



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-028

January 30, 2025

In re: Jeffrey Gegler/Kentucky State Police

Summary: The Kentucky State Police (“KSP”) violated the Open Records Act (“the Act”) when it failed to give a detailed explanation of the cause for delay and the earliest date when requested records would be available as required under KRS 61.872(5).

Open Records Decision

Jeffrey Gegler (“Appellant”) submitted a request to KSP for seven categories of records related to “the incident at LifeSkills Adult Crisis Stabilization on the morning of November, 6 2024.”¹ KSP stated that it was granting the request but, relying on KRS 61.872(5), stated that “additional time is needed to process the remaining records” and “perform the necessary redactions.” This appeal followed.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This time may be extended under KRS 61.872(5) when records are “in active use, in storage or not otherwise available,” if the agency gives “a detailed 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). 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.”

In light of KRS 61.872(5), the Attorney General has recognized that persons requesting large volumes of records should “expect reasonable delays in records

¹ The seven categories of records requested were body cam and dash cam video footage, 911 audio recordings, radio logs, dispatch audio recordings, phone logs, investigative reports, and the prior use of force reports for officers involved in the shooting.

production.” 12-ORD-228. However, the reasonableness of such a delay “is a fact-intensive inquiry.” 21-ORD-045 (noting that the Office considers “the number of the records, the location of the records, and the content of the records” when “determining whether a delay is reasonable”). Here, KSP stated only that it needed “additional time . . . to process the remaining records” and “perform the necessary redactions.” Thus, KSP’s cursory response failed to provide the “detailed explanation” required by KRS 61.872(5). Further, KSP failed to give a specific date by which the records would be made available for inspection, as required by KRS 61.872(5). Accordingly, KSP subverted the Act, within the meaning of KRS 61.880(4).²

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/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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² The day before the Office’s statutory deadline to render its decision, the Appellant informed the Office that KSP had issued a final response providing some, but not all, requested records. Under KRS 61.880(2)(a), this Office’s mandate is to review the request for records and the agency’s response to determine whether the agency violated the Act. In finding KSP’s initial response to the request subverted the Act, the Office has carried out its mandate. The Office declines to consider here the new issues raised for the first time on appeal regarding the sufficiency of KSP’s final response. *See, e.g.*, 25-ORD-010 n.2; 23-ORD-333 n.1; 22-ORD-200 n.2; 22-ORD-170 n.2; 22-ORD-142 n.3; 21-ORD-177 (stating the Office may decline to consider new issues raised by the parties’ subsequent correspondence on appeal). If the Appellant believes KSP’s final response was insufficient, he may initiate a separate appeal by providing the Office with a copy of his original request and KSP’s final response. *See* KRS 61.880(2)(a).