the request.

The Office is unable to resolve factual disputes between a requester and a public agency, such as an agency’s claim that it did not receive a request due to a technical error. *See, e.g.,* 23-ORD-117. Therefore, the Office cannot find that the Department violated the Act when it did not respond to a request it claims to have never received.

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

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