



COMMONWEALTH OF KENTUCKY
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22-ORD-214

October 14, 2022

In re: Phillip Hamm/McCracken County Sheriff's Office

Summary: The McCracken County Sheriff's Office ("the Sheriff's Office") violated the Open Records Act ("the Act") when it failed to respond to a request for records.

Open Records Decision

On September 7, 2022, Phillip Hamm ("Appellant") submitted a request to the Sheriff's Office to inspect "use of force forms" related to a specific search. Having received no response to his request by September 16, 2022, the Appellant initiated this appeal.

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, the Appellant claims to have submitted a request on September 7, but has never received a response. The Sheriff's Office carries the burden of justifying its actions, KRS 61.880(2)(c), yet it did not respond to this Office's notice of appeal. Thus, in the absence of any explanation for why the Sheriff's Office failed to respond to the Appellant's request within five business days, the Office finds the Sheriff's Office violated the Act.

A party aggrieved by this decision may appeal it by initiating 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 e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

s/ Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

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