



COMMONWEALTH OF KENTUCKY
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23-ORD-268

October 10, 2023

In re: Kenneth Tracy/Franklin County Sheriff's Office

Summary: The Franklin County Sheriff's Office ("the Sheriff's Office") violated the Open Records Act ("the Act") when it failed to issue a response to a request to inspect records within five business days of receiving it.

Open Records Decision

On August 23, 2023, Kenneth Tracy ("Appellant") submitted a request to the Sheriff's Office for "all reports, body cam footage, and records involving" an identified person "within the last year." The Appellant claims that, on September 5, 2023, the Sheriff's Office "contacted" him and asked what records he wanted so it could provide them to him.¹ On September 12, 2023, having received no further communication from the Sheriff's Office, the Appellant initiated this appeal.

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." KRS 61.880(1). Here, the Appellant claims he submitted a request for records to the Sheriff's Office on August 23, but he did not receive any response for almost two weeks, and even then the response was not in writing. The Appellant further claims that, as of September 12, he had yet to receive any further response from the Sheriff's Office. The Sheriff's Office carries the burden of sustaining its actions, KRS 61.880(2)(c), but has not

¹ Presumably, this was not a written communication because the Appellant did not provide the Office with a written copy. According to the Appellant, this communication did not deny the request, but instead sought clarification of the request.

explained why it did not respond in writing to the Appellant's request within five business days of receiving it.² Thus, the Sheriff's violated the Act when it failed to respond to the Appellant's requests within five business days.

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:

Kenneth Tracy
Chris Quire
Max H. Comley

² The Sheriff's Office has not responded to the notice of appeal the Office issued on September 13, 2023.