



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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25-ORD-184

July 18, 2025

In re: Steve Noble/Clark County Constable Association LLC

Summary: The Office cannot find that Clark County Constable Association LLC (“the Association”) violated the Open Records Act (“the Act”) because the Office cannot find that it is a “public agency” subject to the Act.

Open Records Decision

Steve Noble (“Appellant”) submitted a two-part request to the Association seeking “Title and lease agreements” between a particular constable and the Association for any vehicle used by the constable and “Minutes and attendance records for the” Association “from 2018 to May 2, 2025.” In response, the Association stated it “is a private association and therefore not subject to the Open Records Act.” This appeal followed.

The Appellant asserts that the Association is a public agency subject to the Act because “each voting member of the [Association] must hold public office.” The Appellant argues that each paragraph of KRS 61.870(1)—except for paragraph (h)—applies to the Association, thus bringing it within the statutory definition of “public agency.”

On appeal, the Association has provided a description of its organization with the Kentucky Secretary of State. The Association is a member-managed Kentucky limited liability company with five members. As relevant here, the term “public agency” includes:

- (a) Every state or local government officer;
- (b) Every state or local government department, division, bureau, board, commission, and authority;

- (c) Every state or local legislative board, commission, committee, and officer;
- (d) Every county and city governing body, council, school district board, special district board, and municipal corporation;
- (e) Every state or local court or judicial agency;
- (f) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;
- (g) Any body created by state or local authority in any branch of government;
- ...
- (i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of this subsection; by a member or employee of such a public agency; or by any combination thereof;
- (j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection; and
- (k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of this subsection[.]

KRS 61.870(1). First, county constables, as elected local officials, are “local government officer[s]” who each individually qualify as a “public agency” under KRS 61.870(1)(a). However, the Association, which is a limited liability company and therefore a separate legal person distinct from its members under law, KRS 275.010(2), is not a “state or local government officer” under KRS 61.870(1)(a). Nor is it a “state or local government department, division, bureau, board, commission, and authority” under KRS 61.870(1)(b). The Association is not part of any legislative body. *See* KRS 61.870(1)(c) and (d). And it is not an agency of any branch of government. *See* KRS 61.870(1)(g).

KRS 61.870(1)(k) does not apply because the Association is not an interagency body of two or more public agencies. Although the record indicates that more than

one Clark County constable is a member of the Association, those individuals are members of the Association in their individual capacities, not in their official capacities. *See, e.g.,* 25-ORD-101 (explaining that state or local officers are “simultaneously both a private citizen and a ‘public agency’”). Absent evidence that membership in the Association is premised on the member’s official capacity as a constable, the Office declines to consider the Association to be a “interagency body^[1] of two or more public agencies.”

Finally, KRS 61.870(1)(i) and (j) do not apply because these paragraphs of the statute contemplate that a single public agency has either appointed the “majority of [an entity’s] governing body,” KRS 61.870(1)(i), or “established, created, and controlled” the agency, KRS 61.870(1)(j). Here, it appears that the members of the Association individually joined the Association, rather than being appointed by a single public agency. Thus, KRS 61.870(1)(i) does not apply. Similarly, there is not a single public agency that “established, created, and control[s]” the Association; rather, the Association was established and created, and is controlled by its members. Thus, KRS 61.870(1)(i) does not apply. Accordingly, the Office concludes that the Association is not a “public agency” subject to the Act.

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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

¹ It is not at all apparent that an “interagency body” includes any limited liability companies, regardless of who their members are.

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Distributed to:

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