



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

23-ORD-289

October 30, 2023

In re: Cortrenaye Chandler/Kentucky State Police

Summary: The Office cannot find that the Kentucky State Police (“KSP”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties.

Open Records Decision

On September 15, 2023, Cortrenaye Chandler (“Appellant”) emailed a request to KSP for copies of body-worn camera footage recorded by three officers on a specific date. On October 2, 2023, the Appellant initiated this appeal, claiming she did not receive a response from KSP.

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request or deny it and explain why. KRS 61.880(1). Here, the Appellant submitted a records request to KSP on September 15, 2023, but claims KSP did not respond to it. On appeal, KSP provides proof it issued a timely response within five business days, on September 22, 2023.¹ The Office has previously found it is unable to resolve factual disputes between a

¹ In its response, KSP denied the Appellant’s request because the identified officers did not respond to an event occurring on the date and time specified in the request. KSP further advised the Appellant to submit her request to the Shelbyville Police Department, which presumably was the responding law enforcement agency. See KRS 61.872(4) (“If the person to whom the application is directed does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency’s public records”). Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to present a *prima facie* case that the requested record does or should exist. See *Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). Here, the Appellant has not established a *prima facie* case that KSP responded to the event in question or that the three identified officers recorded any footage on the date and time identified in the request.

requester and a public agency, such as whether a requester received an agency's response to his request. *See, e.g.*, 23-ORD-220. Accordingly, the Office cannot find that KSP violated the Act because the Office cannot resolve the factual dispute between the parties as to whether the Appellant received KSP's response to her request.

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/ Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

Cortrenaye Chandler
Samantha A. Bevins
Stephanie Dawson