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25-ORD-256

September 12, 2025

In re: Jewell Wireman/Kentucky State Police

Summary: The Kentucky State Police (“KSP”) subverted the intent of the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), by delaying access to requested records beyond five business days from receipt of the request.

Open Records Decision

On July 24, 2025, Jewell Wireman (“the Appellant”), submitted a request seeking nine categories of records related to the job applications she had submitted for twelve different KSP positions. On July 31, 2025, citing KRS 61.872(5), KSP stated that “[d]ue to the storage location of these records, they are not immediately available” and that the records would be made available “on August 21, 2025.” On August 1, 2025, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency has five business days to fulfill or deny a request for public records. This period may be extended if the records are “in active use, in storage or not otherwise available,” but the agency must give “a detailed explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Under KRS 61.880(4), a person may petition the Attorney General to review an agency’s action if the “person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.”

Here, KSP’s initial response did not grant or deny the Appellant’s request. Instead, it invoked KRS 61.872(5) and explained that additional time was needed “[d]ue to the storage location of these records.” However, this vague reference to the records’ storage location does not explain why KSP required more than the five business days provided by the Act. At all times, the burden is on a public agency to substantiate the need for any delay and that it is acting in good faith. See

KRS 61.880(2)(c) (placing the burden on the public agency to substantiate its actions); *see also* 21-ORD-211; 21-ORD-045. Because KSP did not provide a “detailed explanation of the cause” for the delay, it did not meet its burden of establishing that the records were “in active use, storage or not otherwise available” or that delaying access to the records for an additional two weeks was necessary.

Further, although KSP stated the records would be available for inspection “on August 21, 2025,” it did not make any records available by that date. Rather, on appeal, KSP states it made the records available on August 29, 2025. The Office has found that a public agency does not comply with KRS 61.872(5) when it notifies the requester of the earliest date on which requested records would be available but then misses its self-imposed deadline. *See, e.g.*, 25-ORD-086; 23-ORD-079; 21-ORD-011. Accordingly, KSP subverted the intent of the Act, within the meaning of KRS 61.880(4), by delaying access to records past the five-day period described in KRS 61.880(1).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.

**Russell Coleman
Attorney General**

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

¹ KSP states that, on August 29, 2025, it provided the Appellant with all responsive and nonexempt records in its possession but declined to answer her requests for information. The merits of that response are not at issue in this appeal.

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Distributed to:

Jewell Wireman

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