



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-ORD-249

September 15, 2023

In re: Elizabeth Harrison/Estill County Judge/Executive's Office

Summary: The Office cannot find that the Estill County Judge/Executive's Office ("the agency") violated the Open Records Act ("the Act") because the Office cannot resolve the factual dispute between the parties.

Open Records Decision

Elizabeth Harrison ("Appellant") claims that, on February 20, 2023, she submitted a request for records to the agency.¹ On August 13, 2023, having received no response from the agency, 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." The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency, such as, whether a public agency received a request for records. *See, e.g., 23-ORD-071.*

Here, the Appellant claims she submitted a request to the agency on February 20, 2023, but it did not respond to her request. However, the agency states it did not

¹ The request the Appellant provided to the Office contained three subparts. First, the Appellant requested records related to the search of a business at a specific address "on or about April 2020." Second, the Appellant requested records related to a named person who provided information to a specific detective, police officer, or "any other official or public servant" about herself or the same business. Third, the Appellant requested records related to a specific person "being inside" the same business.

respond to the Appellant's request because it "has no record of ever receiving the request."² The Office cannot resolve the factual dispute between the parties, and therefore, cannot find that the agency 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.

Daniel Cameron
Attorney General

s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Elizabeth Harrison
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² The agency also explained that it is not the official custodian of the records the Appellant requested. The agency directed the Appellant to submit her request to the City of Irvine Police Department and the Estill County Sheriff and provided the phone number, email, and mailing address for both.