



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-018

January 23, 2025

In re: John Bellocchio/Kentucky State Police

**Summary:** The Kentucky State Police (“KSP”) did not violate the Open Records Act (“the Act”) when it denied a request for public records on the basis of residency.

### *Open Records Decision*

John Bellocchio (“Appellant”) submitted a request to KSP for records related to KSP’s “investigative files” regarding a specific individual created in September 2024. In his request, the Appellant asserted that he qualifies as a resident of the Commonwealth because he is a “news-gathering organization” as defined in KRS 189.635(9)(b).<sup>1</sup> In response, KSP denied the request because the Appellant does not qualify as a “resident of the Commonwealth” under KRS 61.870(10). This appeal followed.

Under KRS 61.872(2)(a), “[a]ny resident of the Commonwealth shall have the right to inspect public records.” KRS 61.870(10)(g) defines “resident of the Commonwealth” to include a “news-gathering organization,” which is:

- a. A newspaper or periodical if it:
  - i. Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;
  - ii. Contains at least twenty-five percent (25%) news content in each issue or no more than seventy-five percent (75%) advertising content in any issue in the calendar year; and
  - iii. Contains news of *general interest* to its readers that can include news stories, editorials, sports, weddings, births, and death notices;

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<sup>1</sup> The Appellant has provided the Office with a mailing address in Oakland, New Jersey. For his argument that he is a resident of the Commonwealth, he relies solely on KRS 61.870(10)(g).

- b. A television or radio station with a valid broadcast license issued by the Federal Communications Commission;
- c. A news organization that broadcasts over a multichannel video programming service as defined in KRS 136.602;
- d. A website published by or affiliated with any entity described in subdivision a., b., or c. of this subparagraph; [and]
- e. An online-only newspaper or magazine that publishes news or opinion of interest to a *general audience* and is not affiliated with any entity described in subparagraph 2. of this paragraph[.]

KRS 189.635(9)(b)1.a. to e. (emphasis added). The Appellant does not identify any portion of this statute under which he claims to qualify as a “news-gathering organization.” Instead, the Appellant states that he is “an academic/scholarly journalist writing an analytic piece” and that he “had planned on presenting his analysis to scholarly journals that, presumably, are read in the Commonwealth” and are “doing business with the Commonwealth.”

The Office has previously rejected an appellant’s argument where that argument would eviscerate the Act’s residency requirement. *See, e.g.,* 24-ORD-034 (finding that, “if a requester could merely claim to be acting on a resident’s behalf, without identifying the resident or providing proof of his or her authorization, then KRS 61.870(10)(f) would completely eviscerate the Act’s residency requirement”). Here, the Plaintiff does not assert that he currently qualifies as a news-gathering organization or that he is acting on behalf of a news-gathering organization. Instead, he describes his intent to submit “an analytic piece” to organizations he assumes meet the KRS 189.635(9)(b)1. definition of a news-gathering organization.<sup>2</sup>

The intent to write a paper that may or may not be published by a news-gathering organization in the future, standing alone, does not make the requester himself a news-gathering organization. Otherwise, any requester could claim an intent to use records to write a news article that will be submitted for publication to a news-gathering organization. If such a claim was enough to qualify as a news-gathering organization for purpose of the Act, the Act’s residency requirement would be eviscerated. A requester must fit the definition of “resident of the Commonwealth” at the time his request is made, not at some anticipated or hypothetical time in the future. Thus, a requester who does not meet the definition of a news-gathering organization himself, or who is not affiliated with a news-gathering organization at the time of the request, is not a “resident of the Commonwealth” under KRS 61.870(10)(g). Accordingly, KSP did not violate the Act when it denied the Appellant’s request because he does not qualify as a “resident of the Commonwealth.”

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<sup>2</sup> The Office need not decide whether “scholarly journals” are “news-gathering organizations” under KRS 189.635(9)(b)1.

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.

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

/s/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
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Distributed to:

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