



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**23-ORD-284**

October 24, 2023

In re: Carlos Harris/Kenton County Commonwealth's Attorney

**Summary:** The Office cannot find that the Kenton County Commonwealth's Attorney ("Commonwealth's Attorney") violated the Open Records Act ("the Act") when he did not respond to a request to inspect records he claims he did not receive.

***Open Records Decision***

Inmate Carlos Harris ("Appellant") claims he submitted a request to the Commonwealth's Attorney on September 11, 2023, to obtain copies of the transcript or audio recording of the grand jury that indicted him. He further claims he has received no response to his request. Accordingly, he 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). On appeal, the Commonwealth's Attorney claims he never received the Appellant's request. The Office has routinely found it is unable to resolve factual disputes between the parties to an appeal under KRS 61.880(2)(a), including disputes about whether the public agency received the request. *See, e.g.,* 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 21-ORD-163. Accordingly, the Office cannot find that the Commonwealth's Attorney violated the Act when he did not respond to a request he claims he did not receive.<sup>1</sup>

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<sup>1</sup> Moreover, on appeal, the Commonwealth's Attorney correctly states the requested records are part of his litigation file, and therefore, they are exempt from inspection under KRS 61.878(1)(h).

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](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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