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**22-ORD-220**

October 20, 2022

In re: David Johnson/Kentucky State Police

**Summary:** The Kentucky State Police (“KSP”) did not violate the Open Records Act (“the Act”) when it did not provide electronic copies of a database that is exempt from inspection under KRS 237.110(10).

***Open Records Decision***

David Johnson (“the Appellant”) submitted a request to KSP for “yearly county totals of active (or newly issued) concealed weapons permits from as early as possible to the present.”<sup>1</sup> He further asked if the information requested could be provided electronically in any “reasonable format,” but that he would prefer the information in a “CSV or excel file.” In a timely response, KSP denied the request and stated it could not provide statistics beyond those specified in KRS 237.110. When the Appellant disagreed with KSP’s assertion that KRS 237.110 applied, KSP then stated its computer system cannot produce reports based on categories like counties. This appeal followed.<sup>2</sup>

KSP has not abandoned its reliance on KRS 237.110. But on appeal, KSP further explains that its concealed carry permit information is maintained and

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<sup>1</sup> The Appellant did not describe an actual record, but instead sought “information,” which is not a proper request under the Act. *See, e.g.*, 21-ORD-046 (asking for “numbers” of claims instead of actual claims); 21-ORD-034 (asking for the identities of employees working at a certain time and the “number” of hours worked). The Appellant referenced an annual report on KSP’s website, but specified he was not seeking that report. Rather, it appears the Appellant initially asked KSP to create a new report similar to the one he referenced, which is something KSP was not required to do. *See Dep’t of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) (“The ORA does not dictate that public agencies must gather and supply information not regularly kept as part of its records.”).

<sup>2</sup> The Office notes the Appellant does not appear to qualify as a “resident of the Commonwealth.” KRS 61.870(10). Thus, it is questionable whether he may enforce the Act at all. *See* KRS 61.872(2) (“Any resident of the Commonwealth shall have the right to inspect public records.”)

operated by a private vendor, LexisNexis. KSP does not have actual possession of the database and would have to ask LexisNexis to generate the custom report. The Appellant, however, insists that it would not be difficult for the report to be generated. He further claims that he could generate a report for himself if he was provided an electronic copy of the permitting database. To support his argument, the Appellant advises that other states have provided similar information to him in electronic form. Regardless of other states' laws, the Kentucky Open Records Act does not entitle the Appellant to the requested record.

In 11-ORD-168, the Office considered a request nearly identical to this one. A newspaper had requested several fields of information from the "CCDW-LEOSA database." KSP denied the request under KRS 237.110(10), which states, a "request for the entire list of licensees, or for all licensees in a geographic area, shall be denied." Rather, the database may be shared *only* with other law enforcement agencies. *Id.* KRS 237.110(10) is unambiguous, and clearly states that a request for licensees "in a geographic area shall be denied." Here, the Appellant has asked for information to create his own database using the geographic areas of licensees *i.e.*, licensee-information sorted by county. Accordingly, KSP did not violate the Act when it denied his request.<sup>3</sup>

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](mailto: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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Michelle Harrison

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<sup>3</sup> As in 11-ORD-198, this appeal has generated unique questions related to KRS 61.874(2)(b) and an agency's duty to provide electronic copies of records in a particular format. However, like in 11-ORD-198, the Office finds that KRS 237.110(10) is dispositive, and thus, it is unnecessary to determine whether KSP must obtain an electronic copy of the database from LexisNexis.