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25-ORD-240

August 29, 2025

In re: Mathew Johnson/London-Laurel County 911 Communications Center

Summary: The London-Laurel County 911 Communications Center (“the Center”) violated the Open Records Act (“the Act”), when it failed to issue a written response to a request made under the Act within five business days of receiving the request.

Open Records Decision

On July 22, 2025, Matthew Johnson (“Appellant”) submitted a records request to the Center for five categories of records related to a specific incident involving the Appellant.¹ On July 31, 2025, having received no written response from the Center, the Appellant initiated this appeal.

Under KRS 61.880(1), 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

¹ The five categories of records the Appellant requested are: (1) “Any and all 911 calls, administrative calls, or other incoming communication recordings received by the [Center] pertaining to [the Appellant] or an alleged incident of hostile behavior at the London Police Department between May 24, 2025 thru May 26, 2025” and “[a]ny Computer-Aided Dispatch (CAD) reports or dispatch logs related to this alleged incident during the specified dates”; (2) “Any and all radio traffic recordings between the [Center] and/or London Police Department units concerning [the Appellant] or the alleged hostile behavior at the London Police Department between May 24, 2025 thru and May 26, 2025”; (3) “Any internal communications” between the Center’s “personnel and/or board members concerning [his] alleged visit and alleged hostile behavior on May 24-26, 2025”; (4) “Any and all video footage, including specifically from the front lobby of the London Police Department, that is prepared, owned, used, in the possession of, or retained by the [the Center], pertaining to [his] alleged visit and hostile behavior between May 24, 2025 thru May 26, 2025”; and (5) “Any and all audit trail logs from the National Crime Information Center (NCIC), Kentucky Law Enforcement Information Network (LINK), or any other local, state, or federal law enforcement database systems, showing queries of my personal information.”

person making the request, within the five (5) day period, of its decision" (emphasis added).

Here, on July 22, 2025, the Appellant submitted a request to the Center and, on the same day, was notified by telephone that the requested video footage would be handled by another public agency and that "all other requested records would be handled by [the Center]." Yet, as of July 31, 2025, the Appellant had not received any records or any written response from the Center. On appeal, the Center does not dispute that it received the Appellant's request on July 22 or failed to issue a timely written response that either granted or denied his request.

Instead, the Center argues that it informed the Appellant during the July 22 phone call that it would not be able to timely respond to this request because its records custodian would be on vacation. The Center further argues that this explanation, over the phone, complied with the Act. The Center is incorrect. Rather, "[t]he Act consistently requires agencies to respond *in writing* to open records requests, even when they are unable to supply the records requested." *Eplion v. Burchett*, 354 S.W.3d 598, 603 (Ky. App. 2011) (citing KRS 61.872(4)–(5) and KRS 61.880(1)). As such, the Center failed to comply with the Act when it did not invoke KRS 61.872(5) in writing.² As a result, the Center violated the Act by failing to timely respond in writing.³

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

² Moreover, the basis of the Center's reliance on KRS 61.872(5) was the vacation of its records custodian. "The Office has historically and consistently found that an employee's absence does not excuse the timely processing of requests under the Act." See, e.g., 23-ORD-325 (noting "the agency must establish a process to facilitate fulfillment of requests while the official records custodian is absent"); 22-ORD-169 n.3; 15-ORD-174; 10-ORD-151 n.2. Here, the Center's reliance on the absence of its custodian to delay access to records under KRS 61.872(5) failed to comply with the Act.

³ The Center, after the appeal was initiated, granted the Appellant's request in part and denied it in part. Specifically, the Center denied portions of the request under KRS 61.872(6) and stated that other portions sought records not in its possession. The Appellant has communicated his disagreement with the Center's denial. Under KRS 61.880(2)(a), this Office's mandate is to review the request for records and the agency's response to determine whether the agency violated the Act. In finding the Center did not timely respond in writing, the Office has carried out its mandate. The Office declines to consider here the additional issues raised for the first time on appeal regarding the sufficiency of the Center's final response. See, e.g., 25-ORD-010 n.2; 23-ORD-333 n.1; 22-ORD-200 n.2; 22-ORD-170 n.2; 22-ORD-142 n.3; 21-ORD-177 (stating the Office may decline to consider new issues raised by the parties' subsequent correspondence on appeal). If the Appellant believes the Center's final response was insufficient, he may initiate a separate appeal by providing the Office with a copy of his original request and the Center's final response. See KRS 61.880(2)(a).

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
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Distributed to:

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