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25-ORD-098

April 8, 2025

In re: Carolyn West/Graves County Sheriff's Office

**Summary:** The Office cannot find that the Graves County Sheriff's Office ("the Sheriff") violated the Open Records Act ("the Act") because the Office is unable to resolve the factual dispute between the parties.

***Open Records Decision***

On March 3, 2025, Carolyn West ("Appellant") submitted a request seeking "[a]ll disciplinary records related to" two deputy sheriffs. On March 12, 2025, the Appellant initiated this appeal claiming she had not yet "received these records" she requested.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency "shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision." Here, on March 3, 2025, the Appellant submitted a request to the Sheriff, and on March 12, 2025, she initiated this appeal, claiming she had not received the requested records. For its part, on appeal, the Sheriff explains that it received the Appellant's request on March 3, 2025, and mailed a timely response on March 7, 2025. As proof, the Sheriff provides a copy of that response granting the Appellant's request to inspect records.<sup>1</sup> Thus, there is a factual dispute between the parties.

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<sup>1</sup> The Sheriff also provides a response it issued on March 3, 2025, confirming receipt of the Appellant's request, as well as 27 pages of communications between it and the Appellant. In its March 7 response, the Sheriff asserted that, because the Appellant resides in Graves County, it was electing to require her to first inspect the records in person. The Office has previously recognized that the "right to obtain copies of the records is merely incidental to his right under KRS 61.874(1); *i.e.*, the right to obtain copies '[u]pon inspection.'" 21-ORD-143. Under KRS 61.872(3), public records may be inspected either "[d]uring the regular office hours of the public agency" or "[b]y receiving copies of the public records from the public agency through the mail." However, the second alternative is not available to

The Office has regularly found it is unable to resolve factual disputes between the parties to an appeal under KRS 61.880(2)(a), including disputes about whether the requested records were actually made available to the requester. *See, e.g.*, 23-ORD-220 (the Office cannot resolve a factual dispute as to if a requester received a public agency's response to their request); 22-ORD-010 (the Office is unable to resolve a factual dispute between the parties as to whether the records that have been provided are different from those records sought but not provided); 19-ORD-083 (stating this Office cannot “resolve the factual dispute between the parties regarding the disparity between records which have been provided and those sought but not provided”). Similarly, here, the Office cannot resolve the factual dispute between the parties as to whether the Sheriff actually made the records available to the Appellant. Thus, the Office cannot find that the Sheriff violated the Act.

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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all requesters. Rather, “[t]he public agency shall mail copies of the public records to *a person whose residence or principal place of business is outside the county in which the public records are located* after he or she precisely describes the public records which are readily available within the public agency.” KRS 61.872(3)(b) (emphasis added). Thus, a person who does not live or work outside the county where the records are located is not entitled to receive copies without having first inspected the records in person at the suitable facility provided by the agency. *See* 21-ORD-143; 21-ORD-157. The Sheriff asserts that the Appellant resides or has her principal place of business within Graves County. The Appellant does not refute the Sheriff’s assertion. However, because the Appellant did not provide the Sheriff’s response when initiating this appeal, this issue is not properly before the Office. *See* KRS 61.880(2)(a).

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Distributed to:

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