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25-ORD-278

September 26, 2025

In re: Dougie Jones/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 delay and excessive extensions of time. KSP violated the Act when it denied, under KRS 61.872(3)(b), a request that precisely described the records sought.

***Open Records Decision***

On July 25, 2025, Dougie Jones (“the Appellant”) submitted a request to KSP for “any and all video, audio, hand written, computer generated documents, interviews, emails, and photographs of any involved parties” related to a named officer “and the property fence that [the officer] removed from KSP Headquarters located at 919 Versailles Rd. Frankfort, KY and had placed . . . for sale on his personal [F]acebook [M]arketplace.” On July 31, 2025, KSP replied that, “[b]ecause of the storage location of records that [the Appellant] requested,” KSP would “need additional time under KRS 61.872(5) in which to gather all potentially responsive records from the Commonwealth Office of Technology (‘COT’) and the KSP Internal Affairs (‘IA’) Branch; review each record individually to determine responsiveness; and make necessary redactions of exempt information pursuant to KRS 61.878(1) and (4), specifically, personal information under KRS 61.878(1)(a), and information, the disclosure of which could pose a concrete risk of harm to the investigation or prosecution of this incident under KRS 61.878(1)(h).” KSP stated it would “provide a final response to [the] request, including the responsive and nonexempt records, by September 2, 2025.”

On September 3, 2025, KSP issued its final response to the Appellant’s request, denying the request under KRS 61.872(3)(b) and (6). KSP claimed the Appellant had “requested a copy of ‘any and all’ records, in any format, regarding a general subject, with no relevant time frame identified or a specific case number, etc.” KSP further stated that the request did not seek “an identifiable class or type of records, but a broad and ill-defined subject matter” that “would require a subjective determination

[of] what may or may not be responsive based on how it defines involved parties related to the subject.” Additionally, KSP claimed not to possess “a mechanism . . . by which [it] can identify and locate all existing, responsive records in every format given that records are not searchable in Kentucky’s Open Portal Solution (‘KyOPS’) using the broad criteria [the Appellant] provided.” KSP further alleged the request “would be unreasonably burdensome” under KRS 61.872(6) because KSP would have to review “communications involving more than 1,001 e-mail recipients” and “the estimated number of indexed results that searches for potentially responsive records yielded was approximately 1500 records.” This appeal followed.

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 . . . delay past the five (5) day period described in [KRS 61.880(1) or] excessive extensions of time.” KRS 61.880(1) requires a public agency to grant or deny a request for records within five business days of receiving it, unless the agency properly invokes KRS 61.872(5) to delay inspection of records that are “in active use, in storage or not otherwise available.” When a public agency delays inspection of records under KRS 61.872(5), it must provide “a detailed explanation of the cause” for the delay and notify the requester of the “earliest date on which [records] will be available for inspection.” *Id.*

When an agency invokes KRS 61.872(5) to delay inspection of records, it must substantiate both 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* 23-ORD-311; 21-ORD-211; 21-ORD-045. In determining whether a delay is reasonable, the Office considers such factors as “the number of the records, the location of the records, and the content of the records.” 21-ORD-045. Here, KSP invoked KRS 61.872(5) and stated records would be made available by September 2, 2025. However, KSP’s response did not indicate how many records were implicated by the request, or how long it would take to review and redact each record, so as to justify an additional delay of one month. Furthermore, KSP did not explain why it was necessary to involve COT in retrieving KSP’s own records. *See* 23-ORD-311. Therefore, KSP subverted the intent of the Act, within the meaning of KRS 61.880(4), by delay past the five-day period provided in KRS 61.880(1).

Moreover, a public agency subverts the intent of the Act by excessive extensions of time when it fails to meet its own self-imposed deadline to issue its final response. *See, e.g.*, 25-ORD-169; 23-ORD-079; 21-ORD-011. Here, KSP stated it would respond by September 2, 2025, but it did not do so until the following day. Therefore, KSP subverted the intent of the Act, within the meaning of KRS 61.880(4), by excessive extensions of time.

On appeal, KSP no longer relies on KRS 61.872(6), but continues to claim the request failed to precisely describe the records sought. Under KRS 61.872(3)(b), a person may receive copies of public records by mail “after he or she precisely describes the public records which are readily available within the public agency.” A description is precise under KRS 61.872(3)(b) “if it describes the records in definite, specific, and unequivocal terms.” 98-ORD-17. This standard may not be met when a request does not “describe records by type, origin, county, or any identifier other than relation to a subject.” 20-ORD-017 (quoting 13-ORD-077). Requests for any and all records “related to a broad and ill-defined topic” generally fail to precisely describe the records. 22-ORD-182; *see also* 21-ORD-034 (finding a request for any and all records relating to “change of duties,” “freedom of speech,” or “usage of signs” did not precisely describe the records); *but see Univ. of Ky. v. Kernel Press, Inc.*, 620 S.W.3d 43, 48 n.2 (Ky. 2021) (holding a request was proper when it sought “all records detailing [the] resignation” of a specific employee). A request that does not precisely describe the records “places an unreasonable burden on the agency to produce often incalculable numbers of widely dispersed and ill-defined public records.” 99-ORD-14.

Here, KSP claims it cannot “conduct a diligent and reasonable search” for the requested records because the Appellant did not provide “a Case No.; names of specific employees; or even a temporal scope, by which to conduct a search.” However, the Appellant did not ask for all records relating to a broad and ill-defined topic. He asked for records relating to a specific incident involving a named officer who removed a fence at a specific location and then attempted to sell it. This request was at least as specific as a request for “all records detailing [the] resignation” of a particular employee. *Kernel Press*, 620 S.W.3d at 48 n.2. Further, KSP’s initial response indicated familiarity with the specific incident, as it stated responsive records were in the possession of its Internal Affairs Branch. It is therefore clear that an investigation existed pertaining to that incident, and the Appellant was requesting records related to that investigation. The Appellant provided the officer’s name, rank, and unit number, and the nature and location of the alleged incident, which should be sufficient to identify the investigation at issue. It was not the Appellant’s burden to know or to provide the Internal Affairs case number as well. Ultimately, the public agency “is the party responsible for ascertaining the location of responsive records or the personnel who may possess them.” 24-ORD-089. Similarly, it is not Appellant’s responsibility to name all the employees involved in the investigation of the incident. An agency “cannot claim the Appellant has greater knowledge of its personnel than it does.” *Id.*

Moreover, KSP cannot claim ignorance of the “temporal scope” of the request when it is evidently familiar with the specific incident involved. In its initial response, KSP not only identified the subject of the request as an Internal Affairs investigation, but asserted the release of some information “could pose a concrete risk of harm to the investigation or prosecution of this incident.” Because KSP thus indicated the

incident was actively under investigation, it must be aware of the time period encompassed by that investigation. In short, KSP's protestation that it cannot reasonably determine what records the Appellant seeks is not credible. Therefore, KSP violated the Act when it denied the Appellant's request under KRS 61.872(3)(b).

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.

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/s/ James M. Herrick  
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Distributed to:

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