



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-104

April 26, 2024

In re: Jacob Garmon/Office of the Attorney General

**Summary:** The Office of the Attorney General (“the Office”) did not violate the Open Records Act (“the Act”) when it notified a requester that it was not the custodian of records for the records sought and provided the requester with the contact information of the records custodian of the agency likely to possess the requested records.

***Open Records Decision***

On April 5, 2024, Jacob Garmon (“the Appellant”) submitted a request to the Office for a transcript of a 911 call made to “E-911 Grayson County” resulting in assistance rendered at an address in Grayson County. He also sought a copy of the “sheriff report.” In a timely response, the Office stated it “is not the custodian for records created and maintained by other Kentucky law enforcement agencies.” The Office advised the Appellant to submit his request to the Grayson County Sheriff’s Office and provided the contact information for that agency’s records custodian. The Appellant responded by claiming “the local custodian refuses to let the public obtain” a copy of the requested records and asked the Office to “request and review the documents and properly dispense them to the requester.” The Office replied to the Appellant again by notifying him the Office does not possess the requested records and he should submit a request to the Grayson County Sheriff’s Office. The Office further explained how the Appellant could initiate an appeal under the Act if the Grayson County Sheriff’s Office denied his request. This appeal followed.

It is not clear whether the Appellant seeks review of the Office’s denial of his request, or review of a denial issued by the Grayson County Sheriff’s Office. The Appellant did not provide a copy of a request he submitted to the Grayson County Sheriff’s Office or any response by that agency. Rather, he provided a copy of the request he made to the Office and the Office’s denial, and stated he wants “the Attorney General’s Open Records Appeals Division to release the open records.” To invoke the Attorney General’s review of an agency’s denial of a request made under the Act, the requester must provide the Office with a copy of his original request and

the agency's denial. KRS 61.880(2)(a). To the extent the Appellant seeks the Office's review of the Grayson County Sheriff's Office's disposition of a request he submitted to it, he has failed to comply with KRS 61.880(2)(a). To the extent he seeks the Office's review of its own denial of his request, the Office did not violate the Act.

"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." KRS 61.872(4). The Office notified the Appellant that it is not the custodian of law enforcement records created by Kentucky law enforcement agencies. The Office further provided the Appellant with the contact information of the records custodian of the Grayson County Sheriff's Office and instructions regarding how to appeal that agency's disposition of his request if he is unsatisfied. As such, the Office discharged its duty under KRS 61.872(4). If the Appellant seeks the Attorney General's review of the Grayson County Sheriff's Office's disposition of his request, he must provide a copy of a request he submitted to that agency and its response.<sup>1</sup>

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to 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.

**Russell Coleman**  
**Attorney General**

/s/ Marc Manley  
Marc Manley  
Assistant Attorney General

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<sup>1</sup> Further, the Appellant is incorrect that the Attorney General may order a public agency to produce records to a requester. Under KRS 61.880(2)(a), "The Attorney General shall review the request and denial and issue . . . a written decision stating whether the agency violated provisions of KRS 61.870 to 61.884." While the Attorney General may ask a public agency to provide copies of withheld records to determine whether the agency's denial is proper, the records "shall not be disclosed." KRS 61.880(2)(c). Instead, the copies of the records the Attorney General receives following a request made to an agency under KRS 61.880(2)(c) must be destroyed once a decision is rendered. See 40 KAR 1:030 § 3. Only a circuit court of competent jurisdiction can order an agency to provide a requester with records that have been improperly withheld. See KRS 61.882(1).

Distributed to:

Jacob C. Garmon  
Nick Hunt