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25-ORD-277

September 26, 2025

In re: Matthew Johnson/Kentucky State Police

Summary: The Office cannot find that the Kentucky State Police (“KSP”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties concerning the issuance and receipt of a response to a request for records.

Open Records Decision

On August 25, 2025, at 8:55 p.m., Matthew Johnson (“the Appellant”) submitted a request to KSP for “all records related to the temporary reassignment of [KSP] employees, both civilian and sworn, from January 1, 2019, to August 25, 2025.” The Appellant initiated this appeal on September 4, 2025, claiming he had not received a response from KSP.

Under KRS 61.880(1), a public agency must respond within five business days after receipt of a request for records. Here, the Appellant claims KSP failed to timely respond to his request. The parties agree that KSP’s response was due by September 3, 2025, due to the submission of the Appellant’s receipt after regular business hours and the intervening Labor Day holiday. However, KSP claims that it issued a response on September 3, 2025, but that it “inadvertently directed its response to a similar but incorrect email address,” and that it only discovered its error after it received notice of this appeal, whereupon it “immediately” sent a duplicate response to the correct email address. Thus, KSP asserts that it believed it had issued a timely response to the Appellant.

The Office cannot adjudicate disputed issues of fact, such as when an agency issued a response or whether the response was received. *See, e.g.*, 24-ORD-040. Here, moreover, it appears KSP did issue a timely response but merely made an error in sending it to the wrong email address. *See, e.g.*, 25-ORD-067; 23-ORD-315 (declining to resolve the factual dispute regarding whether the agency knew its response was sent to an incorrect email address). Accordingly, the Office cannot find that KSP violated the Act by failing to issue a timely response.

Additionally, the Appellant claims KSP committed a “breach of confidentiality” by submitting its initial response to an incorrect email address, thus “exposing [his] name, home address, telephone number, and other personal identifiers” to another person. However, the Act contains no confidentiality provision for information concerning persons requesting records.¹ The Attorney General is only authorized under KRS 61.880(2)(a) to adjudicate disputes arising under the Act. *See, e.g.*, 25-ORD-102. Accordingly, the Office has no jurisdiction over a claim of “breach of confidentiality.”

Finally, the Appellant objects to KSP’s response denying his request, which he received after initiating this appeal. However, the Appellant has not provided a copy of KSP’s denial. In pursuing an administrative appeal, a party must strictly comply with the enabling statute. *See, e.g.*, *Kenton Cnty. Bd. of Adjustment v. Meitzen*, 607 S.W.3d 586, 594 (Ky. 2020). Thus, when a person seeks this Office’s review under KRS 61.880, he must strictly comply with that statute. *See, e.g.*, 25-ORD-214; 22-ORD-078. Under KRS 61.880(2)(a), “[i]f a complaining party wishes the Attorney General to review a public agency’s denial of a request to inspect a public record, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written response denying inspection.” An appeal that does not comply with KRS 61.880(2)(a) shall be dismissed. 40 KAR 1:030 § 1 (“The Attorney General shall not consider a complaint that fails to conform to . . . KRS 61.880(2), requiring the submission of a written request to the public agency and the public agency’s written denial, if the agency provided a denial.”). Here, the Appellant attempts to challenge KSP’s denial, but has not submitted a copy of that denial. Accordingly, the Office lacks jurisdiction over the merits of KSP’s denial.

In sum, the Office cannot find that KSP violated the Act by failing to issue a timely response to the Appellant’s request because the Office cannot resolve the factual dispute between the parties. With regard to the Appellant’s other arguments, the Office has no jurisdiction.

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.

¹ Although the Appellant cites KRS 61.878(1)(a), that provision does not create a right of confidentiality, but merely authorizes a public agency to redact personal identifying information from public records requested under the Act if the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.”

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Distributed to:

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