



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-ORD-179

July 20, 2023

In re: Kyrek Purdiman/Owensboro Police Department

Summary: The Owensboro Police Department (the “Department”) violated the Open Records Act (“the Act”) when it failed to respond to a request within five business days of receiving the request.

Open Records Decision

On May 23, 2023, inmate Kyrek Purdiman (“Appellant”) submitted a request to the Department by certified mail for two categories of records related to his criminal case.¹ On June 14, 2023, the Appellant initiated this appeal because he had not received a response from the Department.

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request, or deny the request and explain why. KRS 61.880(1). On appeal, the Department admits it received the Appellant’s “request on May 25, 2023, processed the request, but failed to log it in or send the requested records.” As a result, the Department violated the Act.²

¹ The Appellant asserts his request was received by the Department on May 26, 2023, and submits a certified mail receipt as proof. However, the certified mail receipt he submitted does not indicate when it was received. Instead, the receipt shows that it was mailed on May 23, 2023, the price of postage paid, the address it was mailed to, and the tracking number.

² The Department claims to have sent all responsive records to the Appellant. However, the Appellant now claims various records are missing. Simply put, given the constraints of this Office’s review under KRS 61.880(2), it cannot decide factual disputes between the parties, such as whether all responsive records have been provided. *See, e.g.*, 19-ORD-083; 03-ORD-61; OAG 89-81. And here, the Appellant asks the Office to make a factual determination regarding the existence of additional records, but it cannot do so.

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.

Daniel Cameron
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s/ Matthew Ray
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Assistant Attorney General

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Distributed to:

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