



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-328**

December 13, 2023

In re: Ryan Van Velzer/Louisville Metro Police Department

**Summary:** The Louisville Metro Police Department (“the Department”) subverted the intent of the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), when it delayed access to requested records for six months without proper justification.

***Open Records Decision***

On October 18, 2023, Ryan Van Velzer (“Appellant”) submitted a request to the Department for “all video including surveillance footage in the homicide case of an [identified person] on November 25, 2022.” In response, the Department invoked KRS 61.872(5) by stating “the requested video is otherwise unavailable” and it needed six months to provide the requested records “due to the large volume of pending video requests.” This appeal followed.

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). A public agency may also delay access to responsive records beyond five business days if such records are “in active use, storage, or not otherwise available.” KRS 61.872(5). A public agency that invokes KRS 61.872(5) to delay access to responsive records must also notify the requester of the earliest date on which the records will be available, and provide a detailed explanation for the cause of the delay.

If a requester believes the agency’s delay is unreasonable, he or she may seek the Attorney General’s review by alleging the agency subverted the intent of the Act “past the five (5) day period described in” KRS 61.880(1). *See* KRS 61.880(4). In determining how much delay is reasonable, the Office has considered the number of

records the requester has sought, the location of the records, and the content of the records. *See e.g.*, 22-ORD-176; 01-ORD-140; OAG 92-117. Weighing these factors is a fact-intensive analysis. For example, this Office has found that a four-month delay to provide 5,000 emails for inspection was not reasonable under the facts presented. *See, e.g.*, 21-ORD-045. However, the Office has also found that a six-month delay was reasonable to review 22,000 emails for nonexempt information. *See, e.g.*, 12-ORD-197. Ultimately, the agency carries the burden of proof to sustain its actions. KRS 61.880(2)(c).

Here, the Appellant submitted a request to the Department, and in response, the Department invoked KRS 61.872(5) to delay the Appellant's access to the public records for six months. The only reason the Department gave for the delay was "the large volume of pending video requests." On appeal, the Department explains that it currently "employs four video technicians" and those employees have other responsibilities with respect to preparing video files in addition to fulfilling requests under the Act. The Department describes in great detail the process it has in place for reviewing and preparing responsive video records to fulfill requests under the Act, and it currently has "1390 open requests for video records." Specifically, the Department estimates it currently takes approximately seven minutes to review and redact one minute of video. The Department further explains that the Appellant's request "contains 382 data files," but does not explain what it means by "data files." It is not clear from this record how many minutes of video are implicated by the Appellant's request or how long it would take the Department to process it.

Although numerous unrelated simultaneous requests to inspect records may place a strain on a public agency, the Office has previously noted that "[n]either the volume of unrelated requests nor staffing issues justifies a delayed response." *See* 19-ORD-188 n.1; *see also* 22-ORD-167. Here, the Department's only justification for stating the Appellant's request cannot be processed for six months is the existence of other requests received before his. The Department admits that some requests can take as little as 30 minutes, and others can take as long as a week, depending on how many videos are implicated by the request. Thus, no single request takes the Department six months to complete. Rather, it is just not currently capable of processing the volume of requests it receives. The Department has not carried its burden under KRS 61.880(2)(c) to substantiate why a delay of six months is necessary to provide "approximately 382 data files" to the Appellant.<sup>1</sup> Accordingly, the

---

<sup>1</sup> For example, according to the Department's calculation, if each of the "382 data files" was actually a 10-minute video file, it would take the Department approximately 446 hours to review and redact at a pace of seven minutes per one minute of video. The result would be almost 12 weeks of full-time,

Department subverted the intent of the Act, within the meaning of KRS 61.880(4), when it delayed access to records beyond the five-day period under KRS 61.880(1).

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/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

#509

Distributed to:

Ryan Van Velzer  
Alice Lyon  
Annale Taylor  
Natalie S. Johnson  
Nicole Pang

---

dedicated work on just this one request, presuming a 37.5-hour work week. While that would certainly be burdensome, it does not come close to six months, and there is no evidence in the record suggesting the 382 data files are all 10 minutes long.